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California Court of Appeal Holds "No Overtime" for UPS Supervisor

In *Taylor v. UPS* (Dec. 9, 2010), a California Court of Appeal ruled that Plaintiff, a UPS supervisor, qualified under both the California executive and administrative exemptions in each of the three supervisory positions he had worked at UPS.

Plaintiff ("Taylor") had been an air hub supervisor, an on-road supervisor, and a center manager. As an air hub supervisor, Taylor supervised the unloading and sorting of packages received by the UPS facility where he worked. As an on-road supervisor for a smaller facility, Taylor supervised a specific team of UPS truck drivers and the facility's sorting and car-wash operations. In his third position as center manager, Taylor oversaw all operations within a UPS package center. Taylor sued UPS, claiming that all three positions were misclassified as exempt, and sought unpaid overtime and nonexempt benefits.

The court explained that Taylor qualified under the executive exemption if he (1) managed "the enterprise or a 'customarily recognized department or subdivision thereof'"; (2) regularly supervised two or more employees; (3) had the power to hire or fire, or had "particular weight" in decisions to hire, fire, promote, or demote employees; (4) regularly used discretion and independent judgment; (5) primarily performed executive exemption duties; and (6) had a salary at least twice the California minimum wage for full-time employment. Taylor conceded that all of his supervisory positions met the second and sixth elements, but argued the other four elements were absent.

The Court of Appeal held all that Taylor's positions satisfied the executive exemption elements. The first element was met by Taylor's admission that he had supervised a specific group of workers performing a discrete set of tasks for a designated geographic region. The third element was likewise established by two of Taylor's supervisors, who provided undisputed declarations that they gave extra weight to Taylor's suggestions when considering hiring, firing, or promoting because of Taylor's close interaction with the employees he supervised.

Taylor contended that the executive exemption's fourth element was absent because his management duties were "dictated by stringent UPS procedures and methods" precluding him from regularly using discretion and independent judgment. The court disagreed. These protocols did not reduce Taylor's duties to "routine tasks," where "any discretion is largely inconsequential." To the contrary, Taylor regularly used his discretion and judgment to identify and address operational and personnel problems. Lastly, nearly all of Taylor's duties fell within one of the "management duties" enumerated in the California Department of Labor Standards Enforcement's ("DLSE") July 6, 1993 Opinion Letter.

The court briefly addressed whether Taylor was also exempt as an administrative employee. Taylor contended that he was merely a "production" level employee who directly participated in running UPS's package delivery system. The court rejected this suggestion. An employee did not need to directly participate in firm-wide policymaking or business operations to qualify under the administrative exemption. Rather, administrative employees can encompass supervisors like Taylor, who "execute or carry out" the enterprise's management policies.

The court concluded that Taylor satisfied the administrative exemption because (1) his duties and

responsibilities involved the performance of office or non-manual work relating to management policies or business operations; (2) he regularly exercised discretion and independent judgment; (3) his work required special training, experience, or knowledge under general supervision only; (4) he primarily performed exempt duties; and (5) his salary was at least double the California full-time minimum wage.

Many California employers have been sued in class actions based on alleged misclassification. Classification decisions must be determined on a case-by-case basis, analyzing the individual employee's job duties. The *UPS* decision provides additional guidance to employers and trial judges as to the proper tests to be applied. Because of the serious consequences of classification mistakes, prudent employers should consult competent legal counsel if they have questions.