

Important information regarding recent overtime litigation in the U.S. District Court of Eastern District of Texas.

Fact Sheet 17R: Administrative Duties Test: Court Decision

The [FLSA](#) requires that most employees in the United States be paid at least the federal [minimum wage](#) for all hour worked and [overtime pay](#) at time and one-half the regular rate of pay for all hours worked over 40 in a workweek. However, Section 13(a)(1) of the FLSA provides an exemption from both [minimum wage](#) and [overtime pay](#) for employees employed as bona fide [executive](#), [administrative](#), [professional](#) and [outside sales](#) employees. Section 13(a)(1) and Section 13(a)(17) also exempts certain [computer](#) employees. To qualify for exemption, employees must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week.

Equally Protective Duties Tests; Exemption Not Based on Job Titles

The standard duties tests of the final regulations are effective August 23, 2004, and are as protective as, if not more protective than, the short duties test of the old regulations. Prior to the issuance of these final regulations, the last major revision of the duties tests occurred in 1949. The duties tests of the old regulations were complicated and contained difficult provisions to apply. These old regulations were based upon a work place that has experienced dramatic transformations and were not relevant to the work environment of the 21st century. The final regulations use objective, plain language so that employees can understand their rights to overtime pay and employers can know their responsibilities for overtime pay.

Recently, the United States District Court for the District of Columbia confirmed that the standard duties tests for the administrative exemption of the final regulations are substantially the same as those in the old regulation. In a case brought against Government Employees Insurance Company (GEICO) under the old regulation, insurance claims adjusters were seeking [overtime pay](#). GEICO claimed it was not liable for any overtime pay because these adjusters were exempt administrative employees. The court looked to the final regulations that are effective August 23, 2004 for guidance in concluding that GEICO improperly classified the employees as administratively exempt. Even though the final regulations were not in effect when the court announced its decision, it found that “they are instructive with respect to the Department of Labor’s interpretation of the requirements of the administrative exemption.” The court also observed that “[t]he general criteria for employees employed in a bona fide administrative capacity are **essentially the same** under the August 2004 regulations as in the current regulations.” Thus, this decision confirms that the standard administrative duties tests of the final regulations are equally protective as the old regulations.

The decision also is instructive because it confirms that the exemption does not apply based upon job title alone, but rather that a case-by-case assessment of an employee’s job duties is required. Thus, there is no blanket exemption for claims adjusters, and when such an individualized inquiry is made, some claims adjusters will fail to satisfy the tests for exemption.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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