

Dealer Alert: Supreme Court Rules Service Advisors Exempt from Overtime

On Monday, the U.S. Supreme Court ruled automotive service advisors are not covered by the Fair Labor Standards Act's overtime pay requirement, the final word in a long court battle that actually made it to the high court twice.

In a 5-4 decision, the court held that service advisors fall under the FLSA provision that exempts a "salesman, partsman or mechanic primarily engaged in selling or servicing automobiles" from federal overtime pay.

That overturned a 2011 ruling by the Obama Administration's Department of Labor that dealerships were required to pay overtime to service advisors. The DOL policy was challenged in 2012 but was upheld by the Ninth Circuit Court of Appeals in 2015 and again in 2017 after the Supreme Court vacated the first decision and sent it back to the lower court.

"The Court's decision ratifies what has been an industry practice in dealerships for decades - a practice that had been satisfactory to both federal regulators and courts," NIADA senior vice president of legal and government affairs Shaun Petersen said. *"NIADA is pleased the Court's ruling allows dealers much needed flexibility in structuring service advisors' pay plans."*

In his majority opinion, Justice Clarence Thomas said a service advisor is a salesman because service advisors sell services to customers, and service advisors are also engaged in servicing automobiles because they are integral to the servicing process.

The court noted service advisors' active and essential participation in the auto service process - meeting customers, listening to their concerns, suggesting and discussing repairs, selling parts and accessories, recording repair orders and following up with customers - qualifies them as *"primarily engaged in servicing automobiles,"* even though they do not actually perform the mechanical service work on vehicles.

Please note this ruling only affects federal law regarding overtime. State laws still apply. Several states, such as California, have laws governing overtime pay requirements for dealership employees, including service advisors. Consult your legal counsel about your state's overtime rules.