

## ***Christopher* v. *SmithKline Beecham Corp*: Supreme Court Grants Pharmaceutical Sales Representatives Exempt Status Under the FLSA's Overtime Provision**

**Date:** 06/21/12

On June 18, 2012 the Supreme Court, in *Christopher v. SmithKline Beecham Corp.*, held in a 5-4 decision that pharmaceutical sales representatives are “outside salesm[e]n” for purposes of the Fair Labor Standards Act (“FLSA”), and thus their employer is not required to pay them overtime pay under the FLSA. In so holding, the Supreme Court resolved a circuit split between the United States Courts of Appeals for the Ninth Circuit and Second Circuit, and addressed a larger question regarding the appropriate level of deference due to an administrative agency’s interpretation of its own regulations. The Court emphasized that in order for an agency’s interpretation to receive controlling deference, it must be clear and established enough to provide the parties subject to the regulation “fair warning of the conduct [it] prohibits or requires.” The Court concluded that with respect to the regulations at issue here the Department of Labor’s (“DOL”) interpretation failed to provide such notice, and thus was not entitled to deference.

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