

United States Supreme Court: Highly Paid Worker Still Entitled to Overtime

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On February 22, 2023, the Supreme Court issued a 6-3 decision in *Helix Energy Solutions Group, Inc. et al. v. Hewitt*, which affirmed that workers are not deprived of overtime benefits under the Fair Labor Standards Act (FLSA) because they are well paid.

The case involved the claim of a worker on an offshore oil rig, who typically worked 84 hours a week while onboard a vessel. He was paid on a daily-rate basis without any overtime pay. His annual compensation exceeded \$200,000 annually.

The worker filed suit, claiming entitlement to overtime pay (*i.e.*, time-and-a-half pay for all hours worked over 40 in any given workweek). The employer countered by claiming he was properly classified as “exempt” from overtime pay under the FLSA.

The central issue before the high court involved whether the worker was paid a “salary” within the meaning and requirements of FLSA regulations for such overtime exemption to apply. In general, under the FLSA and its regulations, a worker must satisfy both a “duties” test and a “salary” test to be properly classified as exempt under most exemptions.

Ultimately, the Supreme Court agreed with the lower courts and concluded the worker at issue—while he earned a substantial amount of money annually—was not paid a fixed “salary” each week as required to be exempt.

The result is not much of a surprise given existing case law. However, the decision came with some notable dissents that may forecast how certain Justices may view closely related legal issues going forward.

Justice Neil Gorsuch wrote a brief opinion that suggested that review of the case was mistakenly granted, but noted there was an interesting (but unexplored) argument at issue as to whether FLSA regulations were inconsistent with the language of the statute.

In his own dissent, Justice Brett Kavanaugh piggybacked off that concern. He forewarned: "...it is questionable whether the Department's regulations—which look not only at an employee's duties but also at how much an employee is paid and how an employee is paid—will survive if and when the regulations are challenged as inconsistent with the [FLSA]."

We will have to wait and see if and when such argument makes its way up to the Supreme Court. So, stay tuned for further developments in this space. In the meantime, if you have any questions or concerns regarding wage and hour matters, do not hesitate to contact a member of our Labor & Employment Team.