

Supreme Court Rules that Even Highly Compensated Employees Must be Paid on a Salary Basis to be Overtime-Exempt

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On February 22, 2023, the U.S. Supreme Court ruled that high-earning professionals can only be overtime-exempt if they are paid on a “salary basis” as defined by the Fair Labor Standards Act (“FLSA”). In *Helix Energy Solutions Group Inc. et al. v. Michael J. Hewitt*, the Court affirmed the Fifth Circuit’s *en banc* decision that Helix Energy Solutions Group Inc. violated the FLSA by classifying an oil rig worker as exempt under the FLSA because it paid his \$200,000+ annual compensation on a day-rate basis instead of a salary basis.

The Court reasoned that the daily basis on which Hewitt was paid a “certain amount if he works one day in a week, twice as much for two days, three times as much for three, and so on” was not equivalent to being paid a salary even though he earned over \$200,000 annually. The Court further explained that a “true salary” should involve a steady stream of pay workers may rely on week after week. In addition, the court opined that employers could theoretically meet the FLSA’s salary basis requirement by adding a guaranteed weekly amount to a worker’s day rate or by converting the worker’s pay to a straight weekly salary for time s/he spends on the rig. Here, the employer did neither.

The Court’s decision relied on a narrow interpretation of the FLSA’s text, ruling that an employee paid exclusively on a day-rate basis cannot meet the salary basis test, even if the day rate exceeds the required weekly salary amount. Justice Kagan summarized the majority’s strict interpretation by writing: “[m]ost simply put, an employee paid on an hourly basis is paid by the hour, an employee paid on a daily basis is paid by the day, and an employee paid on a weekly basis is paid by the week.” Ultimately, because Hewitt’s day-rate pay failed the salary basis test, the Court held he was not exempt from the FLSA’s overtime requirements.

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