

US Supreme Court to Hear FLSA Highly Compensated Employee Case

Labor & Employment Law Update

By Timm Schowalter on May 4, 2022

On May 2, 2022, the United States Supreme Court granted *certiorari* in *Helix Energy Solutions Group, Inc. v. Hewitt*, a case that deals with the Section 13(a)(1) and 29 C.F.R. § 541.601 highly compensated employee exemption under the Fair Labor Standards Act. The plaintiff, Hewitt, contends that although he made well over \$200,000 per year, Helix did not properly pay him on a “salary basis” because it calculated his pay based on a daily rate, rather than a weekly rate, and therefore he is entitled to overtime compensation and liquidated damages. The employer, Helix Energy, argued that Hewitt’s daily rate was greater than the weekly salary requirement of \$684 and, therefore, so long as Hewitt worked at least a single day during any particular week, he would receive more than the weekly salary requirement.

In reversing the trial court’s grant of summary judgment for Helix Energy, the Fifth Circuit Court of Appeals held that Helix Energy’s daily pay system and argument was contrary to the plain language of § 541.602(a)(1) that states “[A]n exempt employee must receive the full salary for *any week* in which the employee performs any work *without regard to the number of days or hours worked.*”

An interesting case that reminds employers that sometimes form does matter over substance and that it is important of strict adhere with Department of Labor regulations.