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Supreme Court Reaffirms That Fair Labor Standards Act Exemptions Must Be Given Their Ordinary Meaning (*EMD Sales v. Carrera*)

“Today’s decision clarifies that an employer must satisfy only the preponderance-of-the-evidence standard to show that an employee is exempt from the minimum-wage and overtime-pay provisions of the FLSA.”

—Cory Andrews, WLF General Counsel & Vice President of Litigation

WASHINGTON, DC—On January 15, 2025, the U.S. Supreme Court unanimously held that employers need to prove the applicability of Fair Labor Standards Act exemptions by a preponderance of the evidence. The decision was a victory for Washington Legal Foundation (WLF), which argued in an amicus brief that the U.S. Court of Appeals for the Fourth Circuit erred by applying the clear and convincing evidence standard.

The case arises from a suit by three salesmen who helped a woman-owned business sell goods to stores in the Washington, DC metro area. The three salesmen worked more than forty hours per week and argued that they were entitled to overtime under the FLSA. EMD, however, argued that the three salesmen were covered by the FLSA’s “outside salesmen” exemption. The District Court held that EMD failed to prove that the exemption applied by clear and convincing evidence, and the Fourth Circuit affirmed that decision.

WLF’s brief explained how the Fourth Circuit’s decision conflicts with both the FLSA’s history and purpose. The FLSA tries to raise the standard of living for low-wage workers while ensuring that businesses can continue to turn a profit. Forcing employers to pay overtime to outside salesmen conflicts with this history and purpose because it would lead to a less efficient workforce, higher prices, or more unemployment. That would hurt employers, employees, and consumers. The same is true of making it harder for employers to prove the applicability of other FLSA exemptions. As the Supreme Court explained in today’s opinion, in most civil cases, including employment-discrimination cases under Title VII, the Court has consistently applied the preponderance standard.

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