

CLIENT ALERT



Supreme Court Ruling: A Win for Employers in FLSA Exemption Cases

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KEY TAKEAWAY

On January 15, 2025, the U.S. Supreme Court unanimously ruled in *E.M.D. Sales, Inc. v. Carrera* that employers must prove the applicability of exemptions under the Fair Labor Standards Act (FLSA) by a “preponderance of the evidence” (more likely than not), rejecting the higher “clear and convincing evidence” standard previously applied by the Fourth Circuit. The ruling resolves a circuit court split of authority.

CASE BACKGROUND

Employees of E.M.D. Sales, Inc., a grocery distributor, claimed E.M.D. Sales had misclassified them as exempt from overtime pay under the FLSA’s outside sales exemption. The district court ruled against the employer, applying a clear and convincing evidence standard to determine that the company had not sufficiently demonstrated the employees were exempt. The Fourth Circuit affirmed the district court’s application of the clear-and-convincing standard.

E.M.D. Sales argued that its sales employees primarily engaged in activities outside the office, a key requirement for the outside sales exemption. However, the lower courts found that the documentation and evidence presented did not meet the heightened standard. Six other circuits followed the preponderance of the evidence standard, and this conflict between circuits on the burden of proof for FLSA exemptions underscored the need for a definitive ruling.

On appeal to the Supreme Court, E.M.D. Sales argued the text of the FLSA did not suggest Congress intended for the clear-and-convincing evidence standard to apply to the 34 exemptions under the FLSA. The Department of Justice agreed, arguing, “When Congress does not address the standard of proof in a statute, this court has long recognized that the preponderance of the evidence is a default rule for civil actions.”

The Supreme Court found no justification for a heightened standard, noting that the FLSA does not specify a different burden of proof for exemptions. Justice Kavanaugh wrote that the high court deviates from the preponderance of the evidence standard in civil litigation in only three scenarios: when a statute requires it; when the Constitution requires it; and under Supreme Court precedent in cases in which the government pursues drastic action against a person, such as taking citizenship away. None of these scenarios were present here.

IMPLICATIONS FOR EMPLOYERS

This ruling simplifies the evidentiary burden for multi-state employers defending against claims of misclassification under the FLSA. Employers only need to demonstrate that an employee qualifies for an exemption by a preponderance of the evidence, meaning it is more likely than not that the exemption applies.

RECOMMENDATIONS

- **Review Classification Policies:** Ensure that employee classifications under FLSA exemptions are well-documented and can meet the preponderance of the evidence standard.
- **Training:** Educate HR personnel and management on the criteria for FLSA exemptions to ensure compliance and proper documentation.
- **Legal Consultation:** Consult with legal counsel to assess current employee classifications and make any necessary adjustments in light of this ruling.
- **Documentation:** It remains crucial to maintain accurate records and thorough documentation to support exemption classifications under the FLSA.

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