

Update: Supreme Court to Weigh in on Overtime Pay Under the FLSA

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Back in January 2021 (see [here](#)) I wrote about a contentious panel opinion from the Fifth Circuit deciding whether highly compensated “tool pushers” were entitled to overtime pay under the Fair Labor Standards Act (“FLSA”). Over Judge Weiner’s fiery dissent, the panel held that such employees were entitled to overtime. See *Hewitt v. Helix Energy Sols. Grp. Inc.*, 983 F.3d 789 (5th Cir. 2020).

In September 2021, the entire Fifth Circuit considered this case (see here). By a vote of 12-6, the full Fifth Circuit agreed with the original panel that such employees were not exempt from FLSA's overtime provisions. See *Hewitt v. Helix Energy Sols. Grp. Inc.*, 15 F.4th 289 (5th Cir. 2021) (en banc). At that time I wrote that “[t]his may be the end of the road for Helix and Hewitt, unless the Supreme Court decides to weigh in.”

Well, it appears that the Supreme Court has decided to wade into this issue, and on May 2, 2022, it granted review of the case. It will be some time before we get a ruling from the Supreme Court, but check back here for updates.