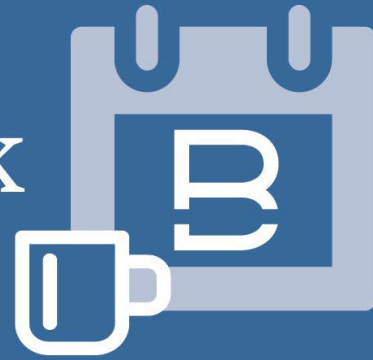


The Work Week

Bassford Remele Employment Practice Group



February 10, 2025

Welcome to another edition of *The Work Week with Bassford Remele*. Each Monday morning, we will publish and send a new article to your inbox to hopefully assist you in jumpstarting your work week.

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Supreme Court Settles Standard of Proof to Determine Exemptions under the FLSA

[Beth L. LaCanne](#)

The United States Supreme Court's decision in [E.M.D. Sales, Inc. v. Carrera](#), issued a few days before the start of the second Trump presidency, flew largely under the radar. With the legal community (and much of the public) focused on the executive orders and other actions of the new administration, this decision did not garner a lot of press. Although the decision will have the most significance in the Fourth Circuit, the sole district to apply a different standard, it serves as a good reminder for employers.

In a rare display of unanimity, all the justices of the Supreme Court agreed on the standard of proof required to demonstrate that employees are exempt under the Fair Labor Standards Act ("FLSA"). As a reminder, the FLSA establishes standards for minimum wage, overtime pay, recordkeeping, and youth employment. It aims to protect workers by ensuring fair compensation and regulating working hours for covered employees.

We previewed *E.M.D. Sales, Inc. v. Carrera* in a [prior edition of the Work Week](#). The Supreme Court held that employers must prove an employee is exempt from the FLSA by a preponderance of the evidence. A preponderance of the evidence standard aligns with the typical standard of proof in other civil matters. Employers can meet their burden of proof for such exemptions by showing that it is more likely than not that the employee qualifies for the exemption.

While the standard of proof may be an "easier" one for employers to meet, employers should not lower their guard when determining whether workers are exempt. Litigation is expensive, even if there is an "easier" standard of proof. With proactive assessment and robust documentary evidence, employers may reduce the length of litigation. Some proactive measures employers can take include reviewing the job titles and responsibilities of workers currently classified as exempt to ensure they meet one of the enumerated exceptions.

At Bassford Remele, we regularly monitor important changes in case law and legislation and advise our clients on the same. We also advise clients regarding the impact of court decisions and new or amended legislation, including properly classifying employees.

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