

IN THE SUPREME COURT OF THE UNITED STATES

No. 21-984

HELIX ENERGY SOLUTIONS GROUP, INC., ET AL.,
PETITIONERS

v.

MICHAEL J. HEWITT

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

MOTION OF THE UNITED STATES
AS AMICUS CURIAE SUPPORTING RESPONDENT
FOR LEAVE TO PARTICIPATE IN, ENLARGEMENT OF,
AND DIVIDED ORAL ARGUMENT

Pursuant to Rules 21, 28.3, 28.4, and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in this case, that the time for oral argument be enlarged to 70 minutes, and that the time be allotted as follows: 35 minutes for petitioners, 20 minutes for respondent, and 15 minutes for the United States. Petitioners and respondent consent to this motion.

This case concerns the circumstances under which an employee paid on a daily-rate basis can be exempt under 29 U.S.C. 213(a)(1) from the overtime-pay requirements of the Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. 201 et seq. Section 213(a)(1) provides that an employee employed in a "bona fide executive, administrative, or professional capacity" is exempt from those requirements and authorizes the Secretary of Labor to "define[] and delimit[]" those terms by regulation. 29 U.S.C. 213(a)(1); see 29 C.F.R. 541.100, 541.600-541.602, 541.604. The United States has a significant interest in the question presented because it concerns the proper interpretation of the implementing regulations promulgated by the Department of Labor (DOL), which administers and enforces the FLSA's minimum-wage and overtime-pay provisions. 29 U.S.C. 204, 211(a), 216(c), 217.

The United States would be able at oral argument to offer the Court a distinct federal perspective on the FLSA and regulatory issues implicated by this case, which affect DOL's administration and enforcement of the FLSA. The United States' participation in oral argument is therefore likely to be of material assistance to the Court.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

SEPTEMBER 2022