

18-389 PARKER DRILLING MANAGEMENT SERVICES, LTD. V. NEWTON

DECISION BELOW: 881 F.3d 1078

LOWER COURT CASE NUMBER: 15-56352

QUESTION PRESENTED:

In the Outer Continental Shelf Lands Act ("OCSLA"), Congress declared federal law to be the exclusive source of law on the Outer Continental Shelf ("OCS"). To fill the gaps in the coverage of federal law, Congress provided that the law of the adjacent state would be borrowed as federal law, to the extent that such state law is "applicable" and "not inconsistent with" existing federal law. Consistent with this Court's decisions, the Fifth Circuit has long held that state law is not borrowed as surrogate federal law under OCSLA unless there is a gap in federal law, as with a garden-variety contract claim. In the decision below, the Ninth Circuit expressly disagreed with the Fifth Circuit and held that state law should be borrowed as federal law governing the OCS whenever state law pertains to the subject matter of a lawsuit and is not preempted by inconsistent federal law, regardless of whether there is a gap in federal law. It thus held that California's wage-and-hour laws apply to claims filed by workers on drilling platforms on the OCS, even though the Fair Labor Standards Act already provides a comprehensive set of federal rights and remedies. The result is wholly unanticipated and potentially massive liability for OCS operators that fully complied with the FLSA.

The question presented is:

Whether, under OCSLA, state law is borrowed as the applicable federal law only when there is a gap in the coverage of federal law, as the Fifth Circuit has held, or whenever state law pertains to the subject matter of a lawsuit and is not preempted by inconsistent federal law, as the Ninth Circuit has held.

CERT. GRANTED 1/11/2019