



Supreme Court Refuses To Extend State Wage-Hour Law To Offshore Drilling

Insights

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By a unanimous 9-0 decision, the U.S. Supreme Court today declined to extend California's wage-and-hour laws to employees working on offshore drilling platforms subject to the Outer Continental Shelf Lands Act (*Parker Drilling Management Services Ltd. v. Newton*). Although this decision represents a victory for the employer involved in the dispute, you should check with your legal counsel to ensure you are in compliance with the correct legal standard given the nuanced nature of this ruling.

What Is The Outer Continental Shelf Lands Act?

Determining what law applies to maritime activities that occur off the shores of various U.S. states presents unique jurisdictional issues. In 1953, the federal Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. § 1333, *et seq.*, was enacted following an era of disputes with the coastal states related to rich natural resource deposits lying off their coasts on the submerged lands commonly called the "continental shelf."

Through OCSLA, the United States ceded a portion of this area to state control, varying between three and nine nautical miles seaward depending on the state at issue. Beyond these state territorial seas, however, the United States — and federal law — exclusively controls the Outer Continental Shelf (OCS) until this area reaches the limits of the United States' territorial seas consistent with public international law.

Given that a bright line between federal and state jurisdiction on the OCS could leave legal confusion as it would require significant federal legislation to fill all the gaps, OCSLA provides "the civil and criminal laws" of each adjacent state apply to the extent they "*are applicable and not inconsistent with*" federal law. 43 U.S.C. § 1333(a)(2)(A). Therefore, depending on the activity at issue, and exactly where it takes place, federal law or the nearby coastal state law could apply.

The Supreme Court previously has dealt with issues regarding OCSLA's interplay of federal and state law. In *Parker*, the Court finally clarified the scope of state law and its applicability to the OCS. Specifically, the Court examined the meaning of "applicable and not inconsistent with" to decide whether federal or state law applied to determine the issues.

Working On An Offshore Drilling Platform

Brian Newton worked on an offshore drilling platform owned by Parker Drilling and fixed on the OCS in the Santa Barbara Channel off the California coast. Drilling platform workers typically work “hitches” of 14 days, followed by 14 days off. While working, each day is comprised of 12 hours on duty followed by 12 hours on “controlled standby” time during which the worker can sleep, rest, and relax, but the worker cannot leave the platform. Newton was paid for 12 hours of work per day. He also claimed he worked or remained on call while during his 12 hours of work.

Newton brought a putative class action after Parker terminated him, claiming he and others similarly situated were owed additional compensation under California wage-hour laws. Under the Federal Labor Standards Act (FLSA), employees who work and sleep at their place of employment, such as Newton, need only be compensated for the 12 hours they are actually working. Under California law, however, its more worker-friendly regulations require compensation for periods of “controlled standby,” which Newton argued included his 12 hours of “controlled standby” time sleeping and resting on the drilling platform in between shifts.

The trial court ruled in Parker’s favor and held that state law applies on the OCS only when there is a gap in federal law to fill. The 9th Circuit Court of Appeals reversed, holding instead that the OCSLA allows the law of adjacent states to be extended if relevant to the subject matter, as long as it is “not inconsistent” with federal law. Because the FLSA did not expressly preclude California law from applying to employment on the OCS, and California’s more protective wage-hour rules did not conflict directly with the FLSA, the appeals court ruled that Newton’s California-based claims should go forward.

This decision directly conflicted with case law in the 5th Circuit Court of Appeals, which hears a significant number of OCSLA cases because it encompasses the Gulf states of Texas, Louisiana, and Mississippi. In the 5th Circuit, state law is borrowed only when there is a gap in federal law. Given this conflict, the United States Supreme Court accepted review of Newton’s case, and today ended up siding with the 5th Circuit.

Supreme Court: OCSLA Has “No Gaps” On The Issue

In reversing the 9th Circuit, the Supreme Court held that “where federal law addresses the relevant issue, state law is not adopted as surrogate federal law on the OCS.” It rejected Newton’s argument that state law always applied to work performed on the OCS as long as it pertained to the subject matter at issue in the absence of a finding otherwise under traditional preemption analysis.

It also rejected Newton’s argument that the choice of law question regarding the OCS would be the same as it would be if the courts were examining whether an adjacent state’s law applied when an employee worked across state borders, explaining “that type of pre-emption analysis applies only where overlapping, dual jurisdiction of the federal and state governments makes it necessary to decide which law takes precedence.”

The Supreme Court anchored its reasoning on OCSLA’s plain language and long-established “federal enclave” rules. A federal enclave is a parcel of federal property within a state’s boundary

federal enclave” rules. A federal enclave is a parcel of federal property within a state’s boundary that nevertheless fall under the U.S.’s jurisdiction. Under this doctrine, state law presumptively does not apply to the enclave. The Supreme Court specifically held the OCS is a “federal enclave,” and explained its “pre-OSCLA decisions made clear that the federal government controlled the OCS in every respect, and the OSCLA reaffirmed the central role of federal law on the OCS.”

The Supreme Court interpreted the relevant language of OCSLA to hold that state law would be “applicable” and “not inconsistent” with federal law “only if federal law does not address the relevant issue.” In other words, state law applies only where it is “needed” as surrogate federal law because federal law left a “substantial gap.” A contrary ruling would contravene OCSLA’s purpose by allowing substantive state law to apply to the same extent it does on state land. In short, “it would make little sense to treat the OCS as a mere extension of the adjacent state” where there has never been “overlapping state and federal jurisdiction” on the OCS.

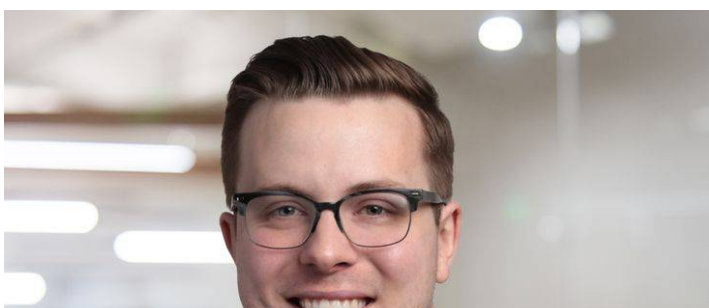
What Does This Decision Mean?

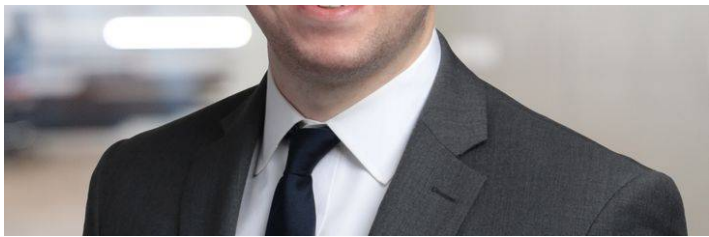
However, that is not to say that state law may never apply to these kinds of situations. The Supreme Court clarified that state law will apply only in circumstances where there is a clear gap in – or absence of – federal law. In other words, OSCLA’s reference to “not inconsistent” looks to whether federal law has already addressed the relevant issue, not whether a conflict exists between state and federal law. If federal law addresses the issue, the “state law addressing the same issue would necessarily be inconsistent with existing federal law and cannot be adopted as surrogate federal law.”

Siding with Parker Drilling, the Supreme Court succinctly held: “All law on the OCS is federal, and state law serves a supporting role, to be adopted only where there is a gap in federal law’s coverage.” As applied to Newton’s claims, this meant that his California law claims for standby pay and higher minimum wage law could not survive. However, make sure you check with your counsel before making decisions on the applicability of state law in similar situations.

This Legal Alert provides an overview of a specific Supreme Court decision. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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