

U.S. Supreme Court Holds California Wage-and-Hour Law Inapplicable to Offshore Workers Under OCSLA

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The proliferation of state wage-and-hour laws, particularly those mandating greater minimum wage and overtime benefits and providing narrower exemptions, has led to increased class action litigation against employers in recent years. Variations among state laws, and differences between state and federal laws, create additional administrative and legal headaches for employers with multi-state operations and mobile workforces. And, for companies with employees working offshore, courts previously have not formulated a consistent standard for determining whether adjacent state law applies when it imposes different or additional requirements than the federal law.

The U.S. Supreme Court, addressing a "close question of statutory interpretation" involving the Outer Continental Shelf Lands Act (OCSLA), held on June 10, 2019, that an offshore worker cannot assert California state wage-and-hour law claims. *Parker Drilling Management Services, Ltd. v. Newton*, No. 18-389 (June 10, 2019). The Court's ruling creates greater legal certainty and relieves administrative burden for companies with employees on the OCS to the extent it holds OCS workers subject only to the Fair Labor Standards Act (FLSA). It also minimizes the risk and burden of state wage-and-hour law class actions from offshore workers.

Brian Newton, the plaintiff in the lawsuit, had worked on drilling platforms off the coast of California for his employer, Parker Drilling Management Services. During two-week hitches, he was on duty for twelve hours per day and on standby for the other twelve hours, during which he was required to remain on the platform. The standby time was unpaid. Newton filed a California state court class action alleging violations of the state's wage-and-hour law, including a claim that the law required Parker to pay him for the standby time. Parker removed the case to federal court. While the parties agreed that the platforms at issue were subject to the OCSLA, they disagreed whether California wage-and-hour law was "applicable and not inconsistent" with the FLSA.

The district court had followed precedent from the U.S. Court of Appeals for the Fifth Circuit, concluding that under the OCSLA "state law only applies to the extent it is necessary 'to fill a significant void or gap' in federal law." Finding the FLSA to be a comprehensive federal wage-and-hour scheme, the federal district court found no gap for state law to fill, granting judgment on the pleadings to Parker because Newton asserted only state law claims.

The U.S. Court of Appeals for the Ninth Circuit disagreed with this standard, holding that state law is "applicable" on the OCS if it pertains to the subject matter at hand. Further finding that California wage-and-hour law met this standard, it examined whether the state's law is "inconsistent with" the FLSA. The Ninth Circuit then articulated a standard for inconsistency, reasoning that state law is inconsistent with federal law only "if they are mutually incompatible, incongruous, [or] inharmonious." Because the FLSA's saving clause expressly allows states to enact laws providing greater wage-and-hour benefits to employees, the Ninth Circuit decided there was no inconsistency, then it vacated and remanded the case.

The question presented to the Supreme Court was how to determine whether the law of a state adjacent to the OCS is "applicable and not inconsistent" with other federal law such that it should be followed offshore. A unanimous Court in an opinion delivered by Justice Clarence Thomas

resolved conflicting standards articulated by the Fifth and Ninth Circuits to conclude that “where federal law addresses the relevant issue, state law is not adopted as surrogate federal law on the OCS.” The Court’s ruling aligns with Fifth Circuit precedent and, the Court noted, is supported by the OCSLA’s text, structure, and history, along with the Court’s own precedent.

The Court explained that the OCSLA extends federal law and jurisdiction to the OCS, affirming its federal enclave status by providing that federal law applies “as if the [OCS] were an area of exclusive Federal jurisdiction within a State.” The Court was called upon to interpret the statute’s further language that adjacent state laws then or later in effect will be adopted as federal law governing the OCS if “they are applicable and not inconsistent with . . . other Federal laws and regulations” Newton urged the Court to adopt the Ninth Circuit’s analysis, essentially arguing that state law is “inconsistent” only if ordinary pre-emption principles would negate it. Parker urged the Court to adopt the Fifth Circuit’s gap-filler approach, arguing that more protective state law is inconsistent with the FLSA in this context because adopting state law as federal law would result in a body of federal law containing two different standards. The Court found Parker’s position more persuasive notwithstanding the close question of statutory interpretation.

The Court noted that language at issue must be read in context and in light of its place in the overall statutory scheme. The question was incapable of resolution based on an examination of the language alone because the terms, “applicable” and “not inconsistent,” are susceptible of interpretations that would render one or the other meaningless in context. The Court then pointed to the OCSLA’s emphasis on the federal government’s complete “jurisdiction, control, and power of disposition” over the OCS, “while giving the States no ‘interest in or jurisdiction’ over it.” Thus, the Court observed that the only law on the OCS is federal law and any state laws that fill gaps are adopted as federal law. And, because state law has never applied of its own force on the OCS, the question of whether state law is “inconsistent” with other federal law is not the typical pre-emption analysis. “Instead, the question is whether federal law has already addressed the relevant issue; if so, state law addressing the same issue would necessarily be inconsistent with existing federal law and cannot be adopted as surrogate federal law.”

Further, the Court squared its interpretation with the statute’s treatment of the OCS as “an upland federal enclave,” an area of federal jurisdiction located within a state to which state law presumptively does not apply after enclave designation. The statute’s history reinforced for the Court its conclusion that the OCS should be treated as a federal enclave, not an extension of any state, such that state law applies only as a gap-filler for federal law.

The Court was careful to note that this ruling does not foreclose the possibility that a state law is inapplicable and inconsistent with federal law even in the absence of a federal law that is on point. This means that not every state employment law claim for which there is no federal counterpart is automatically fair game. The ruling applies only to employees on the OCS, and does not affect those employees’ rights under the FLSA. Nor does it resolve other issues created by differences between federal and state laws as applied to land-based and other employees not on the OCS. This ruling, however, should bring an end to offshore workers’ state wage-and-hour law class actions against their employers, at least for now.