

IN THE SUPREME COURT OF THE UNITED STATES

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No. 23-217

E.M.D. SALES, INC., ET AL., PETITIONERS

v.

FAUSTINO SANCHEZ CARRERA, ET AL.

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

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

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Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae and requests that the United States be allowed ten minutes of argument time. Petitioners have agreed to cede ten minutes of argument time to the United States and consent to this motion.

This case concerns the standard of proof that an employer must meet to establish that its employees fall within an exemption to the federal minimum-wage and overtime guarantees provided by the Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. 201 et seq.

The United States has a significant interest in the question presented because the Department of Labor administers and enforces the FLSA's minimum-wage and overtime-pay provisions. 29 U.S.C. 204, 211(a), 216(c), 217. At the Court's invitation, the United States filed an amicus brief in this case at the petition stage.

The United States has frequently participated in oral argument as amicus curiae or as a party in cases involving the interpretation and application of the FLSA. See, e.g., Helix Energy Solutions Grp., Inc. v. Hewitt, 598 U.S. 39 (2023); Encino Motorcars, LLC v. Navarro, 579 U.S. 211 (2016); Tyson Foods, Inc. v. Bouaphakeo, 577 U.S. 442 (2016); Integrity Staffing Solutions, Inc. v. Busk, 574 U.S. 27 (2014). The United States' participation in oral argument in this case accordingly may be of material assistance to the Court.

Respectfully submitted.

ELIZABETH B. PRELOGAR  
Solicitor General  
Counsel of Record

SEPTEMBER 2024