

**23-217 E.M.D. SALES, INC. V. CARRERA**

DECISION BELOW: 75 F.4th 345

LOWER COURT CASE NUMBER: 21-1897, 21-1924

QUESTION PRESENTED:

The Fair Labor Standards Act (FLSA) covers more than 140 million workers and guarantees eligible workers a minimum wage and overtime pay. But the FLSA also contains 34 exemptions from those requirements. Employers do not have to pay overtime to, *e.g.*, bona fide executives, agricultural workers, and outside salesmen. *See* 29 U.S.C. § 213(a)-(b).

The question presented is:

Whether the burden of proof that employers must satisfy to demonstrate the applicability of an FLSA exemption is a mere preponderance of the evidence-as six circuits hold-or clear and convincing evidence, as the Fourth Circuit alone holds.

CERT. GRANTED 6/17/2024