

DOL's Power to Set Salary Minimum for Overtime Exemption Ripe for SCOTUS Review

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On February 14, 2025, the Fifth Circuit denied the appellants' petition for rehearing *en banc* in *Mayfield v. United States Dep't of Labor*—a [September 2024 decision](#) holding that the U.S. Department of Labor's authority to “define” and “delimit” the terms of the Fair Labor Standards Act's executive, administrative, and professional (EAP) exemptions includes the power to set a minimum salary for exemption.

The dispute in *Mayfield* dates back to 2019, when the DOL issued a [final rule](#) raising the minimum salary required to qualify for most EAP exemptions from \$455 per week to \$684 per week. *Mayfield*, a small business owner, challenged the rule, arguing that the DOL lacks, and has always lacked, the authority to define the EAP exemptions in terms of salary level (as opposed to by job duties)—an argument that has been embraced repeatedly by the Texas federal district courts (see [here](#) and [here](#)). The district court granted the DOL's motion for summary judgment, and *Mayfield* appealed to the Fifth Circuit.

The Court of Appeals held that the DOL was empowered to set a minimum salary for exemption—[albeit with some meaningful limitations](#). Last week's decision denying *en banc* review tees the issue up for a certiorari petition to the U.S. Supreme Court, [which has not exactly been a big fan of regulatory activism as of late](#).

In related news, we're expecting the DOL to [drop its pre-Inauguration Day appeal of the November 2024 decision invalidating the 2024 overtime rule](#). We just can't see this White House having any interest in continuing to appeal a decision curbing agency rulemaking power and saving American businesses untold billions in new overtime expenses.

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