

***Parker Drilling Management Services v. Newton, No. 18-389***

A unanimous Supreme Court held today that federal rather than state wage-and-hour law governs employment on the Outer Continental Shelf.

**Background:** After the Supreme Court held many years ago that the Outer Continental Shelf (OCS) was federal rather than state territory, Congress passed the Outer Continental Shelf Lands Act (OCSLA), which extends federal law to the OCS and denies the states any interest in or jurisdiction over those submerged lands. The OCSLA provides that the law of the adjacent state is borrowed as federal law to the extent that the state law is “applicable” and “not inconsistent with” existing federal law.

Respondent Newton worked on an offshore drilling rig subject to the OCSLA, working 12-hour shifts with the other 12 hours off. He did not leave the rig during a two-week work cycle. After California law mandated that time spent on-call at a jobsite was compensable work, Newton sued for back pay and other remedies, contending that California law applied. The Ninth Circuit agreed that state law applied on the OCS unless preempted by federal law under ordinary preemption principles, and concluded that the more stringent requirements of California law did not conflict with, and therefore was not preempted by, federal law.

**Issue:** Whether state law—in particular, state statutory law—may be borrowed as federal law under the Outer Continental Shelf Lands Act (OCSLA) whenever the state law is not preempted by federal law, or only when there is a gap in federal law.

**Court’s Holding:** The Court construed OCSLA to preclude the application of the adjacent state’s law “to the extent federal law applies to a particular issue.” The Court based its holding primarily on a view that the statutory language would be largely superfluous if construed in accord with the Ninth Circuit’s decision, and that the OCS was federal territory rather than an extension of the adjacent state. The Court’s interpretation also brought the borrowing of state law on the OCS in line with the treatment of state law in federal enclaves. Finally, the Court’s interpretation of the borrowing provision accorded with its earlier decisions that limited the borrowing of state law on the OCS to subject matter not addressed by federal law. Federal law might address an area explicitly, but silence also might reflect a congressional choice not to regulate particular conduct or impose particular obligations. Noting that express provisions of the Fair Labor Standards Act precluded Newton’s state-law minimum-wage claims and his claims for pay while on call, the Court remanded for the lower courts to determine whether Newton could maintain other state-law claims and to allow him to replead.