CLIENT ALERTS & INSIGHTS

Supreme Court Casts Down Long-Standing Chevron Deference

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Authors: W. Eric Baisden, Adam Primm, Bradley Wenclewicz

On June 28, 2024, the Supreme Court issued a landmark decision in a pair of consolidated cases, Loper Bright Enterprises et al. v. Gina Raimondo and Relentless Inc. et al. v. Department of Commerce. In a 6-3 decision with a majority opinion authored by Chief Justice Roberts, the Court overruled Chevron v. Natural Resources Defense Council, a 1984 precedent that established a two-step test for judicial review of agency interpretations of law.

The *Chevron* doctrine instructed courts to defer to an agency's interpretation of a statute if it was found to be both (1) reasonable and (2) consistent with Congress's intent. This deference standard had been a mainstay of administrative law for nearly four decades. However, the Court held that *Chevron* improperly ceded judicial authority to the executive branch. The majority opinion reasoned that the Constitution assigns the power of statutory interpretation to the judiciary, and that courts should not abdicate this responsibility to administrative agencies.

The decision stems from challenges brought by fishing industry groups to a 2018 rule by the National Marine Fisheries Service (NMFS) requiring them to share the cost of having federal observers on board their vessels. The plaintiffs argued that the NMFS rule exceeded its authority under the Magnuson-Stevens Fishery Conservation and Management Act. Both lower courts had upheld the rule, applying the *Chevron* deference standard.

The Supreme Court's decision in *Loper Bright* and *Relentless* will result in a significant impact on enforcement by administrative agencies. Agency decision-making based on *Chevron* deference and interpretation may no longer be appropriate. As a result, the strength of administrative rule-making and guidance, such as those recently promulgated by the National Labor Relations Board (“NLRB”), Equal Employment Opportunity Commission (“EEOC”), and Federal Trade Commission (“FTC”), are severely weakened. Lower courts can no longer rely upon the broad deference provided by *Chevron* when evaluating such administrative actions or interpretations. Instead, federal agencies, stripped of their deference shield, will need to present stronger legal arguments to defend their decisions.

Additionally, the weakened deference standard may lead agencies to issue fewer, less ambitious regulations due to heightened litigation risk (a win for employers seeking clarity). Businesses, emboldened by a more critical judicial review, could challenge agency actions more frequently.

This decision will significantly alter the landscape of federal labor and employment regulation moving forward. Courts now reviewing NLRB rulings must give far less deference to the NLRB’s decision and reasoning, and rule more independently. This will also significantly impact the FTC’s new rule banning noncompete agreements between employers and employees and related legal challenges, the Department of Labor’s new rule on FLSA exemption salary thresholds or

test for independent contractors, the EEOC's recent Title VII interpretation on workplace harassment , and a number of General Counsel memos and rules promulgated by the NLRB, including its recent joint-employer rule.

In general, the Court's decision to overrule *Chevron* is likely to result in new interpretations and decisions that limit the power of federal agencies and government overreach.

To learn how these developments can affect your business, contact an attorney in Benesch's Labor & Employment Practice Group.

W. Eric Baisden at ebaisden@beneschlaw.com or 216.363.4676.

Adam Primm at aprimm@beneschlaw.com or 216.363.4451.

Brad Wenclewicz at bwenclewicz@beneschlaw.com or 216.363.6191.