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The Supreme Court's Decision to Overrule Chevron Deference: What Businesses Need to Know

Client Alert

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On June 28, 2024, the United States Supreme Court issued its highly anticipated decision overruling the decades old *Chevron* framework which controlled judicial interpretation of agency decisions. *Loper Bright Enters. v. Raimondo*, Nos. 22-451, 22-1219, 2024 U.S. LEXIS 2882, at *61 (June 28, 2024); *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837. In short, the Supreme Court's decision exposes regulatory agencies to more creative statutory interpretation arguments and increases agencies' burden in defending decisions. This Client Alert evaluates and illustrates the potential impact of overruling the *Chevron* framework on current and future litigation involving businesses challenging agency action.

Chevron Framework:

The *Chevron* framework consisted of a two-part test which mandated judicial deference to an agency's **reasonable** interpretation of ambiguous federal statutes. In analyzing regulatory challenges, courts were precluded from supplanting the agency's reasonable interpretation with what it deemed to be the **best** statutory interpretation.

The first step in the *Chevron* framework required a court to determine whether Congress spoke with clear intent to the "precise question at issue." *Chevron U.S.A. Inc.*, 467 U.S. at 842. If the agency's statutory construction was contrary to unambiguous congressional intent, the court was to disregard the construction. Conversely, if the court found the statute was "silent or ambiguous" regarding congressional intent on the specific issue, the court proceeded in the *Chevron* framework. *Id.* at 843. Under the second step, the court deferred to the agency's interpretation, so long as it was reasonable. *Id.* In practice, the agency generally prevailed in establishing a reasonable interpretation.

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Loper Bright Framework:

In *Loper Bright Enters. v. Raimondo*, the Supreme Court expressly overruled the *Chevron* framework and held the Administrative Procedure Act ("APA") requires courts to "exercise their independent judgment in deciding whether an agency has acted within its statutory authority." 2024 U.S. LEXIS 2882, at *62. Although courts must respect authority constitutionally delegated to an agency through a statute, the Supreme Court emphasized that the APA precludes courts from deferring to an agency's interpretation merely because the statute is deemed ambiguous. *Id.*

Instead, under the *Loper Bright* framework, a court is bound by an agency's statutory interpretation only if, through its independent evaluation, the court deems it to be the **best** interpretation of the law. Thus, both the applicable agency and its challenger will present arguments delineating statutory interpretations, and the court will conduct its own evaluation to determine which interpretation is best without deferring to the agency's reasonable interpretation.

It is essential to note that the *Loper Bright* decision did not invalidate prior decisions under the *Chevron* framework. *Id.* at 60-61. Therefore, regulatory agency interpretations previously upheld under *Chevron* remain valid.

Potential Business Impact:

The Supreme Court's decision to overrule the *Chevron* framework is a monumental change that will greatly influence regulated industries, as it ostensibly evens the playing field with respect to an agency and its challengers. Nevertheless, businesses and employers are well advised to follow existing agency guidelines unless a court invalidates them. On the other hand, the decision creates opportunities for businesses to challenge agency guidelines that courts previously upheld, or for businesses involved in ongoing litigation to supplement arguments against an agency's statutory interpretation.

1. Labor & Employment:

- For instance, the National Labor Relations Board ("NLRB") is facing constitutional challenges by several companies, including SpaceX and Trader Joes. The companies advance several claims against the NLRB, including claims surrounding the constitutionality of the structure of the NLRB under the National Labor Relations Act ("NLRA") and of the NLRB's procedure for bringing unfair labor allegations against companies. The Supreme Court's decision overruling the *Chevron* framework could influence the companies to supplement their arguments and pressure the NLRB to formulate arguments more strategically when supporting its decisions.
- Similar arguments may be advanced with respect to the Equal Employment Opportunity Commission's ("EEOC") final rule interpreting the Pregnant Workers Fairness Act ("PWFA") requiring employers to accommodate pregnancy-related limitations. Courts in different states have both upheld and enjoined the EEOC's interpretation. However, the EEOC's success may change in the absence of the *Chevron* framework mandating deference to its interpretation.

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- The Supreme Court's decision may further impact businesses' arguments in ongoing litigation against the Department of Labor's ("DOL") new rule under the Fair Labor Standards Act ("FLSA") that raises minimum salary requirements for "white-collar" exemptions. The *Loper Bright* decision requires the FLSA to fully support its interpretation without relying on the deference under *Chevron* the DOL had become accustomed to.

2. Non-Compete Ban:

- Likewise, the *Loper Bright* framework was discussed in ongoing litigation opposing the Federal Trade Commission's ("FTC") non-compete ban. See our Client Alert for a further discussion regarding the relationship between the FTC's non-compete ban and the Supreme Court's decision to overrule the *Chevron* framework.

3. Other Areas of Law Impacted:

- Given the breadth of the current regulatory framework, the *Loper Bright* decision will touch on nearly every area of law. Stay tuned for additional Butzel Client Alerts delineating how the *Loper Bright* decision will impact specific legal sectors.

The Supreme Court's decision to overrule the *Chevron* framework will influence litigation challenging regulatory agencies' interpretations and rules. Businesses nevertheless remain bound, unless a court holds such interpretations are not the **best** interpretation of the applicable statute.

Butzel's Labor and Employment Team stands ready to answer all your *Loper Bright* related questions as well as any other labor and employment issues that arise.

Brett Miller

313.225.5316

millerbr@butzel.com

Michelle Cirino

313.225.5306

cirino@butzel.com