

**Page Printed From:****<https://www.law.com/thelegalintelligencer/2024/07/12/the-impact-of-us-supreme-courts-chevron-doctrine-decision-on-employment-laws/>****NOT FOR REPRINT**COMMENTARY

The Impact of US Supreme Court's 'Chevron' Doctrine Decision on Employment Laws

In overruling Chevron, the Supreme Court has limited the ability of agencies to leverage their expertise in shaping employment laws.

July 12, 2024 at 01:00 PM

Employment Law

By Jeffrey Campolongo | July 12, 2024 at 01:00 PM

The recent U.S. Supreme Court decision in the companion cases of *Loper Bright Enterprises v. Raimondo* and *Relentless v. Department of Commerce*, 603 U.S. ___ (Jun. 28, 2024), is poised to be a significant legal milestone, especially in the realm of administrative law and its implications on employment laws. By a vote of 6-3, the justices overruled the landmark decision in *Chevron v. Natural Resources Defense Council*, 467 U.S. 837, 104 S. Ct. 2778 (1984), which gave rise to the decades-old maxim known as the *Chevron* doctrine. The case was a direct challenge to the *Chevron* doctrine that has allowed federal agencies considerable latitude in interpreting ambiguous statutory provisions. The decision marks a significant step toward a more active judiciary and is likely to reshape the administrative landscape by altering the balance of power between the judiciary and administrative agencies.

The 'Chevron' Doctrine and 'Loper Bright Enterprises v. Raimondo'

The *Chevron* doctrine established that courts should defer to an administrative agency's reasonable interpretation of an ambiguous statute that it administers. This deference has enabled agencies to issue regulations and guidance with significant authority, shaping the implementation of laws in numerous fields, including employment law.

In two separate cases, commercial fishing groups claimed that the National Marine Fisheries Service (NMFS) exceeded its power by forcing their fishing vessels to pay the salaries of observers on board. The cases centered on the extent of the deference that should be given to the agency with the fishing groups contending that the *Chevron* doctrine granted excessive power to administrative bodies, thus undermining judicial oversight. After lower courts upheld the agency regulation based on the *Chevron* framework, the fishing companies asked the Supreme Court to overrule *Chevron*.

Chief Justice John Roberts, writing for the majority, explained that *Chevron* deference is inconsistent with the Administrative Procedure Act (APA), a federal law that sets out the procedures that federal agencies must follow as well as instructions for courts to review actions by those agencies. The APA directs courts to "decide legal questions by applying their own judgment" and therefore "makes clear that agency interpretations of statutes—like agency interpretations of the Constitution—are not entitled to deference." Roberts concluded, "It thus remains the responsibility of the court to decide whether the law means what the agency says." The Court also added that *Chevron* "prevents judges from judging."

Increased Judicial Scrutiny and Interpretation

By restricting *Chevron* deference, the court has shifted the interpretive authority from administrative agencies to the bench. This would mean that courts would no longer be required to defer to agency interpretations of ambiguous statutory provisions unless the interpretation is explicitly reasonable. Where a statute is ambiguous, courts will now get to decide whether an agency has acted within its statutory authority, as opposed to yielding to the agency's interpretation. It is fairly easy to see how this shift could result in significant changes in how employment laws are interpreted and applied.

For instance, employment statutes such as the Fair Labor Standards Act (FLSA) and the Family and Medical Leave Act (FMLA) contain a variety of ambiguous terms and provisions. Agencies like the Department of Labor (DOL) and the Equal Employment Opportunity Commission (EEOC) have historically provided interpretations that guide employers and protect employee rights. If courts assume a more prominent role in interpreting these laws, the outcomes could vary widely across different jurisdictions, leading to inconsistencies and legal uncertainties.

Impact on Regulatory Consistency and Agency Expertise

Agencies possess specialized expertise in their respective domains, allowing them to craft detailed regulations and guidance that reflect the complexities of the field. The EEOC, for example, has deep, institutional knowledge of discrimination laws and issues regulations and

guidance that help clarify the scope and application of statutes like Title VII of the Civil Rights Act.

In overruling *Chevron*, the Supreme Court has limited the ability of agencies to leverage their expertise in shaping employment laws. This would place a greater burden on the judiciary to interpret complex and technical aspects of employment law without the benefit of agency expertise. The resulting lack of uniformity in legal interpretations could create a patchwork of standards that vary from one jurisdiction to another, complicating compliance efforts for national and multi-state employers.

Another potential implication of the *Loper Bright* decision could lead to fragmented enforcement of federal employment laws. Employers might face different interpretations of the same statutory provisions depending on the jurisdiction in which they operate. For example, definitions of terms like “overtime” and “exempt employees” under the FLSA, and the concept of “reasonable accommodation” under the Americans with Disabilities Act (ADA) could be interpreted differently by courts in different regions, leading to a lack of clarity and uniformity in application.

Practical Implications for Employers and Employees

For employers, the potential shift away from *Chevron* deference means navigating a more complex legal landscape. Compliance with employment laws could become more challenging, as employers must stay abreast of varying interpretations across different jurisdictions. This could lead to increased legal costs and the need for more robust compliance programs to mitigate the risk of litigation.

For employees, the implications are equally significant. The protections afforded by employment laws might become less predictable, as judicial interpretations vary. This could impact the consistency and reliability of protections related to wages, discrimination, and workplace accommodations. Practical examples include:

- **Gig Economy and Worker Classification**

The classification of gig workers as employees or independent contractors has been a contentious issue with significant implications for employment laws. Agencies like the DOL have issued guidance to clarify the criteria for classification. Without *Chevron* deference, courts might independently interpret these criteria, leading to inconsistent rulings across jurisdictions. This would create uncertainty for gig economy companies and workers, impacting wages, benefits, and protections.

- **Noncompete Agreements**

The Federal Trade Commission (FTC)'s recent nationwide ban on most noncompetition agreements will be the subject of much lingering debate (and already is in courts throughout the country). Without the benefit of agency expertise, there is a substantial likelihood of differing interpretations among jurisdictions.

- **Overtime Pay Regulations**

The DOL's regulations on overtime pay under the FLSA are crucial for determining which employees are eligible for overtime compensation. If courts begin interpreting these regulations without deferring to the DOL's expertise, employers might face differing standards for overtime eligibility in different states or federal circuits. This could complicate payroll management and compliance efforts, especially for businesses operating in multiple states.

- **Workplace Discrimination and Harassment**

The EEOC's guidelines on workplace discrimination and harassment under Title VII provide critical protections for employees. Judicial activism may lead to varied interpretations of what constitutes discrimination or harassment, affecting the consistency of protections available to workers. Employers might also find it more challenging to implement uniform anti-discrimination policies that comply with the law.

- **Workplace Safety**

The Biden administration has proposed a worker safety rule intended to relieve some danger by providing workers in heat-prone workplaces access to cool break areas and water when the heat index hits 80 degrees Fahrenheit. The rule, to be implemented by the Occupational Safety and Health Administration (OSHA), may soon require judges to parse every word in the OSH Act. What constitutes "safe and healthful working conditions" with regard to any future regulation on indoor heat stress?

The Supreme Court's decision in *Loper Bright* no doubt has the potential to significantly impact the application and enforcement of employment laws in the United States. Employers and employees alike would face a more fragmented and unpredictable legal landscape, with potential increases in litigation and compliance challenges. While some argue that curtailing *Chevron* would enhance judicial oversight and prevent administrative overreach, it is essential to consider the trade-offs. Agencies possess specialized expertise and play a critical role in interpreting and enforcing complex employment laws. Not deferring to the agency's expertise can have far-reaching consequences.

Jeffrey Campolongo is the founder of the Law Office of Jeffrey Campolongo, which, for over a decade, has been devoted to counseling employees, working professionals and small businesses in employment discrimination and human resource matters.

NOT FOR REPRINT

Copyright © 2024 ALM Global, LLC. All Rights Reserved.