

Supreme Court Hears Arguments Today in Landmark Cape May Fishermen Case

Loper Bright v. Raimondo Seeks to Restore and Protect Individual Liberty by Overturning, or Strictly Limiting, the Chevron Doctrine

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WASHINGTON, DC – Today, a group of New Jersey herring fishermen, represented by Cause of Action attorneys and argued by former United States Solicitor General Paul Clement, challenged an unlawful regulation that forces them to pay the salaries of government-mandated at-sea monitors. The fishermen argue Congress never granted the executive branch the authority to create this rule.

In his argument, Clement urged the U.S. Supreme Court to overturn the *Chevron* doctrine on both statutory and constitutional grounds in order to protect the viability of their family-owned businesses. The fishermen argue that *Chevron* is a blatant violation of the constitutionally mandated separation of powers because it requires federal judges to defer to administrative agencies' regulatory interpretations of laws that are either silent or ambiguous on a particular issue and undermines judges' delegated authority to interpret what the law says.

Loper Bright and the regulation at issue in this case exemplify all that is wrong with *Chevron*. Specifically, the National Marine Fisheries Service, without authorization from Congress, introduced a rule that will require the fishermen to pay the salaries of at-sea government monitors, a crippling fee that equates to approximately 20% of their annual returns and threatens their ability to make a living and continue operating. In upholding the regulation, one of the lower court judges acknowledged its grave inequity but noted that the court's hands were tied because of *Chevron*.

As former Solicitor General Paul Clement argued today, “this case well illustrates the real-world costs of *Chevron*, which do not fall exclusively on the Chevrons of the world but injure small businesses and individuals as well.”

“Nowhere are the perverse, and often punitive, consequences of *Chevron* more apparent than they are in this case. Requiring these fishermen to pay the salaries of at-sea monitors is neither feasible nor fair,” said Cause of Action Executive Director James Valvo. “The petitioners are seeking to make a modest living through hard and often dangerous work. They have carried monitors aboard their vessels for decades and are dedicated contributors to NOAA's conservation efforts and research. Unlike fishermen, monitors receive consistent pay regardless of catch size and even when there is no catch at all. The substantial costs for each fishing trip and unpredictable yield mean that fishermen would often make less than the monitors or even lose money under this rule.”

Today, Mr. Clement urged the Court to overturn – or at a minimum strictly limit – *Chevron*, arguing that it is unworkable, reliance-destroying, and egregiously wrong. Specifically, it depends on a threshold of statutory ambiguity that nobody can agree on and allows agency

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interpretations that are subject to change with each successive administration, creating uncertainty in the law at the expense of Congress and American citizens.

The fishermen's briefs can be found [here](#) and [here](#). You can find the complete list of amicus briefs, excerpts, and additional information about the fishermen's case [here](#).

For further information, reach out to StandTogether-August@AugustCo.com or media@causeofaction.org.

About Cause of Action Institute

Cause of Action Institute is a 501(c)(3) oversight group advocating for economic freedom and individual opportunity advanced by honest, accountable, and limited government. Cause of Action Institute creates positive social change with pivotal administrative and judicial victories. These achievements create new standards that change the playing field not only for its clients, but for free society, opportunity, and economic liberty as a whole.