No. 22-451

IN THE

Supreme Court of the United States

LOPER BRIGHT ENTERPRISES, ET AL.,
Petitioners,

v.

GINA RAIMONDO, SECRETARY OF COMMERCE, ET AL.,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

BRIEF OF AMICI CURIAE U.S. SENATORS SHELDON WHITEHOUSE, MAZIE HIRONO, DIANNE FEINSTEIN, AND ELIZABETH WARREN IN SUPPORT OF RESPONDENTS

ERWIN CHEMERINSKY
Counsel of Record
UNIVERSITY OF CALIFORNIA, BERKELEY
SCHOOL OF LAW
LAW BUILDING 215
BERKELEY, CALIFORNIA 94720
(510) 642-3483
echemerinsky@law.berkeley.edu

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STATEMENT OF INTEREST[1]

Amici curiae are U.S. Senators Sheldon Whitehouse of Rhode Island, Mazie Hirono of Hawaii, Dianne Feinstein of California, and Elizabeth Warren of Massachusetts. *Amici* share with this Court a strong interest in preserving separation of powers and preventing corrupting influences from undermining our democracy.

SUMMARY OF THE ARGUMENT

This case is the product of a decades-long effort by pro-corporate interests to eviscerate the federal government's regulatory apparatus, to the detriment of the American people. Over the last 100 years, our society has seen wondrous innovation, and administrative regulation has been crucial to developing these wonders while safeguarding the public welfare. As industries grew more complex, Congress delegated some regulatory authority to administrative agencies. *Chevron* deference has been an important element in this endeavor, allowing Congress to rely on agency capacity and subject-matter expertise to help carry out Congress's broad policy objectives. Administrative regulations reined in dangerous industry activities, and our society became safer and more prosperous.

Though the benefits of these regulations were evident, industry special interests have long sought to limit regulation and avoid restraint. Industries will oppose regulation with 10 to 1 benefit-cost

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[1] Pursuant to Rule 37.6, no counsel for any party authored this brief in any part, and no person or entity other than *amicus* or *amicus*'s counsel made a monetary contribution to fund its preparation or submission.

ratios,[2] proving that they are not trustworthy stewards of the public welfare. This corporate indifference to public welfare should come as no surprise given documented industry quests to cover up the dangers of climate change and cigarettes.[3]

Special interests strategically file lawsuits challenging administrative rules and regulations, with coordinated mass filings of *amicus curiae* briefs, to convince courts to chip away at administrative agencies' regulatory authority. Corporate interests funnel billions of dollars into think tanks, advocacy organizations, political elections, and judicial confirmations. They generate false information, ingratiate themselves with elected officials, and steer jurisprudence toward their deregulation goals.

The call here to overturn *Chevron* and dismantle agency powers is a special interest solution in search of a problem; the purported "problem" is actually a value for the general public. Regulations facilitated

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[2] Pew Environment Group, *Industry Opposition to Government Regulation*, https://www.pewtrusts.org/~/media/assets/2011/03/industry-clean-energy-factsheet.pdf (noting that the utility industry opposed regulations to combat acid rain despite generating benefits valued between $118 billion and $177 billion annually while costing only $18 billion to $21 billion to implement).

[3] *See* Jeff Brady, *Exxon climate predictions were accurate decades ago. Still it sowed doubt*, NPR (Jan. 12, 2023), https://www.npr.org/2023/01/12/1148376084/exxon-climate-predictions-were-accurate-decades-ago-still-it-sowed-doubt; Ryan Jalsow, *Big tobacco kept cancer risk in cigarettes secret: Study*, CBS News (Sept. 30, 2011), https://www.cbsnews.com/news/big-tobacco-kept-cancer-risk-in-cigarettes-secret-study.

by *Chevron* deference have improved the health, safety, and welfare of the American people.

Unfortunately, this industry-funded operation has been effective. In *West Virginia v. EPA*,[4] this Court significantly limited administrative agency authority by adopting a so-called "major questions" doctrine. This new addition in the law led to an onslaught of challenges to administrative regulatory authority, many still in litigation. Amidst this upheaval, it would be rash to further upend precedent when the effects and understanding of the newly created "major questions" doctrine are still developing.

ARGUMENT

I. *CHEVRON*, WHICH IS VITAL TO CONGRESS'S ABILITY TO PROTECT AMERICANS THROUGH EFFICIENT AND EXPERTISE-BASED REGULATION, IS UNDER ATTACK IN THIS CASE BY PRO-CORPORATE SPECIAL INTERESTS

A. Regulation Is A Public Good That Protects People's Health, Safety, And Well-Being

Over the last century, our society has advanced remarkably. As industries and corporations grew, their motive to maximize profits caused social harms and threatened consumer safety. Regulation responded. Heavy equipment and dangerous chemicals came to mines, factories, and construction sites; regulators implemented workplace safety standards. Meatpacking and mass production of

[4] 142 S. Ct. 2587 (2022).

consumer goods ballooned; regulators implemented sanitation requirements in production facilities. Americans widely adopted automobiles; regulators required seat belts and air bags.

The modern economy necessitated a modernization of the U.S. regulatory framework. Congress responded to the complexities of the modern world by ensuring that administrative agencies have the capacity, flexibility, and expertise to respond to new developments.[5] Part of that project was delegating clear and broad authority to executive agencies and allowing those agencies to adopt and adapt regulations to respond to new hazards.

As a result, daily life in the United States is safer. Workplace illnesses, injuries, and deaths declined.[6] Children on average have lower levels of lead in their blood.[7] Foodborne illnesses that used to kill thousands of people per year have been

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[5] *See generally* IRA KATZNELSON, FEAR ITSELF: THE NEW DEAL AND THE ORIGINS OF OUR TIME (2013); Robert L. Rabin, *Federal Regulation in Historical Perspective*, 38 Stan. L. Rev. 1189 (1986); Mark Fenster, *The Birth of a "Logical System": Thurman Arnold and the Making of Modern Administrative Law*, 84 Or. L. Rev. 69 (2005); Mariano-Florentino Cuéllar, Foreword, *Administrative War*, 82 Geo. Wash. L. Rev. 1343 (2014); Stephen M. Johnson, *Indeconstructible: The Triumph of the Environmental "Administrative State"*, 86 U. Cin. L. Rev. 653 (2018).

[6] Occupational Safety and Health Administration, *Commonly Used Statistics*, https://www.osha.gov/data/commonstats.

[7] Centers for Disease Control and Prevention, *Childhood Lead Poisoning Prevention Program (CLPPP) 30th Anniversary* (Feb. 3, 2022), https://www.cdc.gov/nceh/lead/about/30th-anniversary.html.

practically wiped out.[8] Highways are no longer "carnage,"[9] and air travel is even safer than highway travel.[10] In our current age—when the smartphones in our pockets are more powerful than the computers used to put man on the moon, and humans are consuming more natural resources than at any other time in history—robust federal regulation is needed more than ever.[11]

Congress's deliberate delegation of policymaking authority has produced a highly reticulated body of administrative law. This body of law is designed to match the flexibility, efficiency, and expertise of executive branch agencies with robust accountability to the president, Congress, and the judiciary.

Agency experts report to politically appointed agency heads nominated by the President and confirmed by the Senate. These agency heads serve at the pleasure of the president, who is accountable

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[8] Face the Facts USA, *Food without fear* (Oct. 28, 2013), https://facethefactsusa.org/facts/food-without-fear.

[9] *See generally* RALPH NADER, UNSAFE AT ANY SPEED: THE DESIGNED-IN DANGERS OF THE AMERICAN AUTOMOBILE (1965), http://www.autolife.umd.umich.edu/Design/Gartman/Books/BK_Unsafe_Any_Speed.htm.

[10] National Highway Traffic Safety Administration, *Learn the Facts About New Cars*, https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/newer-cars-safer-cars_fact-sheet_010320-tag.pdf.

[11] *See* Graham Kendall, *Apollo 11 anniversary: Could an iPhone fly me to the moon?*, Independent (July 9, 2019), https://www.independent.co.uk/news/science/apollo-11-moon-landing-mobile-phones-smartphone-iphone-a8988351.html; United Nations Environment Programme, *We're gobbling up the Earth's resources at an unsustainable rate* (Apr. 3, 2019), https://www.unep.org/news-and-stories/story/were-gobbling-earths-resources-unsustainable-rate.

to the people.[12] If the public is unhappy with how agencies are implementing Congress's policies, voters can make that known at the ballot box.

Congress oversees agency actions through legislative committees dedicated to agency oversight, and regularly conducts oversight hearings where heads of agencies are called to account. Congress retains the power to enact legislation to limit or reverse agency rulemakings if it disagrees with the agency's actions, in some cases on an expedited calendar.[13] Furthermore, Congress holds the power of the purse; every appropriations bill presents an opportunity to expand, correct, or contract agency authorities. If the public is unhappy with how Congress is holding agencies accountable, voters can make that known at the ballot box.

Finally, agencies are accountable to the judiciary, which has the authority to review an agency's statutory interpretations and actions to ensure the agency's decisions are reasonable and follow appropriate processes and procedures.[14]

The notion of unaccountable administrative agencies is a self-serving mythology.

B. *Chevron* Deference Encourages Efficient And Effective Regulation

In *Chevron U.S.A. v. Natural Resources Defense Council*,[15] this Court announced the *Chevron*

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[12] *Seila Law LLC v. Consumer Financial Protection Bureau*, 140 S. Ct. 2183, 2197, 2203 (2020).
[13] Congressional Review Act, 5 U.S.C. §§ 801-808.
[14] 5 U.S.C. §§ 704, 706; *Chevron U.S.A., Inc. v. NRDC, Inc.*, 467 U.S. 837, 844 (1984).
[15] 467 U.S. 837 (1984).

deference framework, which requires courts to defer to an executive agency's reasonable interpretation of an ambiguous statute that Congress charged the agency with administering.[16] For nearly four decades, *Chevron* has been a successful piece of the modern regulatory safeguards described above. Congress has long legislated against the backdrop of *Chevron* deference, which allows expert agencies—themselves created by Congress—to implement statutes passed by Congress. Overruling *Chevron* would shift regulatory authority away from Congress and executive agencies to the courts, undermining decades of congressional action, upsetting settled reliance by industries and lawmakers, and hampering the functioning of the federal government.

Chevron ensures that unelected courts respect career experts who report to politically accountable agency heads as agencies implement and refine Congress's broad policy objectives. For example, to maintain safe air travel, Congress delegated authority for regulating the manufacturing and maintenance of aircraft and the use of navigable U.S. airspace to the Federal Aviation Administration (FAA).[17] To ensure the safe consumption of meat products, Congress delegated authority for regulating processing facility sanitation and meat storage and handling requirements to the U.S. Department of Agriculture (USDA).[18] Congress entrusts these agencies to fulfill these roles because it is not equipped to perform agency functions or

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[16] *Id.* at 843.
[17] 49 U.S.C. §§ 40103, 44701.
[18] 21 U.S.C. §§ 608, 624.

legislate with the kind of specificity or expertise required in today's modern, complex industries.[19] For air traffic alone, the FAA has more than 35,000 employees, including air traffic controllers, technicians, engineers, and support personnel to assist with directing flights in U.S. airspace.[20] The USDA employs approximately 9,000 employees in its Food Safety and Inspection Service to ensure the safe production of meat, poultry, and egg products.[21] By contrast, the U.S. House of Representatives employs approximately 10,000 staffers[22] who must split their time across a legion of substantive, policy, and political obligations. Congress simply does not have the time, staff, or expertise to perform the responsibilities of every regulatory agency.

Congress is, by design, a slow-moving institution. Our bicameral legislature is composed of two deliberative bodies that must engage with each other as well as the president to pass legislation into law.[23] Public protection can demand flexible and highly technical responses to conditions that change

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[19] *Mistretta v. United States*, 488 U.S. 361, 372–73 (1989) (acknowledging that "in our increasingly complex society, replete with ever changing and more technical problems, Congress simply cannot do its job absent an ability to delegate power under broad general directives").

[20] Federal Aviation Administration, *Our Business*, https://www.faa.gov/jobs/who_we_are/our_business.

[21] U.S. Dep't of Agric., *Have a Question? AskUSDA*, https://ask.usda.gov/s/article/How-many-food-inspectors-are-employed-by-FSIS.

[22] U.S. House of Representatives, *Positions with Members and Committees*, https://www.house.gov/employment/positions-with-members-and-committees.

[23] *See Gundy v. United States*, 139 S. Ct. 2116, 2134 (2019) (Gorsuch, J., dissenting).

rapidly. For instance, scientific understanding of the harmfulness of fine particulate matter, the poisonous potential of lead paint and pipes, and the dangers of fossil fuel emissions-driven planetary warming has changed significantly with time.[24] Moreover, the technology to reduce and eliminate pollutants is constantly evolving. The public's well-being requires that the federal government respond quickly and flexibly, particularly to emerging environmental dangers and evolving remedial processes. But Congress is not equipped to do so. So far in 2023, Congress has passed thirty bills, only thirteen of which have been signed into law.[25] Even if agencies completed 99% of the work required to develop and draft new rules, requiring Congress to enact the thousands of regulations that are published by agencies each year would still vastly exceed the hours on the legislative calendar.[26]

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[24] *See, e.g.*, Independent Particulate Matter Review Panel, *The Need for a Tighter Particulate Air-Quality Standard*, 383 N. Eng. J. Med. 680, 680-83 (2020); Michele Augusto Riva et al., *Lead Poisoning: Historical Aspects of a Paradigmatic "Occupational and Environmental Disease"*, 3 Safe Health Work 11, 11-14 (2012); United Nations Intergovernmental Panel on Climate Change, *Global Warming of 1.5 °C* (2018).

[25] Congress.gov, https://www.congress.gov/quick-search/legislation?wordsPhrases=&wordVariants=on&congressGroups%5B%5D=0&congresses%5B%5D=118&legislationNumbers=&legislativeAction=110&sponsor=on&representative=&senator; Public Laws https://www.congress.gov/public-laws/118th-congress.

[26] *See* MAEVE P. CAREY, CONG. RESEARCH SERV., R43056, COUNTING REGULATIONS: AN OVERVIEW OF RULEMAKING, TYPES OF FEDERAL REGULATIONS, AND PAGES IN THE *FEDERAL REGISTER* 1 (2019) (showing between 3,000-4,000 final rule documents published in the *Federal Register* each year between 2005-2018).

Opponents of *Chevron* deference argue that it violates separation of powers by moving Congress's policymaking authority to regulatory agencies. On the contrary, *Chevron* deference furthers the separation of powers by encouraging effective policymaking according to Congress's wishes: Congress empowers an agency through statute, giving deliberate deference to agency experts to hash out the technical and policy details, while maintaining a highly lively array of means to correct the agency when required. *Chevron* helps Congress responsibly oversee institutions "to confront new public needs."[27]

In the same way that the Constitution is not a "suicide pact,"[28] it is equally not a mandate to inflict mass harm or casualty on the American people. The fact that Congress, over the last forty years, has deliberately treated *Chevron* deference as a background presumption when assigning statutory authority to agencies shows that this system works for Congress and the American people. If Congress believed *Chevron* deference were an impediment to effective policymaking or encroached on its authorities, then Congress long ago would have amended the Administrative Procedure Act to eliminate it. Instead, Congress, voting with its feet,

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[27] *See* Craig Green, *Deconstructing the Administrative State:* Chevron *Debates and the Transformation of Constitutional Politics*, 101 B.U. L. Rev. 619, 702 (2021).

[28] *Terminiello v. Chicago*, 337 U.S. 1, 37 (1949) (Burton, J., dissenting).

stands firmly behind agency discretion in carrying out Congress's broad policy objectives.[29]

Eliminating *Chevron* deference would not just conflict with Congress's well-established policymaking desires; it would erode the separation of powers by shifting policymaking power from Congress and the executive to the unaccountable judiciary.[30] Even if it were true that there is not adequate accountability in administrative agencies, the answer to that is hardly to remove that authority to even-less-accountable courts, or to a Congress that would be so practically overwhelmed as to render accountability meaningless.

It should be noted that it is in administrative agencies that industries encounter expert oversight. Congressional committees have limited expertise in technical questions; courts usually have none. It is very much in industries' interest to move decision-making away from experts and into forums where the industry's information advantage and political and financial clout can sway outcomes to the benefit of industry. An entire literature exists about regulatory agency "capture"; a similar goal is achieved by regulatory agency impotence.

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[29] *See* Green, *supra* note 27, at 702, 666-68 (2021) ("Efforts to destroy administrative deference have failed in Congress for almost fifty years."); *cf. United States v. Midwest Oil Co.*, 236 U.S. 459, 472-73 (1915) ("Both officers, lawmakers, and citizens naturally adjust themselves to any long-continued action of the Executive Department, on the presumption that unauthorized acts would not have been allowed to be so often repeated as to crystallize into a regular practice.").

[30] *Id.* at 679.

Congress has chosen (and for decades reaffirmed its choice) to maintain this balanced and proven process. To overrule the choices of Congress and arrogate significant swaths of government policymaking to courts would be a defiance, not a defense, of the separation of powers.

C. Petitioners' *Amici* Are Collaborators In A Decades-Long, Industry-Funded Attempt To Undermine Government Regulation

The modern U.S. regulatory apparatus is rich with oversight—executive, legislative, and judicial—and the notions of an unaccountable regulatory state described above are a canard propagated by special interests. The special interests in this case, arguing from behind a flotilla of front group *amici* supporting petitioners, deploy this canard to create an accountability gap—a gap where regulation fails because Congress has not the time or expertise to regulate and agencies have not the authority to do so.

The flotilla of *amici* supporting petitioners includes several repeat players that pushed for deregulation in cases before this Court over the last twenty-three years. Two terms ago, seven *amici*, including The Buckeye Institute, Cato Institute, Competitive Enterprise Institute, Landmark Legal Foundation, New Civil Liberties Alliance, New England Legal Foundation, and Mountain States Legal Foundation, filed briefs in *West Virginia v. EPA* urging the Court to limit executive regulatory

authority.[31] *Amici* U.S. Chamber of Commerce, National Right to Work Legal Defense Foundation, New Civil Liberties Union, and Pacific Legal Foundation filed briefs in *American Hospital Association v. Becerra*, arguing that the Court should limit *Chevron* deference.[32]

These repeat players seek to undermine the federal government's regulatory authority, to benefit corporate interests. Pacific Legal Foundation in *Seila Law v. Consumer Financial Protection Bureau* asked this Court to throw out the entirety of the Consumer Financial Protection Bureau.[33] Cato Institute, Landmark Legal Foundation, and Mountain States Legal Foundation filed *amicus* briefs in *King v. Burwell*, arguing that the executive branch's implementation of the Affordable Care Act, including resolving inconsistencies in the statutory

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[31] *See* Brief of Amicus Curiae the Buckeye Institute in Support of Petitioners, *West Virginia v. EPA*, 142 S. Ct. 2587 (2022); Brief of the Cato Institute and Mountain States Legal Foundation as Amici Curiae in Support of Petitioners, *id.*; Brief of Amicus Curiae the Competitive Enterprise Institute in Support of Petitioners, *id.*; Brief of Amicus Curiae Landmark Legal Foundation in Support of Petitioners, *id.*; Amicus Curiae Brief of the New Civil Liberties Alliance in Support of Petitioners, *id.*; and Brief of Amicus Curiae New England Legal Foundation in Support of Petitioners, *id.*

[32] *See* Brief for Amicus Curiae the Chamber of Commerce of the United States of America in Support of Neither Party, *American Hospital Ass'n v. Becerra*, 141 S. Ct. 2883 (2022); Amicus Curiae Brief for the National Right to Work Legal Defense Foundation, Inc. in Support of Petitioners, *id.*; Brief of the New Civil Liberties Alliance as Amicus Curiae in Support of Petitioners, *id.*; and Brief Amicus Curiae of Pacific Legal Foundation in Support of Petitioners, *id.*

[33] Brief of Amicus Curiae Pacific Legal Foundation in Support of Petitioner, *Seila Law LLC v. CFPB*, 140 S. Ct. 2183.

text, was unconstitutional.[34] U.S. Chamber of Commerce as a petitioner in *Utility Air Regulatory Group v. EPA*, and Mountain States Legal Foundation and Pacific Legal Foundation as *amici* argued that EPA's regulation of greenhouse gas emissions from new motor vehicles was unlawful.[35] Cato Institute filed an *amicus* brief in *Arlington v. FCC* arguing that this Court should not defer to the FCC on the interpretation of its own jurisdictional statute.[36] Cato Institute and Pacific Legal Foundation filed *amicus* briefs in *Massachusetts v. EPA*, arguing that EPA lacked the authority to regulate greenhouse gases altogether.[37] And Pacific Legal Foundation also filed an *amicus* brief in *FDA v. Brown & Williamson Tobacco Corp.*, arguing that the FDA did not have authority to regulate tobacco products and that tobacco regulation should rest

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[34] *See* Brief of Amici Curiae Cato Institute and Prof. Josh Blackman in Support of Petitioners, *King v. Burwell*, 576 U.S. 473 (2015); Brief of Amicus Curiae Landmark Legal Foundation in Support of Petitioners, *id.*, and Amicus Curiae Brief of Mountain States Legal Foundation in Support of Petitioners, *id.*

[35] *See* Opening Brief of Petitioners Chamber of Commerce of the United States of America, State of Alaska, and American Farm Bureau Federation, *Utility Air Regulatory Group v. EPA*, 573 U.S. 302 (2014); Amicus Curiae Brief of Mountain States Legal Foundation in Support of Petitioners, *id.*; and Brief Amicus Curiae of Pacific Legal Foundation et al. in Support of Petitioners, *id.*

[36] *See* Brief of Amici Curiae Cato Institute et al. in Support of Petitioners, *Arlington v. FCC*, 569 U.S. 290 (2013).

[37] *See* Brief of the Cato Institute et al. as Amici Curiae in Support of Respondents, *Massachusetts v. EPA*, 549 U.S. 497 (2007), and Brief Amicus Curiae of Pacific Legal Foundation in Support of the Environmental Protection Agency, *id.*

solely with Congress given its significant economic and public health impacts.[38]

The common thread through these anti-regulatory positions is massive funding from pro-corporate special interests. The fossil fuel industry particularly has long sought to undermine executive regulatory authority. For example, *amici* The Buckeye Institute, Cato Institute, Competitive Enterprise Institute, Landmark Legal Foundation, Mountain States Legal Foundation, National Right to Work Legal Defense Foundation, New Civil Liberties Alliance, and Pacific Legal Foundation have all received hundreds of thousands, and sometimes millions, of dollars from Donors Trust and Donors Capital Fund—two donor-advised funds that allow ultra-wealthy interests to direct funding anonymously.[39] Donors Trust—described as the "dark-money ATM of the right"[40]—and Donors Capital Fund have for instance contributed over a third of a trillion dollars to fund the climate denial operation.[41]

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[38] *See* Brief of Amicus Curiae Pacific Legal Foundation in Support of Affirmance, *FDA v. Brown & Williamson*, 529 U.S. 120 (2000).

[39] SourceWatch, *DonorsTrust and Donors Capital Fund Grant Recipients*, https://www.sourcewatch.org/index.php/DonorsTrust_and_Donors_Capital_Fund_Grant_Recipients.

[40] Andy Kroll, *Exposed: The Dark-Money ATM of the Conservative Movement*, Mother Jones (Feb. 5, 2013), https://www.motherjones.com/politics/2013/02/donors-trust-donor-capital-fund-dark-money-koch-bradley-devos.

[41] Robert J. Brulle et al., *Obstructing action: foundation funding and US climate change counter-movement organizations*, https://cssn.org/wp-content/uploads/2020/10/Brulle2021_Article_ObstructingActionFoundationFun.pdf.

The Buckeye Institute, Cato Institute, Competitive Enterprise Institute, New Civil Liberties Alliance, and Pacific Legal Foundation have also received substantial funding from the Koch family foundations—another top ten funder for the climate change counter-movement.[42] Cato Institute, which the Koch family founded, has been instrumental in developing and promoting the industry "intellectual capital" that undergirds these challenges to executive authority—from new right-wing legal theories to anti-regulation handbooks for members of Congress to whitepapers arguing that "Federal Agency Guidelines Threaten Your Liberty."[43] The Bradley Foundation, yet another top-ten grantor for climate change denial, has funded The Buckeye Institute, Cato Institute, Competitive

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[42] SourceWatch, *Koch Family Foundations*, https://www.sourcewatch.org/index.php?title=Koch_Family_Foundations; Brulle et al., *supra* note 41, at 3.

[43] Jerry Taylor, *The Role of Congress in Monitoring Administrative Rulemaking*, Cato Inst. (Sept. 12, 1996), https://www.cato.org/testimony/role-congress-monitoring-administrative-rulemaking (stating that delegation "undermin[es] democracy"); CATO INST., CATO HANDBOOK FOR CONGRESS 79 (2003) (describing delegation as "The Corrosive Agency of Democracy"); Robert A. Anthony, *Unlegislated Compulsion: How Federal Agency Guidelines Threaten Your Liberty*, Cato Inst. (Aug. 11, 1998), https://www.cato.org/policy-analysis/unlegislated-compulsion-how-federal-agency-guidelines-threaten-liberty. In 2014, Taylor realized he, Cato, and the rest of the right-wing anti-climate groups were misleading the public about climate change. In a noisy exit, he left Cato and began supporting policies to reduce greenhouse gas emissions. See David Roberts, *The arguments that convinced a libertarian to support aggressive action on climate*, Vox (May 12, 2015), https://www.vox.com/2015/5/12/8588273/the-arguments-that-convinced-this-libertarian-to-support-a-carbon-tax.

Enterprise Institute, Landmark Legal Foundation, New Civil Liberties Alliance, and Pacific Legal Foundation as well.[44] Additionally, many of petitioners' *amici* have received funding directly from fossil fuel corporations. For example, ExxonMobil has donated significant sums to Cato Institute, Competitive Enterprise Institute, Landmark Legal Foundation, Mountain States Legal Foundation, Pacific Legal Foundation, and the U.S. Chamber of Commerce.[45]

Funding of petitioners' *amici* also comes from sources attempting to influence outcomes in these regulatory cases from other directions. Advancing American Freedom received $1.5 million from Leonard Leo's Concord Fund between 2020 and 2021.[46] The Concord Fund, also known under a "fictitious name,"[47] Judicial Crisis Network, has expended millions of dollars to recommend and confirm far-right, anti-regulation judges to the federal bench, and to fund Republican campaigns for state attorneys general[48] who then challenge federal regulations before those sympathetic judges.

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[44] SourceWatch, *Contributions of the Bradley Foundation*, https://www.sourcewatch.org/index.php?title=Contributions_of_the_Bradley_Foundation; Brulle et al., *supra* note 41.

[45] DeSmog, *ExxonMobil's Funding of Climate Science Denial*, https://www.desmog.com/exxonmobil-funding-climate-science-denial.

[46] SourceWatch, *Advancing American Freedom*, https://www.sourcewatch.org/index.php/Advancing_American_Freedom.

[47] State Corporation Commission, *Fictitious Names*, https://scc.virginia.gov/pages/Fictitious-Names.

[48] Coral Davenport, *Republican Drive to Tilt Courts Against Climate Action Reaches a Crucial Moment*, N.Y. Times (June 19,

Many of the other twenty-three *amici* supporting petitioners also likely have ties to special interest groups. However, because so many industry front groups do not disclose their donors, the parties, the Court, and the public are denied a more complete understanding of the linkages.[49] We do know that *amici's* industry-funded and industry-promoted arguments would empower and enrich corporations at the expense of the public health, safety, and welfare.

Proper disclosure may well show that these groups are essentially one coordinated machine. The Court should be wary of these groups' industry-driven narratives.

II. THE COURT SHOULD REJECT EFFORTS TO ENLIST IT IN AN INDUSTRY-DRIVEN DEREGULATORY AGENDA

The assault in this case on the regulatory system is not an isolated effort. For years, regulated interests have funded a full-scale campaign to delegitimize and dismantle federal regulations. The Court should proceed cautiously before contributing to their sought-for degradation of our American regulatory system.

2022), https://www.nytimes.com/2022/06/19/climate/supreme-court-climate-epa.html.

[49] Furthermore, the Court's failure to meaningfully enforce its *amicus* disclosure under Rule 37.6 prevents the public from knowing who is truly behind *amici* advocating before the Court.

A. The Attack On *Chevron* In This Case Is Part Of A Larger, Industry-Driven Campaign To Undermine Regulatory Agencies And Expand Corporate Profits

The attack on *Chevron* in this case by industry-funded groups is not surprising. The American regulatory system is a massive value to the American people. However, certain regulated industries resent the constraints these regulations place upon them. These industries have spent billions to undo these constraints, through massive public-relations operations, the purchasing of political capital through campaign-finance spending, and cases such as this one—seeded through years of industry spending and buoyed by flotillas of industry *amici*.[50]

The foundation for such cases often begins with "intellectual capital" conjured by industry-funded

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[50] *See, e.g.*, Mark Joseph Stern, *What the Koch Brothers' Money Buys*, Slate (May 2, 2018), https://slate.com/news-and-politics/2018/05/we-now-know-how-the-koch-brothers-and-leonard-leo-buy-special-favors.html (discussing the Koch Brothers' funding of deregulatory academic institutions); Kroll, *supra* note 40; Alexander Hertel-Fernandez, Caroline Tervo, and Theda Skocpol, *How the Koch brothers built the most powerful rightwing group you've never heard of*, The Guardian (Sept. 26, 2018), https://www.theguardian.com/us-news/2018/sep/26/koch-brothers-americans-for-prosperity-rightwing-political-group; SHELDON WHITEHOUSE, CAPTURED 147-58 (2017) (discussing dark-money industry funding of plaintiffs, counsels, and *amici curiae* in pro-industry litigation); Nicholas Confessore, *Koch Brothers' Budget of $889 Million for 2016 Is on Par With Both Parties' Spending*, N.Y. Times (Jan. 26, 2015), https://www.nytimes.com/2015/01/27/us/politics/kochs-plan-to-spend-900-million-on-2016-campaign.html.

front groups and scholars.[51] This "intellectual capital" helps "frame, filter, or shape the outcome of . . . decision-making process[es]" to benefit the deregulatory agenda.[52] These ideas are then spread and amplified through pseudo-grassroots organizing, legislative lobbying, and industry-financed conferences, before being deployed as legal arguments in courtrooms.

For example, petitioners and their *amici* argue that *Chevron*'s promotion of "agency policymaking succeeds only in confirming that *Chevron* 'is nothing more than a judicially orchestrated shift of power from Congress to the Executive Branch.'"[53] They argue that "*Chevron* should be overruled, and the decision below should be reversed so that the liberty of the small businesses that pursued this matter all the way to this Court is secured."[54] Regulated industries have long sought to convince policymakers and the Court that giving agency experts the

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[51] AMANDA HOLLIS-BRUSKY, IDEAS WITH CONSEQUENCES: THE FEDERALIST SOCIETY AND THE CONSERVATIVE COUNTERREVOLUTION 7, 12 (2014).

[52] *Id.*

[53] Br. for Pet'rs at 27 (quoting Brett M. Kavanaugh, *Fixing Statutory Interpretation*, 129 Harv. L. Rev. 2118, 2150). *See also* Br. of Pacific Legal Foundation as Amicus Curiae in Supp. of Pet'rs at 10-11; Br. of America First Legal Foundation as Amicus Curiae in Supp. of Pet'rs at 2; Br. Amicus Curiae of Chamber of Commerce of the United States of America in Supp. of Pet'rs at 2-3.

[54] Br. for Pet'rs at 52. *See also* Br. Amicus Curiae of Chamber of Commerce of the United States of America in Supp. of Petr's at 4.

flexibility to address complex and difficult issues threatens "individual liberty."[55]

This "freedom" narrative that big, regulated industries have tried to push on the Court is false. The regulations bemoaned by these industries in fact provide the American people with freedom—freedom from injury, death, and "the tyranny of others' stupid decisions."[56] The constraints on corporate actions imposed by these regulations are no different than numerous "limitations on our individual freedoms" that each of us regularly accept "to gain greater freedom," through "regulations that reduce smog, acid rain, ozone destruction, the use of DDT, backyard burning of garbage, driving while intoxicated, noise pollution, lead in paint and gasoline, certain carcinogens, water pollution—and more recently, exposure to secondhand smoke, injuries caused by not wearing seat belts, and texting while driving."[57] The freedom to cut corners, pollute, and escape accountability is not a real freedom; it is theft of the freedom of others to be spared the polluters' harms.

No industry has devoted more resources to dismantling government regulations than the fossil fuel industry. That industry spends vast sums on campaign contributions, on supposedly "independent" spending groups and "issue ads," and on an extensive apparatus for the dissemination of fake science and industry propaganda, all to block

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[55] Br. for Pet'rs at 32. *See also* Taylor, *supra* note 43.

[56] SHAWN OTTO, THE WAR ON SCIENCE (2016).

[57] *Id.*

Congress from combatting climate change.[58] It spends similar resources securing the placement of industry allies atop key executive agencies.[59] And it funds litigation to challenge laws or regulations that might hinder its freedom-to-pollute business model.[60]

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[58] *See e.g.*, Matthew H. Goldberg et al., *Oil and Gas Companies Invest in Legislators that Vote Against the Environment*, 117 Proceedings of the Nat'l Acad. of Sciences 5111 (2020) ("The more a given member of Congress votes against environmental policies, the more contributions they receive from oil and gas companies supporting their reelection."); Alan Zibel, *Big Oil's Capitol Hill Allies*, Pub. Citizen (Feb. 10, 2021), https://www.citizen.org/article/big-oils-capitol-hill-allies (documenting $13.4 million in donations from oil and gas interests to twenty-nine lawmakers who signed a letter denouncing the Biden administration's pause on new oil and gas leases); Suzanne Goldenberg & Helena Bengtsson, *Oil and gas industry has pumped millions into Republican campaigns*, The Guardian (Mar. 3, 2016), https://www.theguardian.com/us-news/2016/mar/03/oil-and-gas-industry-has-pumped-millions-into-republican-campaigns (documenting approximately $107 million donated through fossil fuel superPACs to Republican presidential candidates in 2015).

[59] Danielle Ivory & Robert Faturechi, *The Deep Industry Ties of Trump's Deregulation Teams*, N.Y. Times (July 11, 2017), https://www.nytimes.com/2017/07/11/business/the-deep-industry-ties-of-trumps-deregulation-teams.html; Jonathan Swan & Maggie Haberman, *Heritage Foundation Makes Plans to Staff Next G.O.P. Administration*, N.Y. Times (Apr. 20, 2023), https://www.nytimes.com/2023/04/20/us/politics/republican-president-2024-heritage-foundation.html.

[60] *See What's Wrong with the Supreme Court: The Big-Money Assault on Our Judiciary: Hearing Before the S. Comm. on the Judiciary*, 117th Cong. 6 (2021) (statement of Lisa Graves); Peter Stone, *Big oil remembers 'friend' Trump with millions in campaign funds*, The Guardian (Aug. 9, 2020), https://www.theguardian.com/us-news/2020/aug/09/big-oil-trump-campaign-donations-fossil-fuel-industry.

In recent years, the fossil fuel-funded U.S. Chamber of Commerce has argued that EPA's latest efforts to reduce carbon pollution from coal- and gas-fired power plants—even now[61]—still "go too far, too fast."[62] A trade group for the power industry, which "accounts for a quarter of the nation's greenhouse gas emissions," opposed the EPA's plan "to curb climate-warming emissions" from "existing natural gas-fired power plants."[63] And this summer, the American Petroleum Institute, American Fuel & Petrochemical Manufacturers, the U.S. Chamber of Commerce, and a host of other trade associations said EPA's proposal to strengthen greenhouse gas emissions standards

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[61] For previous campaigns to prevent these EPA efforts, *see, e.g.*, Robert Barnes & Steven Mufson, *Supreme Court freezes Obama plan to limit carbon emissions*, Wash. Post (Feb. 9, 2016), https://www.washingtonpost.com/politics/courts_law/supreme-court-freezes-obama-plan-to-limit-carbon-emissions/2016/02/09/ac9dfad8-cf85-11e5-abc9-ea152f0b9561_story.html (noting that this Court granted a stay requested by "more than two dozen states, plus utilities and coal companies" of a previous EPA proposal); Brief of U.S. Sens. Sheldon Whitehouse, et al. in Support of Respondents at 18-19, *West Virginia v. EPA*, 142 S. Ct. 2587 (2022) (documenting industry *amici* urging the Court to curtail EPA's regulatory authority).

[62] U.S. Chamber of Commerce, Press Release, *U.S. Chamber Warns Proposed Powerplant Rule Could Threaten Reliability and Harm Economy* (May 11, 2023), https://www.uschamber.com/energy/u-s-chamber-warns-proposed-powerplant-rule-could-harm-economy.

[63] Nichola Groom & Valerie Volcovici, *Top US utility group opposes emissions plan for existing gas plans*, Reuters (Aug. 1, 2023), https://www.reuters.com/sustainability/climate-energy/top-us-utility-group-opposes-emissions-plan-existing-gas-plants-source-2023-08-01.

for cars and light trucks "is not in the best interests of the consumer or of U.S. energy."[64]

The federal judiciary is the latest target of this polluter-driven deregulatory campaign. Almost $600 million has been spent to reshape the judiciary to fit the interests of corporate special interests, with much of that money connected to the fossil fuel industry.[65] That reshaping was part of a "larger plan" to deconstruct the so-called "administrative state."[66] The reshaping effort and the deregulatory efforts were "the flip side of the same coin,"[67]

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[64] Letter from Agricultural Retailers Association et al. to Honorable Joseph R. Biden, Jr., President of the United States (July 11, 2023), *available at* https://www.api.org/-/media/files/news/letters-comments/2023/multi-stakeholder-letter-to-biden-on-epa-tailpipe-rules.pdf.

[65] Evan Vorpahl, *Leonard Leo's Court Capture Web Raised Nearly $600 Million Before Biden Won; Now It's Spending Untold Millions from Secret Sources to Attack Judge Ketanji Brown Jackson*, True North Rsch. (Mar. 22, 2022), https://truenorthresearch.org/2022/03/leonard-leos-court-capture-web-raised-nearly-600-million-before-biden-won-now-its-spending-untold-millions-from-secret-sources-to-attack-judge-ketanji-brown-jackson.

[66] Jeremy W. Peters, *Stephen Bannon Reassures Conservatives Uneasy About Trump*, N.Y. Times (Feb. 23, 2017), https://www.nytimes.com/2017/02/23/us/politics/cpac-stephen-bannon-reince-priebus.html; Eli Watkins, *Top WH lawyer details Trump admin's 'larger plan' to shrink regulatory state*, CNN (Feb. 22, 2018), https://www.cnn.com/2018/02/22/politics/don-mcgahn-regulatory-cpac/index.html; *see also* Luke Hartig, *Trump's Four-Pronged War on the Administrative State*, Just Security (Feb. 7, 2018), https://www.justsecurity.org/51958/president-trumps-four-pronged-war-administrative-state .

[67] Robert Barnes & Steven Mufson, *White House Counts on Kavanaugh in Battle Against 'Administrative State'*, Wash. Post

according to White House Counsel Donald McGahn, who "exercised an unprecedented degree of control over judicial appointments."[68] The reward was massive reelection campaign support.[69]

The fossil fuel industry has an enormous motive to oppose regulations and attack agency power. The International Monetary Fund estimates that total fossil fuel subsidies in the United States, both direct and indirect (i.e., the unpriced negative externalities associated with fossil fuel production and combustion), totaled $760 billion in 2022.[70] The Fund previously estimated U.S. fossil fuel subsidies to have totaled $660 billion in 2020.[71] In 2019, the

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(Aug. 12, 2018), https://www.washingtonpost.com/politics/courts_law/brett-kavanaugh-and-the-end-of-the-regulatory-state-as-we-know-it/2018/08/12/22649a04-9bdc-11e8-8d5e-c6c594024954_story.html; *see also* Jason Zengerle, *How the Trump Administration is Remaking the Courts*, N.Y. Times (Aug. 22, 2018), https://www.nytimes.com/2018/08/22/magazine/trump-remaking-courts-judiciary.html (quoting McGahn's November 2017 speech to the Federalist Society observing that "regulatory reform and judicial selection are so deeply connected").

[68] Zengerle, *supra* note 67.

[69] Matt Egan, *Exxon denies Trump called CEO for money. But Big Oil is donating way more to Trump than Biden*, CNN (Oct. 21, 2020), https://www.cnn.com/2020/10/20/business/trump-exxon-oil-biden-campaign-donations/index.html.

[70] Simon Black, et al., *IMF Fossil Fuel Subsidies Data: 2023 Update*, IMF working papers (Aug. 24, 2023), https://www.imf.org/en/Publications/WP/Issues/2023/08/22/IMF-Fossil-Fuel-Subsidies-Data-2023-Update-537281.

[71] Ian Parry, *Still Not Getting Energy Prices Right: A Global and Country Update on Fossil Fuel Subsidies* at 26, IMF working papers (Sept. 24, 2021),

Fund estimated that U.S. fossil fuel subsidies totaled $649 billion in 2015.[72] (The growth in the subsidy is the growth in the expected harm from climate pollution.) Take the Fund's lowest estimate—$649 billion in 2015—and multiply it by the 7 years since the Court blocked the Clean Power Plan regulation, and the motive to protect the freedom-to-pollute business model sums to more than $4.5 trillion.

The campaign to protect the freedom to pollute is well served propagating the idea that regulations jeopardize the separation of powers and, as a result, individual liberty. The Court should be clear-eyed about how this narrative fits into the overall scheme.

The theatricality of the industry-funded campaign against *Chevron* (the "Lord Voldemort of administrative law"[73]) is somewhat belied by its recency. "From 1980 to 2008, mainstream conservatives did not oppose administrative deference, much less did they claim that deference violates the separation of powers."[74] Even industry-funded think tanks like the Cato Institute, Heritage Foundation, and American Enterprise Institute published articles and policy guides that bemoaned

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https://www.imf.org/en/Publications/WP/Issues/2021/09/23/Still-Not-Getting-Energy-Prices-Right-A-Global-and-Country-Update-of-Fossil-Fuel-Subsidies-466004.

[72] David Coady et al., *Global Fossil Fuel Subsidies Remain Large: An Update Based on Country-Level Estimates* at 2, IMF working paper (May 2, 2019), https://www.imf.org/en/Publications/WP/Issues/2019/05/02/Global-Fossil-Fuel-Subsidies-Remain-Large-An-Update-Based-on-Country-Level-Estimates-46509.

[73] Pacific Legal Found brief at 2 (quoting *Aposhian v. Wilkinson*, 989 F.3d 890, 896 (10th Cir. 2021) (en banc) (Tymkovich, J., dissenting)).

[74] Green, *supra* note 27, at 643.

judicial intervention in policymaking and emphasized the broad power of the executive branch.[75] Now, these groups and others call on Congress and this Court to end *Chevron* deference because the doctrine purportedly has been "*long* abused by federal agencies,"[76] is "unconstitutional and ahistorical,"[77] has "wreaked havoc . . . upon people and businesses,"[78] and is not "appropriate for a democratic republic."[79]

The conversion correlates with a "plan to fill the courts with judges devoted to a legal doctrine that challenges the broad power federal agencies have to interpret laws and enforce regulations. . . . Those not on board with this agenda, the White House . . . said, [were] unlikely to be nominated."[80] Mr. McGahn left no doubt about the goal, saying "it's not a coincidence" that the administration "spent a lot of

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[75] *Id.* at 648-652.

[76] GianCarlo Canaparo & Jack Fitzhenry, *Chevron Deference, Long Abused by Federal Agencies, on Supreme Court's Chopping Block?*, Heritage Found. (May 5, 2023), https://www.heritage.org/government-regulation/commentary/chevron-deference-long-abused-federal-agencies-supreme-courts (emphasis added).

[77] Br. of Cato Institute and Committee for Justice as Amici Curiae in Supp. of Pet'rs at 2.

[78] *Id.*

[79] Peter J. Wallison, Op-ed, *Reclaiming Legislative Power from the Administrative State*, Am. Enterprise Inst. (Aug. 2, 2022), https://www.aei.org/op-eds/reclaiming-legislative-power-from-the-administrative-state.

[80] Jeremy W. Peters, *Trump's New Judicial Litmus Test: Shrinking 'the Administrative State'*, N.Y. Times (Mar. 26, 2018), https://www.nytimes.com/2018/03/26/us/politics/trump-judges-courts-administrative-state.html, https://www.nytimes.com/2018/03/26/us/politics/trump-judges-courts-administrative-state.html.

time thinking about *Chevron*" and focused on overturning it.[81] The administration's efforts had the full support of Charles and David Koch, "two of the biggest financial backers of the effort to elect office holders committed to deregulation."[82] Of course, the fossil-fuel-funded Koch network stands to gain from deregulation, hence the presence of so many Koch-connected *amici* supporting petitioners in this case.[83]

The pivot of so many groups to attack *Chevron*, and thereby transfer power from agencies to judges, follows this long effort within the courts.

B. The Court Caused Upheaval Around Agency Power In Recent Cases, Which Should Be Allowed To Settle Before Further Disturbing Settled Law

Over the past two years, the Supreme Court has caused significant disruption of the law surrounding agency power and the ability of regulators to carry out their assigned functions.

A radical new tool for undercutting agency policymaking, the so-called "major questions" doctrine, gives judges startling freedom to halt agency actions based on the judge's personal view of the action's "majorness."[84] Using this doctrine, a

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[81] Green, *supra* note 27, at 686.

[82] Peters, *supra* note 80.

[83] *Supra* notes 39-42 and accompanying text.

[84] *Biden v. Nebraska*, 143 S. Ct. 2355, 2381 (2023) (Barrett, J., concurring). *See Questions Remain on Major Questions Doctrine*, Penn Carey Law (June 30, 2023), https://www.law.upenn.edu/live/news/15982-questions-remain-on-major-questions-doctrine ("What remains missing from the Court's treatment of the major questions doctrine . . . is any real

hostile court can "negate broad delegations Congress has approved, because they will have significant regulatory impacts."[85]

West Virginia v. EPA[86] fired the starting gun of an industry race to unwind regulations on those industries. Dozens of industry-driven cases cite this doctrine in litigation across the country.[87] Indeed, immediately following the Court's decision, "[o]pponents of federal action on pipelines, asbestos, nuclear waste, corporate disclosure and highway planning" began "seizing" on the opportunities introduced by *West Virginia v. EPA*.[88] Unsurprisingly, no agency has been subjected to more "major questions" challenges than the EPA—the agency primarily responsible for reining in the harms caused by the fossil fuel industry.[89]

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indication of what counts as a 'major' questions, beyond what is in the eyes of the beholder.").

[85] *Biden v. Nebraska*, 2355 S. Ct. at 2391 (Kagan, J., dissenting).

[86] 142 S. Ct. 2587 (2022).

[87] *See, e.g.*, Alex Guillén, *Impact of Supreme Court's climate ruling spreads*, Politico (July 20, 2022), https://www.politico.com/news/2022/07/20/chill-from-scotus-climate-ruling-hits-wide-range-of-biden-actions-00045920; Erin Webb, *Analysis: Major Questions Doctrine Filings Are Up in a Major Way*, Bloomberg Law (Feb. 1, 2022), https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-major-questions-doctrine-filings-are-up-in-a-major-way; Jennifer Hijazi, *Biden Tailpipe Emission Rules Face 'Major Questions' Legal Wave*, Bloomberg Law (Apr. 14, 2023), https://news.bloomberglaw.com/environment-and-energy/biden-tailpipe-emission-rules-face-major-questions-legal-wave.

[88] Guillén, *supra* note 87.

[89] Erin Webb, *Analysis: EPA Under Major Questions Microscope So Far in 2023*, Bloomberg Law (May 5, 2023),

It would be imprudent, at a minimum, to inject further uncertainty into the law before the dust settles from this last upheaval. Novel questions about the application of the major-questions doctrine continue to percolate through the courts, and that percolation is a valuable part of regular judicial process.[90] Courts that have for years faithfully applied *Chevron* would be suddenly asked to reconcile the unsettled consequences of the major questions doctrine with the removal of this known stalwart.

Such a decision risks further inserting the judiciary into the policymaking function properly left to political branches.[91] As other *amici* have noted, the Court's recent deregulatory decisions have already curtailed agency power and discouraged regulation.[92] There is no need for the Court to open those floodgates further.

If the Court is committed to maintaining the "major questions" doctrine as a valid exercise of judicial power, it should at minimum wait for courts to flesh out the true scope and contours of that power before introducing another radical change to the law.

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https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-epa-under-major-questions-microscope-so-far-in-2023.

[90] *Box v. Planned Parenthood of Indiana and Kentucky, Inc.*, 139 S. Ct. 1780, 1782 (2019) (per curiam) ("We follow our ordinary practice of denying petitions insofar as they raise legal issues that have not been considered by additional Courts of Appeals."). *See also* Amy Coney Barrett, *Stare Decisis and Due Process*, 74 U. Colo. L. Rev. 1072 n. 234.

[91] Br. of Law Professors Kent Barnett and Christopher J. Walker as Amici Curiae in Supp. of Neither Party, at 3-4.

[92] *Id.* at 34-35.

Reliance interests, *stare decisis*, and judicial moderation all counsel against further eroding bedrock principles of administrative law and the American regulatory system. The American regulatory system has served well to protect the public health, safety, and welfare under the scrutiny of all three branches of government. Few other than polluters would benefit from further damage.

CONCLUSION

For the foregoing reasons, this Court should affirm the judgment of the court of appeals and reaffirm its own decision in *Chevron v. Natural Resources Defense Council*.

Respectfully submitted,

ERWIN CHEMERINSKY
University of California,
Berkeley
School of Law
Law Building 215
Berkeley, California 94720
(510) 642-6483
echemerinsky@law.berkeley.edu
Counsel for Amici Curiae

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