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The Demise of Chevron: End of an Era or More of the Same? - Quarles & Brady

In a pair of 6-3 decisions issued Friday and Monday, the U.S. Supreme Court dealt back-to-back blows to the administrative state. First, it ruled on Friday in *Loper Bright* that federal courts can no longer defer to federal agencies' interpretations of statutes, overruling forty years of precedent under the "*Chevron* doctrine."1 Second, it ruled on Monday in *Corner Post* that the six-year statute of limitations on claims challenging final agency action under the Administrative Procedure Act (APA) does not begin to run until the plaintiff is injured by the agency's action.2

Taken together, these rulings make it easier to challenge federal agency action in federal courts: now, even agency actions from more than six years ago can be challenged upon a showing of more recent injury (*Corner Post*), and once in court there will be no thumb on the scale for the federal agency when it comes to interpreting statutes (*Loper Bright*). But how much these changes in the law will alter agency litigation in practice remains to be seen.

Loper Bright marks the end of what Justice Gorsuch called the Supreme Court's "forty-year misadventure" under Chevron, a 1984 decision holding that when a federal statute is ambiguous, the interpretive tie goes to the agency, whose interpretation will be sustained as long as it is reasonable.3 No more, said Chief Justice Roberts, writing for the majority. Now, "[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority," and "courts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous."4

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