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Andrew Brought Provides Thoughts on Supreme Court Ruling in Kansas City Business Journal and Business Insurance

Spencer Fane attorney Andrew Brought was recently quoted in three articles analyzing the impact of the U.S. Supreme Court's recent *Loper Bright Enterprises v. Raimondo* ruling: the *Kansas City Business Journal*'s "Supreme Court Ruling is a Gamechanger for How Businesses Deal with Federal Agencies," and two companion articles within the September issue of *Business Insurance*, "OSHA Rules in Crosshairs After Court Ruling" and "Second Decision Protects Agency From Threat."

The landmark June ruling by the U.S. Supreme Court overturned a 1984 precedent set by *Chevron v. Natural Resources*, which allowed federal agencies to serve as subject matter experts to provide reasonable and persuasive interpretations of ambiguous laws that fell within their jurisdictions. Per *Loper*, the former precedent was deemed governmental overreach, shifting the power to decipher ambiguous laws to the courts while limiting federal agencies' scope.

The overturned rule will have a direct impact on several regulatory agencies, a reordering of power the *Kansas City Business Journal* dissected with Drew. Upon noting affected agencies still possess the ability to pass rules where the law explicitly grants them power, Drew also remarked on the increased uncertainty and "unintended consequences" of the ruling. When examining the colossal time and money investment of challenging federal agencies, he posed a fundamental question: "What price are you willing to pay for that certainty and getting the relief you seek?"

Business Insurance concentrated on the ruling's impact on the U.S. Occupational Safety and Health Administration (OSHA). Drew explained that moving forward, OSHA

will need to implement health and safety rules "in a way consistent with the expectation of Congress," meaning new regulatory frameworks must be deliberate to fall within the agency's clear-cut powers.

In contrast, the "second decision" by the U.S. Supreme Court referenced in *Business Insurance*, *Allstates Refractory Contractors LLC v. Julie A Su*, reaffirmed OSHA's mandate to protect worker safety following the *Loper* ruling, rejecting a challenge to the agency's enforcement of workplace safety standards.

"The challenge basically upholds the constitutionality of the (Occupational Safety and Health) Act's delegation of responsibility to set standards to the agency," Drew explained.

At the firm, Drew counsels clients with complex challenges at the intersection of health, safety, and environmental regulations and is frequently called upon to assist in handling crisis management situations, strategic response, and incident investigations.

Read the full *Kansas City Business Journal* article here and the *Business Insurance* articles here. Please note, subscriptions may be required.