

The Supreme Court Update - October 16, 2023

by Brock Huebner, Ian Blodger, and Jessica M. Leano

On October 13, 2023, the Supreme Court of the United States granted certiorari in 4 cases:

Relentless, Inc. v. Department of Commerce, No. 22-1219: This is the second case that the Court has agreed to hear this term involving a challenge to the *Chevron* deference doctrine, which directs courts to defer to federal agencies' reasonable interpretations of ambiguous statutes. The question presented is: Whether the court should overrule *Chevron v. Natural Resources Defense Council*, or at least clarify that statutory silence concerning controversial powers expressly but narrowly granted elsewhere in the statute does not constitute an ambiguity requiring deference to the agency. This case will be briefed and argued in tandem with *Loper Bright Enterprises v. Raimondo*, which raises a similar challenge to the *Chevron* deference doctrine.

Cantero v. Bank of America, No. 22-529: This case involves a New York state law that requires mortgage lenders to pay a minimum 2% interest on funds held in mortgage escrow accounts. The National Bank Act gives national banks the power "to create and fund escrow accounts" and "provide escrow services in connection with home mortgage loans." The question presented is: Does the National Bank Act preempt the application of state escrow-interest laws to national banks?

Truck Insurance Exchange v. Kaiser Gypsum Company, Inc., No. 22-1079: This case involves the interplay between the Bankruptcy Code, which permits a "party in interest" to "appear and be heard" on any issue in a Chapter 11 proceeding, the "bankruptcy standing" doctrine, and the "insurance neutrality" rule. The judge-made bankruptcy standing doctrine and insurance neutrality rule bar an insurer from participating in bankruptcy proceedings unless the insurer can show the reorganization plan formally alters the "quantum of liability" under the insurance contract. The question presented is: Whether an insurer with financial responsibility for a bankruptcy claim is a "party in interest" that may object to a Chapter 11 plan of reorganization.

Related People

- Brock Huebner
- Ian Blodger
- Jessica M. Leano

Related Capabilities

- Appellate

Gonzalez v. Trevino, No. 22-1025: This case addresses the availability of a “probable cause defense” to First Amendment retaliatory arrest claims. In *Nieves v. Bartlett*, 139 S.Ct. 1715 (2019), the Supreme Court held that in a First Amendment retaliatory arrest claim, a police officer cannot rely on probable cause as a defense if the plaintiff shows “that he was arrested when otherwise similarly situated individuals are not engaged in the same sort of protected speech had not been.” The questions presented are: (1) Whether the *Nieves* probable cause exception can be satisfied by objective evidence other than specific examples of arrests that never happened; and (2) whether the *Nieves* probable cause rule is limited to individual claims against arresting officers for split-second arrests.