

SCOTUS Sides with Small Trucking Company in Major Victory for the Business Community

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On October 16, 2023, we wrote about the United States Supreme Court decision to grant certiorari review in *Corner Post, Inc. v. Board of Governors*, a case with large implications for the business community.[1] The Supreme Court heard oral arguments on February 20, 2024, and the Court issued its decision on July 1, 2024.

In a 6 to 3 decision, the Court reversed the Eighth Circuit and sided with Corner Post Inc. Through Justice Barrett's Opinion, the Court held that: "An APA claim does not accrue for purposes of § 2401(a)'s 6-year statute of limitations until the plaintiff is injured by final agency action." The Court explained that a right of action "accrues" when the plaintiff has a "complete and present cause of action," which only occurs once the plaintiff has an injury and the right to "file suit and obtain relief." The Court explained that it is the traditional rule that a statute of limitations begins to run at the time the plaintiff has the right to apply to the court for relief. The Court further explained that this traditional rule "constitutes a strong background presumption" and nothing in the legislative history or text of Section 2401 suggests Congress intended to depart from the traditional rule. Thus, Section 2401(a) embodies the plaintiff-centric traditional rule that a statute of limitations begins to run only when a plaintiff has a complete and present cause of action, i.e., an injury and right to file suit and obtain relief.

Background

The case involved three Plaintiffs, two business associations and Corner Post Inc., who sued the Board of Governors of the Federal Reserve over an APA rule that set processing fees for debit card transactions at 21 cents per transaction.[2] The case garnered attention when the district court held that the Plaintiffs' claims were time-barred by the statute of limitations under 28 U.S.C. § 2401(a).[3] Section 2401(a) states that "every civil action commenced against the United States shall be barred unless the complaint is filed within six years after the *right of action first accrues*."[4] The parties' dispute focused on when a "right of action" "first accrues" under the statute. The Plaintiffs appealed the decision to the Eighth Circuit.[5]

On appeal, the Plaintiffs argued that a right of action first accrues when a plaintiff suffers a legal

wrong and, accordingly, the statute of limitations begins running when a plaintiff becomes subject to and harmed by an agency rule. Thus, a business has six years from the time it first becomes subject to a government regulation to bring suit challenging the regulation.

In contrast, the Government argued that a right of action first accrues at the time the agency rule is published. Under this theory, a business can only challenge a government regulation within six years of the regulation's publication. After six years have passed, the rule cannot be challenged under the APA by an entity or individual.

The Eighth Circuit ultimately sided with the Government and held that: "[W]hen plaintiffs bring a facial challenge to a final agency action, the right of action accrues, and the limitations period begins to run, upon publication of the regulation." [6] *Corner Post Inc.* appealed the Eighth Circuit's decision and the Supreme Court granted certiorari review. Before the Court, the Government raised several policy arguments, which mainly focused on the purported burdens that would be placed on federal agencies and courts if businesses were free to challenge federal regulations in perpetuity. The Government went as far as to state that the Court's decision would "devastate the functioning of the Federal Government." The Court found that the Government's concerns were overstated.

Practical Implications

Now, individuals and businesses alike can challenge unlawful government regulations regardless of when the regulations were issued—so long as they bring suit within six years of first being harmed by the regulation. Thus, businesses in operation at the time the unlawful regulation is passed, and that are subject to and harmed by the rule, must bring suit within six years of the regulation's publication. However, those businesses like *Corner Post Inc.* which were not in operation at the time the regulation was passed, are no longer barred from challenging the regulation simply because the regulation's passage was more than six years prior.

[1] [United States Supreme Court Agrees to Hear Case With Potentially Large Implications for the Business Community](#); see also [Forecasting The Impact Of High Court Debit Card Rule Case](#)

[2] 2 See Debit Card Interchange Fees and Routing, 76 FR 43394-01 (July 20, 2011).

[3] *Corner Post, Inc. v. Bd. of Governors of Fed. Reserve Sys.*, 1:21-CV-00095, 2022 WL 909317, at *10 (D.N.D. Mar. 11, 2022).

[4] 28 U.S.C. § 2401(a).

[5] *N. Dakota Retail Ass'n v. Bd. of Governors of the Fed. Reserve Sys.*, 55 F.4th 634 (8th Cir. 2022).

[6] *Id.* at 641.