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**NCLA Asks Appeals Court to Toss Illegal D.C. Judicial Deference Mandate That Is Worse Than *Chevron***

*LHL Realty Company DC, LLC and LHL Realty Company v. District of Columbia*

**Washington, DC (July 2, 2025)** – The New Civil Liberties Alliance has filed an *amicus curiae* [brief](https://nclalegal.org/filing/amicus-curiae-brief-of-the-new-civil-liberties-alliance-and-the-goldwater-institute/) in conjunction with the Goldwater Institute in *LHL Realty Company v. District of Columbia* urging the District of Columbia Court of Appeals to set aside the temporary “Deference Amendment” to the District’s Administrative Procedure Act. The new amendment requires courts to defer to the Mayor and administrative agencies’ “reasonable” interpretations of the law when reviewing these authorities’ actions, a violation of the Supreme Court’s [*Relentless Inc. v. Department of Commerce*](https://nclalegal.org/case/relentless-inc-et-al-v-u-s-dept-of-commerce-et-al/) decision won by NCLA that overturned *Chevron* deference last year. In effect, the Deference Amendment allows bureaucrats, not judges, to decide the outcomes of lawsuits involving municipal government agencies. The Court of Appeals should rule that the Amendment conflicts with *Relentless* and reassert D.C. courts’ core constitutional power to interpret the law.

The Deference Amendment is even more ambitious than the now-discredited and abandoned *Chevron* doctrine. Whereas *Chevron* required judicial deference to an agency’s legal interpretation only when the statute in question was ambiguous or silent with respect to the issue at hand, the Deference Amendment requires judges to defer to administrative agencies’ legal interpretations *without regard to ambiguity or silence*. By allowing the executive branch of government to exercise some of the judiciary’s authority, the Deference Amendment also violates the D.C. Court Reorganization Act of 1970 and the D.C. Home Rule Act of 1973, which “vested” judicial power in the D.C. courts—just like Article III of the U.S. Constitution “vests” judicial power in federal courts.

Judicial deference not only deprives courts of their independent judgment in saying what the law is, it also denies Americans the due process of law. When a judge defers to an administrative agency, the government effectively becomes a judge in its own case. This rips away citizens’ right to an impartial adjudicator when they challenge official agency action. NCLA emphasized this point in *Relentless v. Dept. of Commerce* and does so again here.

**NCLA released the following statements:**

“The District Council took the power to ‘say what the law is’ away from the District’s courts and handed it to the Mayor and her administrative agencies. The Court of Appeals must reject this poaching of judicial power and restore D.C. residents’ right to fair and impartial court proceedings.”

— **Daniel Kelly, Senior Litigation Counsel, NCLA**

“*Chevron* deference deforms the role of judges and is contrary to our Constitution. It is no more acceptable as a legislative construct than as a judicial doctrine.”

— **John Vecchione, Senior Litigation Counsel, NCLA**

“The District’s judicial power was vested in its judges, not in the District Council. The Council has no right to wrest away that power—and the District’s judges would be crazy to let the Council get away with doing so.”

— **Mark Chenoweth, President, NCLA**

**For more information visit the amicus page** [here](https://nclalegal.org/case/lhl-realty-company-dc-llc-and-lhl-realty-company-v-district-of-columbia/)**.**

**ABOUT NCLA**

[NCLA](https://nclalegal.org/) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](https://nclalegal.org/personnel/philip-hamburger/) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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