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After Ending *Chevron* Deference, NCLA Asks First Circuit to Reel in Illegal Fishery Monitoring Rule

Relentless Inc., et al. v. U.S. Dept. of Commerce, et al.

Washington, DC (September 3, 2025) – The New Civil Liberties Alliance is appealing the U.S. District Court for the District of Rhode Island’s July decision in [*Relentless, Inc. v. Dept. of Commerce*](#) that upheld a National Oceanic and Atmospheric Administration (NOAA) rule requiring Atlantic herring fishermen to pay for at-sea government monitors on their boats. Upon remand from the Supreme Court’s landmark [*Loper Bright v. Raimondo*](#) and *Relentless* decision, the district court failed to heed the Court’s admonition that silence does not confer power on administrators. NCLA will ask the U.S. Court of Appeals for the First Circuit to reverse the errant district court decision, set aside the Herring Rule, and vacate the Industry-Funded Monitoring (IFM) Omnibus Amendment issued by the New England Fishery Management Council (NEFMC). To enforce the Amendment, NOAA must issue separate rules for each fishery. NCLA has consistently sought to vacate both the Rule and the Amendment.

NCLA convinced the Supreme Court last year in *Relentless* to overturn the unconstitutional *Chevron* doctrine, eliminating judicial deference to agency interpretations of allegedly ambiguous or silent statutes. The State Policy Network and the Institute for Justice recently awarded the “Chip Mellor Prize for Excellence in Public Interest Litigation” to NCLA for this achievement. With *Chevron* deference gone, courts are required to evaluate agency actions based on the statute’s language, without substituting the agency’s interpretations for what Congress wrote. This dramatic legal shift rightfully restores judicial authority to determine the meaning of the law to the courts, rather than relying on agencies’ often self-aggrandizing interpretations. The district court’s opinion relied on a non-existent “presumption” to hold that regulated parties must pay the regulator’s costs—including the salaries of government monitors—a notion that is contrary to the text of the statute and the Supreme Court’s prior ruling.

The First Circuit should recognize that the Magnuson-Stevens Fishery Conservation and Management Act (MSA) does not permit the agency’s controversial amendment and that Congress never authorized the Secretary of Commerce, under the MSA, to force New England fishermen into contracts with onboard observers. The costly Industry-Funded Monitoring program was imposed without statutory authorization. Without *Chevron* deference to a supposed ‘gap’ or ‘silence’ in the statute, this unlawful rule and amendment must be set aside. If this program is not stopped, the Herring Rule will be just the first of many industry-funded regulatory monitoring programs.

NCLA released the following statements:

“The Supreme Court has ruled silence does not confer power on agencies. A presumption that salaries of government monitors should be paid by fishermen and not the government cannot be allowed to insert deference to agencies under another name.”

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

“Why on earth the same Administration that says it wants agencies to implement *Loper Bright/Relentless* continues to press its case against these fishermen is hard to understand.”

— **Kara Rollins, Litigation Counsel, NCLA**

“The government’s continuing defense of NOAA’s at-sea monitor rule is unfathomable. The Department of Justice needs to take the ‘L’ on this one and find better things to do than keep harassing America’s fishermen. Where is President Trump? Where is Secretary Lutnick? They need to get control of their runaway regulators.”
— **Mark Chenoweth, President, NCLA**

For more information visit the case page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [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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