

## insights

TYPES NOT MAPPED YET June 07, 2023 | TTR not mapped yet | Warren L. Dean Jr., Katie E. Kraft

# Supreme Court Case Raises Questions of Administrative Agency Independence and Constitutional Supervision

The co-chairs of the firm's Supreme Court practice, [Warren Dean](#) and [Katie Kraft](#), authored an article for Law360 about a recent case addressing the extent to which administrative agencies can and should exercise power independent of meaningful supervision.

In *Consumer Financial Protection Bureau v. Community Financial Services Association of America Ltd.*, the Supreme Court will consider the constitutionality of the funding structure of the Consumer Financial Protection Bureau (CFPB), an independent regulatory agency. The Court's decision in this case will address the broader issue of the extent to which Congress can exempt a regulatory agency from its supervision under the Constitution.

The case will also consider the implications of relying on the appropriations clause to constrain independent regulatory agencies providing an opportunity for the Court to clarify the degree of meaningful supervision that should be exercised over regulatory agencies by the legislative, executive, and judicial branches of government.

In the article, Dean and Kraft write, "A basic principle of our constitutional system is its division of government functions between three separate and co-equal branches: the legislative, executive and judicial. This separation of powers is a key element of the checks and balances that are essential to ensuring fairness in the exercise of governmental power."

The ruling in this case will have significant implications for regulatory agencies' ability to interpret the law without effective oversight, as well as Congress's authority to delegate its legislative function in agency rulemaking.

"The principle, at its core, limits the judiciary's ability to supervise adjudicative activities of administrative agencies by promoting an agency's preferred interpretation of a law over a court's power to determine what the law is," they note.

Warren and Katie write that "The case will provide the court an opportunity to grapple with the broader question of the degree to which Congress can exempt a regulatory agency from its supervision under the Constitution and the implications of relying on the appropriations clause, as interpreted by the Fifth Circuit, to further constrain independent regulatory agencies."

The outcome will shape the division of powers between the branches of government and determine the level of independence afforded to regulatory agencies in their decision-making processes.

[Read the article here.](#)

### authorsTest

warren

Warren L. Dean Jr.

katie

Katie E. Kraft