

Jonathan Brightbill Discusses D.C. Circuit Case Against California Clean Air Act Waiver with *E&E News*

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Winston & Strawn partner Jonathan Brightbill discussed three challenges to the Biden administration's efforts to regulate automobile emissions of greenhouse gases in the United States that went before the U.S. Court of Appeals for the District of Columbia Circuit. The cases are relevant to both current and future efforts to regulate automobile and truck exhaust, and are looking at whether the "major questions" doctrine is relevant to these initiatives to reduce vehicle emissions.

"It certainly is the case that 'major questions' is the flavor of the day and that many practitioners are raising the doctrine," said Jonathan. The major questions doctrine says that Congress must clearly authorize agencies to regulate issues of major economic and political consequence.

The cases include *Ohio v. EPA*, which argues against California's Clean Air Act waiver allowing the state to set more stringent standards. Challengers of the waiver say California's authority to set strict tailpipe emissions rules violates the Constitution as all states should be treated equally.

"It very well could draw the Supreme Court's interest, given the broader implications of the California waiver and how it is now applied," he said, adding that the California waiver provision was "more localized in terms of its effect" when it was enacted 50 years ago.

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