

March 2013

Chamber of Commerce of the United States of America and National Automobile Dealers Association v. Environmental Protection Agency

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Recommended Citation

Leftridge, Dustin (2013) "Chamber of Commerce of the United States of America and National Automobile Dealers Association v. Environmental Protection Agency," *Public Land & Resources Law Review*. Vol. 0 , Article 7.

Available at: <https://scholarworks.umt.edu/plrlr/vol0/iss2/7>

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Chamber of Commerce of the United States of America and National Automobile Dealers Association v. Environmental Protection Agency, 642 F.3d 192 (D.C. Cir. 2011).

Dustin Leftridge

I. INTRODUCTION

The United States Chamber of Commerce (Chamber) and the National Automobile Dealers Association (NADA), on behalf of independent car dealerships, petitioned for review of an Environmental Protection Agency (EPA) decision allowing California to implement stricter greenhouse gas emission standards from automobiles. In *Chamber of Commerce of the United States of America and National Automobile Dealers Association v. Environmental Protection Agency*,¹⁵⁸ the United States Court of Appeals for the District of Columbia Circuit dismissed the petition for a lack of jurisdiction. The Court of Appeals held that NADA failed to establish standing to challenge the EPA's waiver of federal preemption under the Clean Air Act (CAA) prior to the implementation of federal greenhouse gas emission standards. Additionally, the court held the petition was moot for the years following the implementation of federal greenhouse gas emission standards because California's regulations were identical to new federal emission standards.

¹⁵⁸ *Chamber of Com. of the U.S. v. Env'tl. Protec. Agency*, 642 F.3d 192 (D.C. Cir. 2011).

II. FACTUAL BACKGROUND

In 2004, California adopted regulations setting greenhouse gas emission standards for new vehicles released in model year 2009.¹⁵⁹ The CAA gives the federal government exclusive authority to create regulations for emission standards.¹⁶⁰ However, exclusion from the federal preemption exists for states that adopted emission standards prior to 1966.¹⁶¹ California was the only state to adopt emission standards prior to 1966 and therefore was the only state eligible to a waiver of federal preemption.¹⁶² In 1977, Congress amended the CAA to enable other states to adopt standards identical to California standards.¹⁶³ In 2005, California asked the EPA to waive federal preemptions and the EPA denied the request.¹⁶⁴ In January 2009, California asked the EPA to reconsider its previous denial.¹⁶⁵ The EPA agreed to reconsider and in July 2009 issued an order granting the waiver.¹⁶⁶ Since the EPA's decision, fourteen states have adopted California's greenhouse gas emission standards.¹⁶⁷ In 2010, EPA and the National Highway Transportation Safety Administration (NHTSA) issued new greenhouse gas emission standards starting in 2012.¹⁶⁸

In an agreement between the federal government, the state of California, and major automobile manufactures, California modified its standards starting in 2012 to conform to the EPA and NHTSA national standards.¹⁶⁹ The current California specific standards remain in place until 2012. In return for California's acquiescence to federal standards, major automobile

¹⁵⁹ *Id.* at 196.

¹⁶⁰ *Id.* citing 42 U.S.C. § 7543(a) (2006), "No State . . . shall adopt or attempt to enforce any standard relating to the control of emission from new motor vehicles or new motor vehicle engines."

¹⁶¹ *Id.* citing 42 U.S.C. §7543(b)(1) "The Administrator [of EPA] shall . . . waive application of this section to any State which has adopted standards . . . for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966."

¹⁶² *Id.* citing *Ford Motor Co. v. Envtl. Protec. Agency*, 606 F.2d 1293, 1296 (D.C. Cir. 1979).

¹⁶³ *Id.*

¹⁶⁴ *Chamber of Com.*, 642 F.3d at 197.

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

manufactures and their trade associations made commitments to not oppose the 2012 national standards or California preemptions under the CAA.¹⁷⁰ However, the Chamber and NADA did not join the agreement and, on behalf of their dealership members, filed a challenge to the EPA waiver on September 9, 2009.¹⁷¹

VI. ANALYSIS

Prior to reaching the merits of the case, the court determined that it lacked jurisdiction to entertain the petitioner's claims.¹⁷² Federal courts are without authority to render advisory options or to decide questions that do not affect the rights of the litigants of the case.¹⁷³ The court analyzed the doctrines of standing and mootness to justify their Constitutional limitations.

A. The Chamber and NADA did not meet the requirements to challenge the EPA waiver on behalf of their membership for the years 2009 to 2012.

The Chamber and NADA claimed standing to sue on behalf of their members, in particular, the automobile dealers. An association has standing to sue on behalf of its members if: “(1) at least one of its members would have standing to sue in his own right, (2) the interests the association seeks to protect are germane to its purpose, and (3) neither the claim asserted nor the relief requested requires that an individual member of the association participate in the lawsuit.”¹⁷⁴ To satisfy the first element, an association is required to identify individual members who suffered an injury.¹⁷⁵ While NADA provided the declarations of two dealers alleging injury and the court analyzed the validity of the individual dealers standing, the court

¹⁷⁰ *Chamber of Com.*, 642 F.3d at 197..

¹⁷¹ *Id.*

¹⁷² *Id.* at 196.

¹⁷³ *Id.* at 199, citing *Preiser v. Newkirk*, 422 U.S. 395, 401, 95 S.Ct. 2330, 45 L.Ed.2d 272(1975).

¹⁷⁴ *Id.*

¹⁷⁵ *Id.* at 200.

concluded the Chamber did not meet the first element.¹⁷⁶ The court found the last two elements were met by both the Chamber and NADA.¹⁷⁷

Standing requires that: (1) the plaintiff either has or will imminently suffer an actual, concrete, and particularized injury; (2) the injury have a causal and traceable connection to the complained of conduct; and (3) a favorable judicial decision would be likely to result in adequate redress.¹⁷⁸ The court noted the California regulations being challenged did not regulate automobile dealers.¹⁷⁹ The regulations affected automobile manufactures, thereby increasing the burden of the dealers to demonstrate injury.¹⁸⁰ The dealers claimed imminent injury from possible price increases and possible limits on the type of cars delivered to dealerships in California from 2009 to 2012.¹⁸¹ The court held the mere speculation of injury was insufficient to establish standing.¹⁸² Further, the record did not contain any evidence demonstrating substantial probability that injuries were imminent between 2009 and 2012.¹⁸³

B. The promulgation of federal regulations for the years 2012 to 2016 nullifies NADA's claims of injury.

The NADA membership dealers successfully demonstrated that between 2012 and 2016 the California regulations would modify the type of cars produced and lead to price increases.¹⁸⁴ The court acknowledged the dealers met their burden to demonstrate an injury during the relevant time period. However, beginning in 2012, automobile manufactures will be required to comply with the EPA and NHTSA standards.¹⁸⁵ The California standards being challenged were identical to the 2012 national standards. Thus, the EPA waiver for California will not be

¹⁷⁶ *Chamber of Com.*, 642 F.3d at 200.

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *Chamber of Com.*, 642 F.3d at 201.

¹⁸² *Id.* at 202.

¹⁸³ *Id.* at 203.

¹⁸⁴ *Id.* at 204.

¹⁸⁵ *Id.* at 206.

responsible for any injury NADA members suffer from higher prices or a change in inventory.¹⁸⁶ The court held that even if NADA had standing when it initially sought review, the petition was moot because the promulgation of the 2012 national emission standards made the court unable to affect the rights of the parties.¹⁸⁷

V. CONCLUSION

The court dismissed the action brought on behalf of the plaintiffs' members. The Chamber and NADA failed to establish sufficient standing to challenge the EPA's waiver of federal preemption for automobile emission standards. The petitioners failed to demonstrate how the EPA's waiver had substantially injured individual members. The petitioners also fell short of demonstrating how the EPA's waiver would cause injury to individual members above and beyond the federal regulations that are to take effect in 2012. The court determined it lacked jurisdiction to hear a case that did not affect the rights of the petitioners and dismissed the petition. The court astutely observed that if this case had been brought on behalf of the automobile manufacturers instead of the dealers, the case would not necessarily have been dismissed for standing or mootness.¹⁸⁸

¹⁸⁶ *Id.* at 207.

¹⁸⁷ *Chamber of Com.*, 642 F.3d. at 210.

¹⁸⁸ *Id.* at 211.