

**22-1008 CORNER POST, INC. V. BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM**

DECISION BELOW: 55 F.4th 634

LOWER COURT CASE NUMBER: 22-1639

QUESTION PRESENTED:

Petitioner Corner Post, Inc. is a convenience store and truck stop in North Dakota that first opened for business in 2018. In 2021, Corner Post sued the Board of Governors of the Federal Reserve System under the Administrative Procedure Act, challenging a Board rule adopted in 2011 that governs certain fees for debit-card transactions.

The Eighth Circuit held that Corner Post's APA claims were barred by 28 U.S.C. §2401 (a)'s six-year statute of limitations. In so doing, it adopted the majority position in an acknowledged circuit split on when APA claims "first accrue[]" under §2401(a). The Eighth Circuit held that Corner Post's APA claims "first accrue[d]" when the Board issued the rule in 2011-even though Corner Post did not open for business until seven years later. As a result, Corner Post's limitations period expired in 2017-a year before it opened for business. The court did not explain how Corner Post could have "suffer[ed] legal wrong" from or been "adversely affected or aggrieved by" the Board's rule-a predicate to stating an APA claim, 5 U.S.C. §702-before Corner Post accepted even one debit-card payment subject to the rule.

The question presented is: Does a plaintiff's APA claim "first accrue[]" under 28 U.S.C. §2401(a) when an agency issues a rule-regardless of whether that rule injures the plaintiff on that date (as the Eighth Circuit and five other circuits have held)-or when the rule first causes a plaintiff to "suffer[] legal wrong" or be "adversely affected or aggrieved" (as the Sixth Circuit has held)?

CERT. GRANTED 9/29/2023