

In The News

Akerman Lawyers Question Future Viability of SEC and FTC Administrative Proceedings

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Litigation partners Douglas Paul and Ildefonso Mas in Washington, D.C. co-authored a *Law360* article following a recent decision by the U.S. Supreme Court that calls into question the constitutionality of federal agency enforcement actions against private individuals and companies brought before an administrative law judge appointed by that same government agency.

In the article, the authors opined on the future of SEC and FTC administrative proceedings following the Supreme Court decision in *Axon Enterprise Inc. v. Federal Trade Commission* and *U.S. Securities and Exchange Commission v. Cochran*. The Justices decided that a private party sued by the SEC or FTC in an agency action could sidestep agency proceedings by directly and at the outset sue in federal district court to enjoin agency proceedings as unconstitutional.

Paul and Mas also outline a series of takeaways if SEC and/or FTC enforcement procedures are done away with or severely limited, including:

“If administrative enforcement proceedings are removed from the SEC’s and FTC’s toolbox, they may be forced to adjust their enforcement strategy significantly and will likely bring fewer enforcement proceedings that they are less sure about or that will

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consume too many resources in federal district court litigation.”

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