

United States Law Week's  
**Supreme Court Today**

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**Current Status:** Review Granted

## Cuomo v. Clearing House Ass'n

**Subject Matter:** Banking--Limits on "visitorial powers" over national banks--Residual authority of state officials regarding laws pertaining to real estate lending--Preemption.

**Docket Number:** 08-453

**Latest Action:** 01/16/2009

**Case History :** **Filed:** 10/03/2008 (77 U.S.L.W. 3242)  
**Review Granted:** 01/16/2009  
The brief of petitioner is to be filed on or before Wednesday, February 25, 2009. The brief of respondents is to be filed on or before Wednesday, March 25, 2009. A reply brief, if any, is to be filed in accordance with Rule 25.3 of the Rules of this Court.

**Ruling Below:** (2d Cir., 510 F.3d 105, 76 U.S.L.W. 1355)

**Summary of Ruling Below:** District court did not abuse its discretion by permanently enjoining New York attorney general's investigation into allegations of racial bias in residential real estate lending by several national banks in violation of state law, after affording *Chevron* deference to regulation promulgated by Office of Comptroller of Currency, 12 C.F.R. § 7.4000, that--based on language of National Bank Act, 12 U.S.C. § 484(a), providing that "[n]o national bank shall be subject to any visitorial powers except those authorized by Federal law [or] vested in the courts of justice"--permissibly construes courts-of-justice exception as "not grant[ing] state or other governmental authorities any right to inspect, superintend, direct, regulate or compel compliance by a national bank with respect to any law, regarding the content or conduct of activities authorized for national banks under Federal law," which clearly encompasses real estate lending.

**Question(s) Presented:** (1) Is 12 C.F.R. § 7.4000, which interprets 12 U.S.C. § 484(a) to preempt state enforcement of state laws against national banks except when those powers are authorized by federal law, vested in courts of justice, or exercised by Congress or house or committee thereof, entitled to judicial deference under *Chevron U.S.A. Inc. v. Natural Resources Defense Council Inc.*, 467 U.S. 837 (1984)? (2) Is 12 C.F.R. § 7.4000 invalid because it is inconsistent with authoritative construction of National Bank Act by this court in *First National Bank in St. Louis v. Missouri*, 263 U.S. 640 (1924)?

**Attorneys:** Petition for certiorari filed 10/3/08, by Andrew M. Cuomo, N.Y. Atty. Gen., Barbara D. Underwood, Sol. Gen., Michelle Aronowitz, Dpty. Sol. Gen., and Richard Dearing, Asst. Sol. Gen.

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