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*Encino Motorcars, LLC v. Navarro*, No. 15-415

Under *Chevron U.S.A. Inc. v. NRDC*, an agency is ordinarily entitled to deference when it interprets a statute

through notice-and-comment rulemaking. Today, however, the Supreme Court issued a unanimous reminder that

*Chevron* is not absolute, refusing to accord deference to a Department of Labor regulation interpreting a narrow

question about the Fair Labor Standards Act.

The regulation at issue concerns whether service advisors at automobile dealerships are entitled to time-and-a-half

overtime pay for working more than 40 hours in a given week. By statute, "any salesman, partsman, or mechanic

primarily engaged in selling or servicing automobiles, trucks, or farm implements" is exempted from the right to

overtime pay. And from 1978 until 2011, the Department of Labor's position was that service advisors fell within

the statutory definition of "salesman."

In 2008, the Department issued a notice of proposed rulemaking that would codify that longstanding interpretation.

But the final regulation, issued in 2011, abruptly changed course and defined “salesman” to mean only an

employee who sells automobiles, trucks, or farm implements—and not one who sells automobile service.

In today’s decision, the Supreme Court declined to defer to the 2011 regulation. The Court held that the regulation

was procedurally defective because it failed to explain why the Department was abandoning its longstanding

interpretation and failed to account for the reliance interests engendered by the previous interpretation. As a result

of the procedural defect, the Court held that the regulation was not entitled to any deference.

The Court's six-Justice majority, in an opinion written by Justice Kennedy, directed that the underlying claim for

overtime pay be remanded to the Ninth Circuit for a determination of whether the statute, interpreted de novo,

entitles the plaintiff to overtime pay. Justice Thomas, joined by Justice Alito, issued a dissenting opinion. While

agreeing that the regulation was not entitled to deference, Justice Thomas would have proceeded to reject the

plaintiff's claim for overtime on the merits.

Any questions should be directed to [Brian D. Netter](#) (+1 202 263 3339) in our Washington office.