

06-593 LONG ISLAND CARE AT HOME V. COKE

DECISION BELOW:462 F3d 48

LOWER COURT CASE NUMBER: 03-7666

QUESTIONS PRESENTED:

1. Whether the Second Circuit erred in refusing to give deference under *Chevron, U.S.A., Inc. v. Natural Res. Def Council, Inc.*, 467 U.S. 837 (1984), to a thirty-year-old Department of Labor regulation—a regulation that has twice been upheld by the Tenth Circuit—on the ground that, even though it was promulgated under express grants of legislative authority and after full notice-and-comment rulemaking, the regulation was contained in a subpart headed “Interpretations.”
2. Whether, in holding that a longstanding Department of Labor regulation was not persuasive and thus undeserving of any deference under *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944), the Second Circuit erred by failing to address the governing provisions of the Fair Labor Standards Act and by declining to give any weight to the Department’s interpretation of its own regulations.

CERT. GRANTED 1/5/2007