

Cooley R. Howarth, Jr.

United States v. Mead Corp.: *More Pieces for the Chevron/Skidmore Deference Puzzle*

54 Admin. Law Rev. 699 (2002)

Abstract by Dipal Shah

Howarth, in his article, attempts to lay a framework for understanding the impact of *United States v. Mead Corp.*, in the context of the *Chevron* doctrine and the broader understanding of judicial deference for agency regulations. Howarth argues that under administrative law principles, the courts should avoid deferring to a reasonable agency conclusion as to the statute's content or meaning and instead engage in an independent evaluation of what Congress decided in empowering the state. Overall, Howarth stresses the importance of courts deferring to an agency's lawmaking, but not to an agency's statutory interpretation.

Howarth indicates that though his argument contradicts the basic premise of the *Chevron* doctrine, *Mead* highlights the importance of distinguishing between interpretation and lawmaking. Furthermore, Howarth contends that *Mead* suggests that the distinction is an important part of deciding when to afford *Chevron* deference to an agency action, but that other sections of *Mead* cast doubt on that proposition. In addition, Howarth raises the proposition that *Mead* increases the potency of the *Skidmore* ruling, and maintains that *Skidmore* is an alternative standard of agency review. In concluding, Howarth emphasizes the need for sorting out the distinction between lawmaking and interpretation and asserts that *Mead* affects both the *Chevron* and *Skidmore* doctrines.