

# The Burger Court Opinion Writing Database

## *Atchison, Topeka & Santa Fee Railway Co v. Wichita Board of Trade*

412 U.S. 800 (1973)

Paul J. Wahlbeck, George Washington University  
James F. Spriggs, II, Washington University  
Forrest Maltzman, George Washington University



9

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

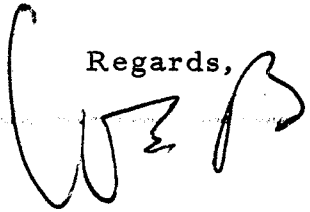
May 8, 1973

Re: No. 72-214 - The Atchison, Topeka and Santa Fe  
Railway Co. v. The Wichita Board  
of Trade

No. 72-433 - Interstate Commerce Commission  
v. Wichita Board of Trade

Dear Thurgood:

Please join me.

Regards,  


Mr. Justice Marshall

Copies to the Conference

3

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

June 14, 1973

Re: No. 72-214) - Atchison, Topeka & Santa Fe Ry. v.  
Wichita Board of Trade  
No. 72-433) - ICC v. Wichita Board of Trade

MEMORANDUM TO THE CONFERENCE:

In view of the curious posture of the above case, I am considering a re-examination of my position and it will, therefore, not come down on Monday next. This may affect the SCRAP announcement date, but I leave that to Potter.

Regards,

Wes

B  
M

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 72-214 AND 72-433

The Atchison, Topeka and  
Santa Fe Railway Com-  
pany et al.,  
Appellants.

72-214 v.

The Wichita Board of  
Trade et al.

Interstate Commerce Com-  
mission, Appellant.

72-433 v.

Wichita Board of Trade.

On Appeals from the  
United States District  
Court for the District  
of Kansas.

[April —, 1973]

MR. JUSTICE DOUGLAS, dissenting.

If, as the Court properly holds, the Commission's ap-  
proval of the new rate is procedurally defective because  
it does not adequately explain its departure from Com-  
mission precedent, the District Court was quite correct in  
issuing its injunction. *Arrow Transportation Co. v. Sou.  
R. Co.*, 372 U. S. 58, is not relevant here, for the reason  
that § 15 (7) only purports to control the suspension of  
rates up until the time the Commission has rendered a  
decision. After that decision has been made the review-  
ing court has, I believe, the power to enjoin the affected  
rates. See 372 U. S., at 669-670. The new charges  
which the Commission would impose would have an  
immediate impact upon the grain marketing system. It  
would affect the volume of business of the grain mer-  
chants, it would affect the employment of grain inspec-  
tors, and it would result in lower prices being paid to the  
farmers. None of these incidences can be remedied under

To: The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

From: Douglas, J.

Circulated: 4-5-73

Recirculated: \_\_\_\_\_

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11-011

To: The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

From: Douglas, J.

Nos. 72-214 AND 72-433

Circulated:

Recirculated: 6-7

The Atchison, Topeka and  
Santa Fe Railway Com-  
pany et al.,  
Appellants,

72-214 v.

The Wichita Board of  
Trade et al.

Interstate Commerce Com-  
mission. Appellant.

72-433 v.

Wichita Board of Trade.

On Appeals from the  
United States District  
Court for the District  
of Kansas.

[April —, 1973]

MR. JUSTICE DOUGLAS, dissenting.

In my view the District Court was quite correct in issuing its injunction. *Arrow Transportation Co. v. Sou. R. Co.*, 372 U. S. 658, is not relevant here, for the reason that § 15 (7) only purports to control the suspension of rates up until the time the Commission has rendered a decision. After that decision has been made, the reviewing court has, I believe, the power to enjoin the affected rates. The new charges which the Commission would impose would have an immediate impact upon the grain marketing system. It would affect the volume of business of the grain merchants, it would affect the employment of grain inspectors, and it would result in lower prices being paid to the farmers. None of these incidences can be remedied under the existing statutory scheme, because none of these interests is enabled to bring suit for a later rate refund. Hence, in my view, the grain trade and the farmers need this interim protec-

9  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

June 5, 1973

RE: Nos. 72-214 & 72-433 Atchison, Topeka,  
etc. v. Board of Trade of Wichita

Dear Byron:

Please join ~~me~~ in your dissent in the  
above.

Sincerely,



M.r. Justice White

cc: The Conference

7  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

June 14, 1973

RE: Nos. 72-214 & 72-433 - Atchison, Topeka,  
etc. & I.C. C. v. Wichita Board of Trade

Dear Thurgood:

I think that the adoption of your suggestions  
should fully solve the Reporter's problems.

Sincerely,

*Bul*

Mr. Justice Marshall

cc: The Conference

3 M  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE POTTER STEWART

April 2, 1973

Re: Nos. 72-214 & 72-433, Atchison, T&SF R. Co.  
v. Wichita Bd. of Trade

Dear Thurgood,

I am glad to join your opinion for the Court  
in these cases.

Sincerely yours,

P.S.

Mr. Justice Marshall

Copies to the Conference



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE POTTER STEWART

June 14, 1973

Re: Nos. 72-214 & 72-433 - Atchison, Topeka  
and Santa Fe Ry. v. Wichita Bd/Tr.

Dear Thurgood,

I think your proposal will solve Henry  
Putzel's problem, and I am in favor of it.

Sincerely yours,

OS.  
/

Mr. Justice Marshall

Copies to the Conference

110-011

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE BYRON R. WHITE

May 24, 1973

Re: Nos. 72-214 & 72-433 - A. T. & S. F. Ry Co.  
v. Wichita Bd of Trade

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Dear Thurgood:

I have delayed unconscionably in responding to you in this case. Now that I have gone over the matter again, I regret to say that I shall shortly be filing a dissent.

Sincerely,

*Byron*

Mr. Justice Marshall

Copies to Conference

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To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos 72-214 AND 72-433

Circulated: 5-29-73

Recirculated: \_\_\_\_\_

The Atchison, Topeka and  
Santa Fe Railway Com-  
pany et al.,  
Appellants,

72-214 v.

The Wichita Board of  
Trade et al.

Interstate Commerce Com-  
mission, Appellant,

72-433 v.

Wichita Board of Trade.

On Appeals from the  
United States District  
Court for the District  
of Kansas.

[June —, 1973]

MR. JUSTICE WHITE, dissenting.

I dissent because the District Court erred both in holding that the Commission had inadequately explained the basis for its judgment and in suspending the new in-transit inspection tariff beyond the time the statute permits new rates to be suspended without a finding that they are unjust and unreasonable.

As to the latter, 49 U. S. C. § 15 (7) forbids the suspension of new freight rates for more than seven months without the requisite finding of unreasonableness by the Commission. Only the Commission may suspend in the first instance; and if the agency refuses to do so, the court is powerless itself to suspend. The Commission may postpone effectiveness of new rates for seven months, but if it does, the statute commands that, absent the appropriate order of the Commission within that period, "the proposed change of rate . . . shall go into effect . . . ." To permit the District Court neverthe-

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9/

7, 8

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
✓ Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

2nd DRAFT

From: White, J.

SUPREME COURT OF THE UNITED STATES

Nos 72-214 AND 72-433

Recirculated: 6-2-7

The Atchison, Topeka and  
Santa Fe Railway Com-  
pany et al.,  
Appellants,

72-214 v.

The Wichita Board of  
Trade et al.

Interstate Commerce Com-  
mission, Appellant,

72-433 v.

Wichita Board of Trade.

On Appeals from the  
United States District  
Court for the District  
of Kansas.

[June —, 1973]

MR. JUSTICE WHITE, dissenting.

I dissent because the District Court erred both in holding that the Commission had inadequately explained the basis for its judgment and in suspending the new in-transit inspection tariff beyond the time the statute permits new rates to be suspended without a finding that they are unjust and unreasonable.

As to the latter, 49 U. S. C. § 15 (7) forbids the suspension of new freight rates for more than seven months without the requisite finding of unreasonableness by the Commission. Only the Commission may suspend in the first instance; and if the agency refuses to do so, the court is powerless itself to suspend. The Commission may postpone effectiveness of new rates for seven months, but if it does, the statute commands that, absent the appropriate order of the Commission within that period, "the proposed change of rate . . . shall go into effect . . . ." To permit the District Court neverthe-

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B  
p. 1  
Ready?

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

From: White, J.

Nos 72-214 AND 72-433

Circulated: \_\_\_\_\_

Recirculated: 6-6-7

The Atchison, Topeka and  
Santa Fe Railway Com-  
pany et al.  
Appellants.

72-214

The Wichita Board of  
Trade et al.

Interstate Commerce Com-  
mission. Appellant

72-433

Wichita Board of Trade

On Appeals from the  
United States District  
Court for the District  
of Kansas.

[June -- 1973]

MR. JUSTICE WHITE, with whom MR. JUSTICE BRENNAN and MR. JUSTICE REHNQUIST join, dissenting

I dissent because the District Court erred both in holding that the Commission had inadequately explained the basis for its judgment and in suspending the new in-transit inspection tariff beyond the time the statute permits new rates to be suspended without a finding that they are unjust and unreasonable

As to the latter, 49 U. S. C. § 15 (7) forbids the suspension of new freight rates for more than seven months without the requisite finding of unreasonableness by the Commission. Only the Commission may suspend in the first instance, and if the agency refuses to do so the court is powerless itself to suspend. The Commission may postpone effectiveness of new rates for seven months, but if it does, the statute commands that, absent the appropriate order of the Commission within that period, "the proposed change of rate . . . shall go into effect . . .". To permit the District Court neverthe-

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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE BYRON R. WHITE

June 14, 1973

Re: Nos. 72-214 & 72-433 - Atchison, Topeka  
& Santa Fe v. Wichita Board of Trade

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Dear Thurgood:

While I am quite sure that the various opinions in these cases, with no change at all, plainly mean what you say they mean, I am quite willing to make the alteration you suggest at the outset of my opinion.

Sincerely,



Mr. Justice Marshall

Copies to Conference

13  
/

To: The Chief Justice  
→ Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
- Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

1st DRAFT

From: Marshall, J.

**SUPREME COURT OF THE UNITED STATES**

Revised: MAR 30 1973

Nos. 72-214 AND 72-433

Recirculated: \_\_\_\_\_

The Atchison, Topeka and  
Santa Fe Railway Com-  
pany et al.,  
Appellants.

72-214 v.

The Wichita Board of  
Trade et al.

Interstate Commerce Com-  
mission, Appellant.

72-433 v.

Wichita Board of Trade.

On Appeals from the  
United States District  
Court for the District  
of Kansas.

[April —, 1973]

MR. JUSTICE MARSHALL delivered the opinion of the  
Court.

We noted probable jurisdiction in these cases to re-  
solve two important questions relating to the proper role  
of courts in reviewing approval by the Interstate Com-  
merce Commission of proposed rate increases by railroads.  
409 U. S. — (1972). First, under what circumstances  
may a reviewing court find that the Commission has  
failed adequately to explain its apparent departure from  
settled Commission precedent? Because the problem of  
determining what policies an agency is following, as a  
prelude to determining whether the agency is acting in  
accordance with Congress' will, is a recurring one, this  
issue raises general problems of judicial review of agency  
action. The second question in this case is a more lim-  
ited one: in order to enjoin a proposed rate increase after

4, 14, 15, 17, 18, 20, 22

B

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

from: Marshall, J.

Nos. 72-214 AND 72-433

Circulated: \_\_\_\_\_

Recirculated: APR - 2 - 73

The Atchison, Topeka and  
Santa Fe Railway Com-  
pany et al.,  
Appellants,

72-214 v.

The Wichita Board of  
Trade et al.

Interstate Commerce Com-  
mission, Appellant,

72-433 v.

Wichita Board of Trade.

On Appeals from the  
United States District  
Court for the District  
of Kansas.

[April —, 1973]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

We noted probable jurisdiction in these cases to resolve two important questions relating to the proper role of courts in reviewing approval by the Interstate Commerce Commission of proposed rate increases by railroads. 409 U. S. — (1972). First, under what circumstances may a reviewing court find that the Commission has failed adequately to explain its apparent departure from settled Commission precedent? Because the problem of determining what policies an agency is following, as a prelude to determining whether the agency is acting in accordance with Congress' will, is a recurring one, this issue raises general problems of judicial review of agency action. The second question in this case is a more limited one: in order to enjoin a proposed rate increase after

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To: The Chief Justice  
 Mr. Justice Douglas  
 Mr. Justice Brennan  
 Mr. Justice Stewart  
 Mr. Justice White  
 Mr. Justice Black  
 Mr. Justice Powell  
 Mr. Justice Rehnquist

3rd DRAFT

**SUPREME COURT OF THE UNITED STATES** <sup>Justice</sup> Marshall, J.

Nos. 72-214 AND 72-433

Circulated: \_\_\_\_\_

Recirculated: MAY 9 1973

The Atchison, Topeka and  
 Santa Fe Railway Com-  
 pany et al.  
 Appellants.

72-214 v.

The Wichita Board of  
 Trade et al.

Interstate Commerce Com-  
 mission, Appellant

72-433 v.

Wichita Board of Trade.

On Appeals from the  
 United States District  
 Court for the District  
 of Kansas.

[April — 1973]

MR. JUSTICE MARSHALL delivered the opinion of the  
 Court.

We noted probable jurisdiction in these cases to re-  
 solve two important questions relating to the proper role  
 of courts in reviewing approval by the Interstate Com-  
 merce Commission of proposed rate increases by railroads.  
 409 U. S. — (1972) First, under what circumstances  
 may a reviewing court find that the Commission has  
 failed adequately to explain its apparent departure from  
 settled Commission precedent? Because the problem of  
 determining what policies an agency is following, as a  
 prelude to determining whether the agency is acting in  
 accordance with Congress' will, is a recurring one, this  
 issue raises general problems of judicial review of agency  
 action. The second question in this case is a more lim-  
 ited one — in order to enjoin a proposed rate increase after

*Typistic Changes*

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Blackman  
Mr. Justice Powell  
Mr. Justice Rehnquist

4th DRAFT

SUPREME COURT OF THE UNITED STATES

From: Marshall, J.

Nos. 72-214 AND 72-433

Circulated:

Recirculated: **MAY 17 1973**

The Atchison, Topeka and  
Santa Fe Railway Com-  
pany et al.,  
Appellants,

72-214 v.

The Wichita Board of  
Trade et al.

Interstate Commerce Com-  
mission, Appellant,

72-433 v.

Wichita Board of Trade.

On Appeals from the  
United States District  
Court for the District  
of Kansas.

[April —, 1973]

MR. JUSTICE MARSHALL delivered the opinion of the  
Court.

We noted probable jurisdiction in these cases to re-  
solve two important questions relating to the proper role  
of courts in reviewing approval by the Interstate Com-  
merce Commission of proposed rate increases by railroads.  
409 U. S. 1005 (1972). First, under what circumstances  
may a reviewing court find that the Commission has  
failed adequately to explain its apparent departure from  
settled Commission precedent? Because the problem of  
determining what policies an agency is following, as a  
prelude to determining whether the agency is acting in  
accordance with Congress' will, is a recurring one, this  
issue raises general problems of judicial review of agency  
action. The second question in this case is a more lim-  
ited one: in order to enjoin a proposed rate increase after

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13-14

*WTR*  
*WTR*

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

5th DRAFT

**SUPREME COURT OF THE UNITED STATES** Marshall, J.

Nos. 72-214 AND 72-433

Circulated: \_\_\_\_\_

Recirculated: MAY 2 1973

The Atchison, Topeka and  
Santa Fe Railway Com-  
pany et al.  
Appellants.

72-214 v.

The Wichita Board of  
Trade et al.

Interstate Commerce Com-  
mission, Appellant.

72-433 v.

Wichita Board of Trade.

On Appeals from the  
United States District  
Court for the District  
of Kansas.

[May — 1973]

MR. JUSTICE MARSHALL delivered the opinion of the  
Court.

We noted probable jurisdiction in these cases to re-  
solve two important questions relating to the proper role  
of courts in reviewing approval by the Interstate Com-  
merce Commission of proposed rate increases by railroads.  
409 U. S. 1005 (1972). First, under what circumstances  
may a reviewing court find that the Commission has  
failed adequately to explain its apparent departure from  
settled Commission precedent? Because the problem of  
determining what policies an agency is following, as a  
prelude to determining whether the agency is acting in  
accordance with Congress' will, is a recurring one, this  
issue raises general problems of judicial review of agency  
action. The second question in this case is a more lim-  
ited one: in order to enjoin a proposed rate increase after

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To: The Chief Justice  
 Mr. Justice Douglas  
 Mr. Justice Brennan  
 Mr. Justice Stewart  
 Mr. Justice White  
 Mr. Justice Blackmun  
 Mr. Justice Powell  
 Mr. Justice Rehnquist

6th DRAFT

From: Marshall, J.

**SUPREME COURT OF THE UNITED STATES**

Circulated:

Nos. 72-214 AND 72-433

Recirculated: MAY 31

The Atchison Topeka and  
 Santa Fe Railway Com-  
 pany et al.  
 Appellants.

72-214

The Wichita Board of  
 Trade et al.

Interstate Commerce Com-  
 mission. Appellant

72-433

Wichita Board of Trade

On Appeals from the  
 United States District  
 Court for the District  
 of Kansas.

[May -- 1973]

MR. JUSTICE MARSHALL delivered the opinion of the  
 Court.

We noted probable jurisdiction in these cases to re-  
 solve two important questions relating to the proper role  
 of courts in reviewing approval by the Interstate Com-  
 merce Commission of proposed rate increases by railroads.  
 409 U. S. 1005 (1972) First, under what circumstances  
 may a reviewing court find that the Commission has  
 failed adequately to explain its apparent departure from  
 settled Commission precedent? Because the problem of  
 determining what policies an agency is following, as a  
 prelude to determining whether the agency is acting in  
 accordance with Congress' will, is a recurring one, this  
 issue raises general problems of judicial review of agency  
 action. The second question in this case is a more lim-  
 ited one in order to enjoin a proposed rate increase after

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To: The Chief Justice:  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

15

7th DRAFT

**SUPREME COURT OF THE UNITED STATES**

Nos. 72-214 AND 72-433

From: Marshall, J.

Circulated:

Recirculated: JUN 6 1973

The Atchison, Topeka and  
Santa Fe Railway Com-  
pany et al.  
Appellants,

72-214 v.

The Wichita Board of  
Trade et al.

Interstate Commerce Com-  
mission Appellant.

72-433 v.

Wichita Board of Trade.

On Appeals from the  
United States District  
Court for the District  
of Kansas.

[May —, 1973]

MR. JUSTICE MARSHALL announced the judgment of  
the Court, and an opinion in which THE CHIEF JUSTICE,  
MR. JUSTICE STEWART, and MR. JUSTICE BLACKMUN join.

We noted probable jurisdiction in these cases to re-  
solve two important questions relating to the proper role  
of courts in reviewing approval by the Interstate Com-  
merce Commission of proposed rate increases by railroads.  
409 U. S. 1005 (1972). First, under what circumstances  
may a reviewing court find that the Commission has  
failed adequately to explain its apparent departure from  
settled Commission precedent? Because the problem of  
determining what policies an agency is following, as a  
prelude to determining whether the agency is acting in  
accordance with Congress' will, is a recurring one, this  
issue raises general problems of judicial review of agency  
action. The second question in this case is a more lim-  
ited one: in order to enjoin a proposed rate increase after

WD

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

June 14, 1973

MEMORANDUM TO THE CONFERENCE

Re: No. 72-214) - Atchison, Topeka & Santa Fe Ry.  
v. Wichita Board of Trade  
No. 72-433) - ICC v. Wichita Board of Trade

I suggest that the dilemma which apparently troubles our Reporter as to the disposition of the above cases might be resolved as follows:

The action of the District Court, reflected in its opinion, is in two parts. The first part remands to the Commission for further proceedings. The second part suspends the proposed charges. My opinion affirms as to the first part and reverses as to the second part. I think this can be more clearly stated if I substitute for the last sentence of my present circulation--"The judgment of the District Court therefore must be vacated and the case remanded to it for further proceedings consistent with this opinion"--the following:

"The action of the District Court is affirmed as to the remand to the Commission and is reversed as to the injunction suspending the proposed charges."

With that change I suggest that Bill Douglas and Byron White might helpfully change the openings of their opinions as follows:

"Mr. Justice Douglas, concurring in the affirmance of the remand to the Commission and dissenting from the reversal of the injunction" and "Mr. Justice White, with whom Mr. Justice Brennan and Mr. Justice Rehnquist join, concurring in the reversal of the injunction and dissenting from the affirmance of the remand to the Commission."

3

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

May 9, 1973

Re: No. 72-214 - Atchison, Topeka & Santa Fe Ry. v.  
Wichita Board of Trade  
No. 72-433 - ICC v. Wichita Board of Trade

Dear Thurgood:

Please join me.

Sincerely,

H. A. B.

Mr. Justice Marshall

Copies to the Conference

3  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

June 14, 1973

Re: No. 72-214 - Atchison, Topeka & Santa Fe Ry.  
v. Wichita Board of Trade  
No. 72-433 - ICC v. Wichita Board of Trade

Dear Thurgood:

What you propose seems quite all right to me.

Sincerely,



Mr. Justice Marshall

Copies to the Conference



13  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

April 2, 1973

Re: No. 72-214 Atchison, Topeka & Santa Fe  
v. Wichita Board of Trade  
No. 72-433 ICC v. Wichita Board of Trade

Dear Thurgood:

Please add at the end of your opinion that I took no part in  
the decision or consideration of this case.

Sincerely,

*Lewis*

Mr. Justice Marshall

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

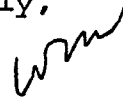
May 30, 1973

Re: Nos. 72-214 and 72-433 - Atchison, Topeka and  
Santa Fe v. Wichita, et al.

Dear Byron:

Please join me in your dissent.

Sincerely,



Mr. Justice White

Copies to the Conference

9  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

June 14, 1973

Re: No. 72-214 - Atchison, Topeka & Santa Fe Ry. v.  
Wichita Board of Trade

No. 72-433 - ICC v. Wichita Board of Trade

Dear Thurgood:

Your proposal has my full concurrence.

Sincerely,



Mr. Justice Marshall

Copies to the Conference