

# The Burger Court Opinion Writing Database

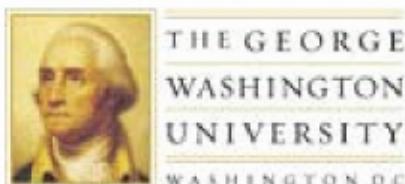
*Foley v. Blair & Co.*

414 U.S. 212 (1973)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



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

CHAMBERS OF  
THE CHIEF JUSTICE

November 20, 1973

Re: 72-1154 - Foley v. Blair

MEMORANDUM TO THE CONFERENCE:

The above case listed under per curiams on the November 19 assignment sheet erroneously carried my initials. Potter Stewart agreed to do the per curiam on this case.

Regards,

Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

November 30, 1973

Re: No. 72-1154 - Foley v. Blair & Co.

Dear Potter:

Please join me in your per curiam.

Regards,

WRB

Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

November 29, 1973

Dear Potter:

Please join me in your per curiam  
in 72-1154, Foley v. Blair & Co.

W.W.D  
William O. Douglas

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

November 29, 1973

RE: No. 72-1154 Foley v. Blair & Co., Inc.

Dear Potter:

I agree with the Per Curiam you have  
prepared in the above.

Sincerely,



Mr. Justice Stewart

cc: The Conference

To: The Clerk of the Court  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

**1st DRAFT**

**SUPREME COURT OF THE UNITED STATES**

No. 72-1154

Am: Stewart, J.

NOV 28 197

Circulated:

Recirculated:

John P. Foley, Jr., et al.,  
Petitioners. } On Writ of Certiorari to the  
v.  
Blair & Co., Inc., et al. } United States Court of Ap-  
peals for the Second Circuit.

[December —, 1973]

**PER CURIAM.**

Blair & Co., Inc., was a member of the New York Stock Exchange, engaged in the general brokerage and commission business. In the early summer of 1970, as the result of operating losses and a shrinkage of capital, Blair began a program of self-liquidation, which involved the transfer of customer accounts to other broker-dealers and the delivery of securities to customers so requesting. Blair apparently believed that its resources were sufficient to allow it to discharge its obligations to all customers and general creditors through this program. In September of 1970, however, Blair concluded that successful implementation of this program might require the assistance of a Special Trust Fund which the New York Stock Exchange had established in 1964 to avoid bankruptcy of member firms.<sup>1</sup>

Consequently, on September 21, 1970, Blair entered into an agreement with the New York Stock Exchange, whereby the trustees of the special fund would make loans and guarantees to protect Blair's customers against loss. The agreement provided that the first such loan, guarantee, or advance by the Fund would give the New

<sup>1</sup> The Special Trust Fund is authorized by the Constitution of the New York Stock Exchange, Art. XIX, § 1.

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

November 29, 1973

Re: No. 72-1154 - Foley v. Blair & Co., Inc.

Dear Potter:

I agree with your suggested per curiam.

Sincerely,



Mr. Justice Stewart

Copies to Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

November 29, 1973

Dear Potter:

Re: No. 72-1154 - Foley, et al. v. Blair & Co., Inc.

Please join me in the proposed opinion you have prepared  
for this case.

Sincerely,

*Harry*

Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

November 29, 1973

No. 72-1154 Foley v. Blair

Dear Potter:

Please join me in your Per Curiam.

Sincerely,

*Lewis*

Mr. Justice Stewart

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

November 28, 1973

Re: No. 72-1154 - Foley v. Blair

Dear Potter:

Please join me.

Sincerely,

*WRW*

Mr. Justice Stewart

Copies to the Conference