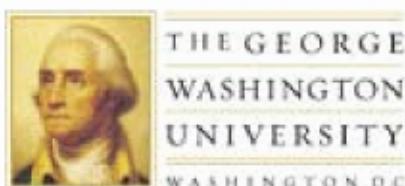


The Burger Court Opinion Writing Database

Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Ware
414 U.S. 117 (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

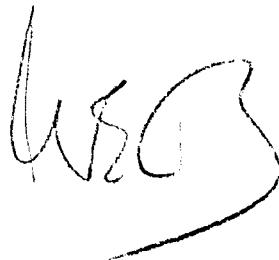
November 29, 1973

Re: 73-312 - Merrill Lynch, Pierce, Fenner & Smith
v. Ware

Dear Harry:

Please join me.

Regards,



Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

November 26, 1973

Dear Harry:

Please join me in your opinion
in 72-312, Merrill, Lynch v. Ware.

W
W
William O. Douglas

Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR. November 28, 1973

RE: No. 72-312 Merrill Lynch, Pierce, etc.
v. Ware

Dear Harry:

I also give up. Please join me.

Sincerely,

Brennan

Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

November 28, 1973

72-312 - Merrill Lynch v. Ware

Dear Harry,

I should appreciate your adding the following at the foot of your opinion for the Court in this case:

MR. JUSTICE STEWART took no part in the decision of this case.

Sincerely yours,

Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

November 27, 1973

Re: No. 72-312 - Merrill Lynch, Pierce, Fenner
& Smith Inc. v. Ware

Dear Harry:

I give up. Join me please.

Sincerely,



Mr. Justice Blackmun

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

November 28, 1973

Re: No. 72-312 -- Merrill Lynch, Pierce, Fenner & Smith, Inc.,
v. Ware et al.

Dear Harry:

Please join me in your opinion.

Sincerely,

T.M.
T. M.

Mr. Justice Blackmun

cc: The Conference

To: The Chief Justice
 Mr. Justice Douglas
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Powell
 Mr. Justice Pechquist

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-312

From: Blackmun, J.
 Circulated: 12/11/73
 Recirculated: 12/11/73

Merrill Lynch, Pierce, Fenner & Smith, Inc., Petitioner
 v.
 David Ware et al. } On Writ of Certiorari to
 the Court of Appeal of
 California, First Appel-
 late District.

[December 11, 1973]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

This case presents the question whether certain rules of the New York Stock Exchange, promulgated as self-regulating measures pursuant to § 6 of the Securities Exchange Act of 1934, 15 U. S. C. § 78f, and a broker's employee's pledge to abide by those rules, pre-empt avenues of wage relief otherwise available to the employee under state law. The California Court of Appeal answered this in the negative. 24 Cal. App. 3d 35, 100 Cal. Rptr. 791 (1972). Because of the significance of the question in the area of federal-state relations, we granted certiorari. 410 U. S. 908 (1973).

I

Respondent David Ware in July 1958 entered the employ of petitioner Merrill Lynch, Pierce, Fenner & Smith, Inc., a New York corporation, as a registered representative or "account executive" in the petitioner's San Francisco office. Ware worked there continuously until March 1969 when he voluntarily terminated that relationship and accepted a similar position in San Francisco with one of Merrill Lynch's competitors.

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

From: Blackmun, J.

Circulated:

Recirculated: 11/29/73

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-312

Merrill Lynch, Pierce, Fenner & Smith, Inc., Petitioner
v.
David Ware et al.

On Writ of Certiorari to
the Court of Appeal of
California, First Appellate District.

[December —, 1973]

Mr. JUSTICE BLACKMUN delivered the opinion of the Court.

This case presents the question whether certain rules of the New York Stock Exchange, promulgated as self-regulating measures pursuant to § 6 of the Securities Exchange Act of 1934, 15 U. S. C. § 78f, and a broker's employee's pledge to abide by those rules, pre-empt avenues of wage relief otherwise available to the employee under state law. The California Court of Appeal answered this in the negative. 24 Cal. App. 3d 35, 100 Cal. Rptr. 791 (1972). Because of the significance of the question in the area of federal-state relations, we granted certiorari. 410 U. S. 908 (1973).

I

Respondent David Ware in July 1958 entered the employ of petitioner Merrill Lynch, Pierce, Fenner & Smith, Inc., a New York corporation, as a registered representative or "account executive" in the petitioner's San Francisco office. Ware worked there continuously until March 1969 when he voluntarily terminated that relationship and accepted a similar position in San Francisco with one of Merrill Lynch's competitors.

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

November 28, 1973

No. 72-312 Merrill Lynch, Pierce, etc. v. Ware

Dear Harry:

Please join me.

Sincerely,

Mr. Justice Blackmun

cc: The Conference

LFP/gg

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

November 28, 1973

Re: No. 72-312 - Merrill Lynch, et al., v. Ware

Dear Harry:

Please join me.

Sincerely,

WRW

Mr. Justice Blackmun

Copies to the Conference