

# The Burger Court Opinion Writing Database

## *Renegotiation Board v. Grumman Aircraft Engineering Corp.*

421 U.S. 168 (1975)

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



✓

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

CHAMBERS OF  
THE CHIEF JUSTICE

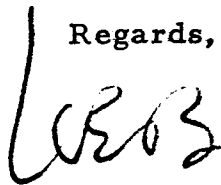
April 21, 1975

Re: 73-1316 - Renegotiation Board v. Grumman

Dear Byron:

Please join me in your opinion.

Regards,



Mr. Justice White

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U.S. SUPREME COURT RECORDS

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

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

April 21, 1975

Dear Byron:

Please add the following at the  
end of your opinion in 73-1316, RE-  
NEGOTIATION BOARD v. GRUMMAN AIRCRAFT:

Mr. Justice Douglas dissents.

WOP/ep

William O. Douglas

Mr. Justice White

cc: The Conference

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OFFICE OF THE CLERK OF THE SUPREME COURT

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

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

March 24, 1975

RE: No. 73-1316 The Renegotiation Board v. Grumman Aircraft  
Engineering Corporation

Dear Byron:

Please join me.

Sincerely,

*Bill*

Mr. Justice White

cc: The Conference

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U.S. DEPARTMENT OF COMMERCE

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# THIRTY-THIRD CONGRESS

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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

From: White, J.

Circulated: 3-20-75

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

1st DRAFT

# SUPREME COURT OF THE UNITED STATES

No. 73-1316

The Renegotiation Board,  
Petitioner,  
v.  
Grumman Aircraft Engineering Corporation.

On Writ of Certiorari to the  
United States Court of Appeals for the District of  
Columbia Circuit.

[March —, 1975]

MR. JUSTICE WHITE delivered the opinion of the Court.

The issue in this case is whether certain documents—documents generated by the Renegotiation Board (the Board) and by its Regional Boards in performing their task of deciding whether certain Government contractors have earned, and must refund, “excessive profits” on their Government contracts—are “final opinions” explaining the reasons for agency decisions already made, and thus expressly subject to disclosure pursuant to the Freedom of Information Act (the Act), 5 U. S. C. § 552 (a)(2), or are instead predecisional consultative memoranda exempted from disclosure by 5 U. S. C. § 552 (b)(5). See *National Labor Relations Board v. Sears, Roebuck & Company*, ante, at p. —.

## I

Essential to the consideration of whether the documents at issue in this case must be disclosed pursuant to the relevant provisions of the Act is an understanding of the renegotiation process, a process that itself serves to define the documents in issue and hereinafter described.<sup>1</sup>

<sup>1</sup> *Id.*, at 13-16. See generally S. Rep. No. 927, 93d Cong., 2d Sess., at 1-2 (1974); Staff Review of Recommendations Made on the

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OFFICE OF THE CLERK OF THE SUPREME COURT

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

From: White, J.

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

Recirculated: 3-25-75

2nd DRAFT

# SUPREME COURT OF THE UNITED STATES

No. 73-1316

The Renegotiation Board, Petitioner, v. Grumman Aircraft Engineering Corporation.	}	On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit.
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[March —, 1975]

MR. JUSTICE WHITE delivered the opinion of the Court.

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## I

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<sup>1</sup> *Id.*, at 13-16. See generally S. Rep. No. 927, 93d Cong., 2d Sess., at 1-2 (1974); Staff Review of Recommendations Made on the

pp 5, 10, 17, 22, 23

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE


May 8, 1975

file  
MEMORANDUM FOR THE CONFERENCE

Re: No. 74-736, Washington Research Project, Inc.  
v. Department of HEW (Held for  
Renegotiation Board v. Grumman,  
No. 73-1316) ←

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This case presents the question whether the statements and reports of the Initial Review Group, a group of non-governmental technical consultants, made to the National Advisory Mental Health Council must be disclosed under the Public Information Act. The Court of Appeals concluded that the IRGs had no decisional authority and that their reports were communicated before the decision of the officials who had the authority to act. They were therefore within Exemption 5. I think the case is squarely controlled by Grumman and would deny. ✓

  
B.R.W.



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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

March 26, 1975

Re: No. 73-1316 -- The Renegotiation Board v. Grumman  
Aircraft Engineering Corporation

Dear Byron:

Please join me.

Sincerely,

*T.M.*

T. M.

Mr. Justice White

cc: The Conference

Box 146-1

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U.S. SUPREME COURT

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

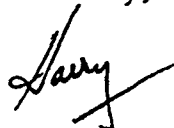
March 26, 1975

Re: No. 73-1316 - Renegotiation Board v. Grumann  
Aircraft Engineering Corp.

Dear Byron:

Please join me.

Sincerely,



Mr. Justice White

cc: The Conference

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U.S. DEPARTMENT OF COMMERCE

✓

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

March 20, 1975

No. 73-1316 Renegotiation Board v. Grumman

Dear Byron:

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

Sincerely,

*L. Lewis*

Mr. Justice White

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

March 25, 1975

Re: No. 73-1316 - Renegotiation Board v. Grumman

Dear Byron:

Please join me.

Sincerely,

*wm*

Mr. Justice White

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