

The Burger Court Opinion Writing Database

Abbott Laboratories v. Portland Retail Druggists Association, Inc.

425 U.S. 1 (1976)

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
JUSTICE WM. J. BRENNAN, J.R.

June 16, 1975



74
RE: No. ~~72~~-1274 Abbott Laboratories, etc. v.
Portland Retail Druggists Association, etc.

Dear Byron:

Please join me in your dissenting opinion
in the above.

Sincerely,

Mr. Justice White
cc: The Conference

*Gail - Put in
Cent Book
for Conference*

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.

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

**ABBOTT LABORATORIES ET AL. v. PORTLAND
RETAIL DRUGGISTS ASSOCIATION,
INC., ETC.**

**ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**

No. 74-1274. Decided June —, 1975

MR. JUSTICE WHITE, dissenting.

Petitioners, 12 drug manufacturers, are defendants in a private antitrust action brought by respondent. One of the claims made by respondent in its complaint is that petitioners, by selling prescription drugs to certain hospitals in the Portland area at prices lower than those charged local retail pharmacies, are in violation of the Robinson-Patman Act, 15 U. S. C. § 13 *et seq.* The petitioners' motion for summary judgment was granted by the District Court on the ground that the sales were exempt from the price discrimination provisions of Robinson-Patman by virtue of 15 U. S. C. § 13c, which states that

"Nothing in section 13 to 13b and 21a of [title 15] shall apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit."

In the Court of Appeals, respondent contended that the hospitals themselves did not qualify for the § 13c exemption because none of them qualified as "hospitals [or] charitable institutions not operated for profit." This contention was apparently based on the fact that each of the hospitals in question derived substantial profits from the sale of drugs and some, from time to time, actually had net operating surpluses. The Court of Appeals, pointing out that "[t]here was no allega-

*Reviewed
— I may
join.*

DISCUSS

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 16, 1975

Re: No. 74-1274 - Abbott Laboratories v. Portland Retail
Druggists Association, Inc.

Dear Byron:

Please join me in your dissent.

Sincerely,

T.M.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 16, 1975

Re: No. 74-1274 - Abbott Laboratories v. Portland
Retail Druggists Association

Dear Byron:

I am still with you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harry", with a horizontal line underneath.

Mr. Justice White

cc: The Conference