

# The Burger Court Opinion Writing Database

*Radzanower v. Touche Ross & Co.*

426 U.S. 148 (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  
THE CHIEF JUSTICE

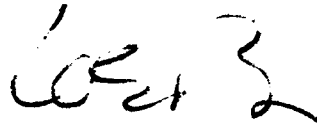
May 24, 1976

Re: No. 75-268 - Radzanower v. Touche, Ross & Co.

Dear Potter:

I join your proposed opinion of May 14.

Regards,



Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

May 17, 1976

RE: No. 75-268 Hyman Radzanower v. Touche, Ross & Co.

Dear Potter:

I agree.

Sincerely,



Mr. Justice Stewart

cc: The Conference

✓

To: The Chief Justice  
 Mr. Justice Brennan  
 Mr. Justice White  
 — Mr. Justice Marshall  
 Mr. Justice Blackmun  
 Mr. Justice Powell  
 Mr. Justice Brennan  
 Mr. Justice Stevens

From: Mr. Justice Stewart

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# SUPREME COURT OF THE UNITED STATES

No. 75-268

Hyman Radzanower,	}	On Writ of Certiorari to the United States Court of Ap- peals for the Second Cir- cuit.
Petitioner,		
v.		
Touche, Ross & Co. et al.		

[May —, 1976]

MR. JUSTICE STEWART delivered the opinion of the Court.

This case requires us to determine which venue provision controls in the event a national banking association is sued in a federal court for allegedly violating the Securities Exchange Act: the broad venue provision of the Securities Exchange Act, which allows suits under that Act to be brought in any district where the defendant may be found, or the narrow venue provision of the National Bank Act, which allows national banking associations to be sued only in the district where they are established.

The petitioner, Hyman Radzanower, instituted a class action in the District Court for the Southern District of New York alleging, *inter alia*, that the respondent, First National Bank of Boston, a national banking association with its principal office in Boston, Mass., had violated the federal securities laws by failing to disclose to the Securities and Exchange Commission and the investing public its knowledge of certain adverse financial information about one of its customers, the TelePrompter Corporation, and of securities laws violations by that company. The complaint alleged that venue was proper

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

May 17, 1976

Re: No. 75-268 - Radzanower v. Touche, Ross & Co.

Dear Potter:

I agree.

Sincerely,



Mr. Justice Stewart

Copies to Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

May 17, 1976

Re: No. 75-268 -- Hyman Radzanowner v. Touche, Ross & Co.

Dear Potter:

Please join me.

Sincerely,



T.M.

Mr. Justice Stewart

cc: The Conference

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

✓

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

May 17, 1976

Re: No. 75-268 - Radzanower v. Touche, Ross & Co.

Dear Potter:

Please join me.

Sincerely,

*Harry*

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

May 17, 1976

No. 75-268 Radzanower v. Touche, Ross  
& Co., et al

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Dear Potter:

Please join me.

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

May 19, 1976

Re: No. 75-268 - Radzanower v. Touche, Ross & Co.

Dear Potter:

Please join me.

Sincerely,



Mr. Justice Stewart

Copies to the Conference

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: Mr. Justice Stevens

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## SUPREME COURT OF THE UNITED STATES

No. 75-268

Hyman Radzanower, Petitioner, v. Touche Ross & Co. et al.	}	On Writ of Certiorari to the United States Court of Ap- peals for the Second Cir- cuit.
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[June —, 1976]

MR. JUSTICE STEVENS, dissenting.

In my judgment a brief reference to the history, purpose, and language of these two special venue statutes will provide a better guide to their meaning than the exposition of the doctrine of implied repeal found in the Treatise on statutory construction written by Sedgwick in 1874. Indeed, if Sedgwick were to be our guide, I would heed this advice: "When acts can be harmonized by a fair and liberal construction it must be done."<sup>1</sup>

It is worth repeating that both of these statutes are special venue statutes. Neither party relies on the general venue provision in 28 U. S. C. § 1391. One relies on a special statute for one kind of litigant—national banks; the other relies on a special statute for one kind of litigation—cases arising under the Securities Act. The precise issue before us involves only a tiny fraction of the cases in either special category: most litigation against national banks does not arise under the Securities Act; and most litigation arising under the Securities

<sup>1</sup> T. Sedgwick, *Interpretation and Construction of Statutory and Constitutional Law* 98 (2d ed. 1874). Coincidentally, this advice is found on the same page from which the Court quotes at p. 5 of its opinion. We have repeated this principle of statutory construction many times. See, e. g., *United States v. Borden Co.*, 308 U. S. 188, 198: "When there are two acts on the same subject, the rule is to give effect to both if possible."