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,

WEB

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,

Bill

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 Rehnquist
Mr. Justice Stevens

From: Mr. Justice Stewart

Circulated: MAY 14 1976

Recirculated: _____

1st DRAFT

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 Appeals for the Second Circuit.

[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,

Byron

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

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,

WHR

Mr. Justice Stewart

Copies to the Conference

Pg. 3,4,5

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

Circulated: 5/26/76

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1st DRAFT

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 Appeals for the Second Circuit.

[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."[1]

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

[1] T. Sedgwick, Interpretation and Construction of Statutory and Constitutional Law 98 (2d ed. 1874). Conincidentally, 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."