

The Burger Court Opinion Writing Database

Bates v. State Bar of Arizona

433 U.S. 350 (1977)

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

January 25, 1977

Re: 76-316 - Bates and Van O'Steen v. Arizona

MEMORANDUM TO THE CONFERENCE:

On review of my notes I find a consensus for a narrow opinion that will leave states considerable elbow room to regulate "fee grubbers" and shysters. I will therefore try my hand at a reversal on narrow grounds.

Regards,

WRB

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

3-15 P.M.

CHAMBERS OF
THE CHIEF JUSTICE

June 22, 1977

Re: 76-316 - Bates v. State Bar of Arizona

Dear Harry:

Enclosed is my belated draft dissent
in the above case.

The Print Shop will be "mandated"
to get it out for Friday.

Regards,

WB

Mr. Justice Blackmun

cc: Mr. Justice Powell
Mr. Justice Rehnquist

To: Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: The Chief Justice

Circulated: JUN 22 1977

Recirculated: _____

Re: 76-316 - Bates v. State Bar of Arizona

MR. CHIEF JUSTICE BURGER, dissenting in part and concurring in part.

I am in general agreement with Mr. Justice Powell's analysis and with Part II of the Court's opinion. I particularly agree with Mr. Justice Powell's statement that "today's decision will effect profound changes in the practice of law". Infra, at . Although the exact effect of those changes cannot now be known, I fear that they will be injurious to those whom the ban on legal advertising was designed to protect -- the members of the general public in need of legal services.

Some Members of the Court apparently believe that the present case is controlled by our holding one year ago in Virginia Board of Pharmacy. However, I had thought that we made most explicit that our holding there rested on the fact that the advertisement of standardized, pre-packaged, name-brand drugs was at issue. 425 U.S. at 773,

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

CHAMBERS OF
THE CHIEF JUSTICE

June 22, 1977

4:50 P.M.

Re: 76-316 - Bates v. State Bar of Arizona

Dear Harry:

Re your memo today, I see no reason to delay your trip. I have the Print Shop's assurance that my dissent can be printed pronto and come down Friday. *

Regards,

WB

* Unless you see something
that differs drastically
from Justice's dissent

cc: Mr. Cornio

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

CHAMBERS OF
THE CHIEF JUSTICE

June 23, 1977

Re: 76-316 Bates v. State Bar of Arizona

Dear Harry:

Please join me in Part II of your opinion.
However, like Lewis, I dissent from the rest.

Regards,

Leroy

Mr. Justice Blackmun

cc: The Conference

To: Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

printed
1st DRAFT

SUPREME COURT OF THE UNITED STATES

From: The Chief Justice

No. 76-316

Circulated: _____

John R. Bates and Van O'Steen,
Appellants,
v.
State Bar of Arizona.

Recirculated: JUN 23 1977

[June —, 1977]

MR. CHIEF JUSTICE BURGER, dissenting in part and concurring in part.

I am in general agreement with MR. JUSTICE POWELL's analysis and with Part II of the Court's opinion. I particularly agree with MR. JUSTICE POWELL's statement that "today's decision will effect profound changes in the practice of law." *Infra*, at —. Although the exact effect of those changes cannot now be known, I fear that they will be injurious to those whom the ban on legal advertising was designed to protect—the members of the general public in need of legal services.

Some Members of the Court apparently believe that the present case is controlled by our holding one year ago in *Virginia Board of Pharmacy*. However, I had thought that we made most explicit that our holding there rested on the fact that the advertisement of standardized, prepackaged, name-brand drugs was at issue. 425 U. S., at 773 n. 25. In that context, the prohibition on price advertising, which had served a useful function in the days of individually compounded medicines, was no longer tied to the conditions which had given it birth. The same cannot be said with respect to legal services which, by necessity, must vary greatly from case to case. Indeed, I find it difficult, if not impossible, to identify categories of legal problems or services which are fungible in nature. For example, JUSTICE POWELL persua-

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

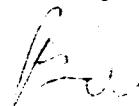
May 10, 1977

RE: No. 76-316 Bates, et al. v. Arizona

Dear Harry:

I'm happy to join your fine opinion in the
above.

Sincerely,



Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

June 17, 1977

Re: No. 76-316, Bates v. Arizona

Dear Lewis,

Please add my name to your separate
opinion in this case.

Sincerely yours,

P. A.

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 18, 1977

Re: No. 76-316 - Bates v. Arizona

Dear Harry:

Please join me.

Sincerely,



Mr. Justice Blackmun

Copies to Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 11, 1977

Re: No. 76-316, Bates v. State Bar of Arizona

Dear Harry:

Please join me.

Sincerely,

J.M.

T. M.

Mr. Justice Blackmun

cc: The Conference

HAB
PL 2

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

From: Mr. Justice Blackmun

Circulated: 5/9/77

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 76-316

John R. Bates and Van O'Steen,
 Appellants,
 v.
 State Bar of Arizona. } On Appeal from the Su-
 preme Court of Arizona.

[May —, 1977]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

As part of its regulation of the Arizona Bar, the Supreme Court of that State has imposed and enforces a disciplinary rule that restricts advertising by attorneys. This case presents two issues: whether §§ 1 and 2 of the Sherman Act, 15 U. S. C. §§ 1 and 2, forbid such state regulation, and whether the operation of the rule violates the First Amendment, made applicable to the States through the Fourteenth.¹

I

Appellants John R. Bates and Van O'Steen are attorneys licensed to practice law in the State of Arizona.² As such, they are members of the appellee, The State Bar of Arizona.³

¹ See *Bigelow v. Virginia*, 421 U. S. 809, 811 (1975); *Schneider v. State*, 308 U. S. 147, 160 (1939).

² Each appellant is a 1972 graduate of Arizona State University College of Law. Mr. Bates was named by the faculty of that law school as the outstanding student of his class; Mr. O'Steen graduated *cum laude*. App. 220-221.

³ Rule 27 (a) of the Supreme Court of Arizona, 17A Ariz. Rev. Stat. (1973), pp. 84-85, reads in part:

"1. In order to advance the administration of justice according to law, . . . the Supreme Court of Arizona does hereby perpetuate, create and continue under the direction and control of this Court an organization known as the State Bar of Arizona, and all persons now or hereafter

STYLISTIC CHANGES

APP. 10, 19

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

From: Mr. Justice Blackmun

Circulated: _____

Recirculated: 5/17/77

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 76-316

John R. Bates and Van O'Steen,
Appellants,
v.
State Bar of Arizona. } On Appeal from the Supreme Court of Arizona.

[May —, 1977]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

As part of its regulation of the Arizona Bar, the Supreme Court of that State has imposed and enforces a disciplinary rule that restricts advertising by attorneys. This case presents two issues: whether §§ 1 and 2 of the Sherman Act, 15 U. S. C. §§ 1 and 2, forbid such state regulation, and whether the operation of the rule violates the First Amendment, made applicable to the States through the Fourteenth.¹

I

Appellants John R. Bates and Van O'Steen are attorneys licensed to practice law in the State of Arizona.² As such, they are members of the appellee, The State Bar of Arizona.³

¹ See *Bigelow v. Virginia*, 421 U. S. 809, 811 (1975); *Schneider v. State*, 308 U. S. 147, 160 (1939).

² Each appellant is a 1972 graduate of Arizona State University College of Law. Mr. Bates was named by the faculty of that law school as the outstanding student of his class; Mr. O'Steen graduated *cum laude*. App. 220-221.

³ Rule 27 (a) of the Supreme Court of Arizona, 17A Ariz. Rev. Stat. (1973), pp. 84-85, reads in part:

"I. In order to advance the administration of justice according to law, . . . the Supreme Court of Arizona does hereby perpetuate, create and continue under the direction and control of this Court an organization known as the State Bar of Arizona, and all persons now or hereafter

June 13, 1977

Re: No. 76-316 - Bates v. State Bar of Arizona

Dear John:

I shall be glad to make the changes you suggest in your letter of June 13. They will appear in the next printed recirculation, but I may refrain from sending one around until the dissent has appeared. I shall advise the Conference of these changes you propose.

Sincerely,

HAB

Mr. Justice Stevens

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 13, 1977

MEMORANDUM TO THE CONFERENCE

Re: No. 76-316 - Bates v. State Bar of Arizona

John has suggested that the following two changes be made on page 9 of the circulation of May 17.

"(1) Revise the second sentence in the full paragraph on page 9 to read:

'First, and most obviously, Cantor would have been an entirely different case if the claim had been directed against a public official or public agency, rather than against a private party. 13!'

(2) Revise the first sentence in footnote 13 to read:

'Mr. Justice Stevens, in a portion of his opinion in Cantor that was joined by Brennan, White, and Marshall, JJ., observed that Parker v. Brown was a suit against public officials, whereas in Cantor the claims were directed against only a private defendant. 428 U.S., at 585-592, 600-601.'"

These changes are acceptable to me, and I shall make them. I am assuming that they will be acceptable to those who already have joined the opinion.

H.A.B.

[Handwritten Signature]
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 17, 1977

MEMORANDUM TO THE CONFERENCE

Re: No. 76-316 - Bates, et al. v. State Bar of Arizona

I am having the opinion in this case rerun to make stylistic and other changes and to incorporate a new footnote 28 on page 21. I enclose for your consideration preprint copies of the changes that are other than stylistic. These, specifically, are pages 9-10, 16, 19-21, 26-29, and 31. A copy of the new footnote is also enclosed.

HAB.

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

From: Mr. Justice Blackmun

Circulated: _____

Recirculated: JUN 20 1977

3rd DRAFT

SUPREME COURT OF THE UNITED STATES.

No. 76-316.

John R. Bates and Van O'Steen,
Appellants,
v.
State Bar of Arizona. } On Appeal from the Supreme Court of Arizona.

[May —, 1977]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

As part of its regulation of the Arizona Bar, the Supreme Court of that State has imposed and enforces a disciplinary rule that restricts advertising by attorneys. This case presents two issues: whether §§ 1 and 2 of the Sherman Act, 15 U. S. C. §§ 1 and 2, forbid such state regulation, and whether the operation of the rule violates the First Amendment, made applicable to the States through the Fourteenth.¹

II

Appellants John R. Bates and Van O'Steen are attorneys licensed to practice law in the State of Arizona.² As such, they are members of the appellee, the State Bar of Arizona.³

¹ See *Bigelow v. Virginia*, 421 U. S. 809, 811 (1975); *Schneider v. State*, 308 U. S. 147, 160 (1939).

² Each appellant is a 1972 graduate of Arizona State University College of Law. Mr. Bates was named by the faculty of that law school as the outstanding student of his class; Mr. O'Steen graduated *cum laude*. App. 220-221.

³ Rule 27 (a) of the Supreme Court of Arizona, 17A Ariz. Rev. Stat. (1973), pp. 84-85, reads in part:

"1. In order to advance the administration of justice according to law, . . . the Supreme Court of Arizona does hereby perpetuate, create and continue under the direction and control of this Court an organization known as the State Bar of Arizona, and all persons now or hereafter

June 22, 1977

Re: No. 76-316 - Bates v. State Bar of Arizona

Dear Chief:

With no progress being made, I cancelled my plans. I have advised Mr. Cornio so as to take the pressure of this case off his shoulders. It can come down at the Court's convenience on either Monday or Tuesday.

Sincerely,

H A B

The Chief Justice

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 22, 1977

MEMORANDUM TO THE CONFERENCE

Re: No. 76-316 - Bates v. State Bar of Arizona

I have just now received your draft dissent. In view of the delay I have decided to give up my hoped-for swing through the Twin Cities on my way to the Eighth Circuit Conference in Kansas City. The Print Shop does not need further pressure during these final days.

This case, therefore, should be deferred until next week. I shall still try to get to Kansas City.

H. A.

1

copy to: Mr. Cornio

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 11, 1977

No. 76-316 Bates, et al. v. Arizona

Dear Harry:

Although I will join Part II of your opinion, in due course I will circulate a dissent from Part III.

Sincerely,

Lewis

Mr. Justice Blackmun

LFP/lab

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 Rehnquist
Mr. Justice Stevens

From: Mr. Justice Powell

Circulated: ~~6/16/1977~~

Recirculated: _____

No. 76-316 BATES v. ARIZONA

MR. JUSTICE POWELL, concurring in part and dissenting in part.

I agree with the Court that appellants' Sherman Act claim is barred by the Parker v. Brown exemption and therefore join Part II of the Court's opinion. But I cannot join the Court's holding that under the First Amendment "truthful" newspaper advertising of a lawyer's prices for "routine services" may not be restrained. Ante, at 32. Although the Court appears to note some reservations (mentioned below), it is clear that within undefined limits today's decision will effect profound changes in the practice of law, viewed for centuries as a learned profession. The supervisory power of the courts over members of the bar, as officers of the court, and the authority of the respective states to oversee the regulation of the profession have been weakened. Although the Court's opinion professes to be framed narrowly, and its reach is subject to future clarification, the holding is explicit and expansive with respect to the advertising

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 21, 1977

Holds for 76-316

No. 76-1225 Consumers Union v. Virginia

State Bar

No. 76-1337 Virginia State Bar v. Consumers
Union

Dear Chief and John:

When the above cases came to the Conference on May 12, I mentioned that the ABA had been a party in the District Court, represented by my former firm. The ABA was dismissed, and neither it nor my firm remains in these cases.

I nevertheless reserved the question whether to remain "out" on the public record at the time we acted on these cases.

I am, of course, a member and former officer of the ABA, and a compelled member of the Virginia State Bar. The ABA filed an amicus brief in Bates v. Arizona State Bar, using Chicago counsel. I think we all agreed, however, that these bar relationships would not disqualify me either in Bates or the above cases.

Accordingly, I see no reason to stay out of these cases in acting on "holds", although I would defer to any contrary view.

Sincerely,

L Lewis

The Chief Justice
Mr. Justice Stevens

lfp/ss

cc: Mr. Justice Blackmun

Itam - I appreciate
your bringing this to my
attention. L Lewis

June 22, 1977

No. 76-316 Bates v. State Bar of Arizona

Dear Chief:

Thank you for the "advance copy" of your dissent in this case.

As the divergence in our views is one of minor degree, I welcome a separate concurring opinion that - coming from you - may help to prevent the Court's opinion from being construed broadly despite its virtual invitation to the bar to engage in price advertising which may "flow both freely and cleanly" so long as it is truthful and related to undefined "routine legal services".

Sincerely,

The Chief Justice

lfp/ss

cc: Mr. Justice Stewart
Mr. Justice Rehnquist

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 22, 1977

2

No. 76-316 Bates v. State Bar of Arizona

MEMORANDUM TO THE CONFERENCE:

I circulate herewith the first printed draft of my concurring and dissenting opinion in this case. This draft did not reach my Chambers until this afternoon.

No changes of any substance whatever were made in the text, as originally circulated in typewritten form. Footnote 9 (p. 11) has been added, and present footnote 11 (p. 13) has been revised.

L.F.P.
L.F.P., Jr.

ss

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 22, 1977

No. 76-316 Bates v. State Bar of Arizona

MEMORANDUM TO THE CONFERENCE:

I circulate herewith the first printed draft of my concurring and dissenting opinion in this case. This draft did not reach my Chambers until this afternoon.

No changes of any substance whatever were made in the text, as originally circulated in typewritten form. Footnote 9 (p. 11) has been added, and present footnote 11 (p. 13) has been revised.

L.F.P.

L.F.P., Jr.

ss

Harry - you have seen
the changes in what
is now note 11

L.

— 1, 3, 11, 13-14

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
~~Mr.~~ Justice Marshall
Mr. Justice Blackmun
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Powell

Circulated: _____

1st DRAFT

Recirculated: JUN 22 1977

SUPREME COURT OF THE UNITED STATES

No. 76-316

John R. Bates and Van O'Steen,
Appellants,
v.
State Bar of Arizona. } On Appeal from the Supreme Court of Arizona.

[June —, 1977]

MR. JUSTICE POWELL, concurring in part and dissenting in part.

I agree with the Court that appellants' Sherman Act claim is barred by the *Parker v. Brown* exemption and therefore join Part II of the Court's opinion. But I cannot join the Court's holding that under the First Amendment "truthful" newspaper advertising of a lawyer's prices for "routine services" may not be restrained. *Ante*, at 32. Although the Court appears to note some reservations (mentioned below), it is clear that within undefined limits today's decision will effect profound changes in the practice of law, viewed for centuries as a learned profession. The supervisory power of the courts over members of the bar, as officers of the court, and the authority of the respective States to oversee the regulation of the profession have been weakened. Although the Court's opinion professes to be framed narrowly, and its reach is subject to future clarification, the holding is explicit and expansive with respect to the advertising of undefined "routine services." In my view, this result is neither required by the First Amendment, nor in the public interest.

with whom
MR. JUSTICE
STEWART joins,

I

Appellants, two young members of the Arizona Bar, placed an advertisement in a Phoenix newspaper apparently for the purpose of testing the validity of Arizona's ban on legal ad-

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 17, 1977

Re: No. 76-316 - Bates and O'Steen v. State
Bar of Arizona

Dear Harry:

I anticipate circulating a one or two paragraph dissent which I hope to have around either late this afternoon or Monday.

Sincerely,

Mr. Justice Blackmun

Copies to the Conference

WHRehnquist:6/17/77

No. 76-316

John R. Bates and Van O'Steen, Appellants

v.

State Bar of Arizona

MR. JUSTICE REHNQUIST, dissenting.

I join Part II of the Court's opinion holding that appellants' Sherman Act claim is barred by the Parker v. Brown state action exemption. Largely for the reasons set forth in my dissent in Virginia Pharmacy Board v. Virginia Consumer Council, 425 U.S. 748, 781 (1976), however, I dissent from Part III because I cannot agree that the First Amendment is infringed by Arizona's regulation of the essentially commercial activity of advertising legal services. Valentine v. Chrestensen, 316 U.S. 52 (1942); Breard v. Alexandria, 341 U.S. 622 (1951). See Pittsburg Press Co. v. Human Relations Commission, 413 U.S. 376 (1973).

I continue to believe that the First Amendment speech provision, long regarded by this Court as a sanctuary for

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

From: Mr. Justice Rehnquist
1st DRAFT Circulated: JUN 21 1977

SUPREME COURT OF THE UNITED STATES

No. 76-316

John R. Bates and Van O'Steen,
Appellants,
v.
State Bar of Arizona. } On Appeal from the Supreme Court of Arizona.

[June —, 1977]

MR. JUSTICE RHENQUIST, dissenting.

I joint Part II of the Court's opinion holding that appellants' Sherman Act claim is barred by the *Parker v. Brown* state action exemption. Largely for the reasons set forth in my dissent in *Virginia Pharmacy Board v. Virginia Consumer Council*, 425 U. S. 748, 781 (1976), however, I dissent from Part III because I cannot agree that the First Amendment is infringed by Arizona's regulation of the essentially commercial activity of advertising legal services. *Valentine v. Chrestensen*, 316 U. S. 52 (1942); *Breard v. Alexandria*, 341 U. S. 622 (1951). See *Pittsburgh Press Co. v. Human Relations Commission*, 413 U. S. 376 (1973).

I continue to believe that the First Amendment speech provision, long regarded by this Court as a sanctuary for expressions of public importance or intellectual interest, is demeaned by invocation to protect advertisements of goods and services. I would hold quite simply that the appellants' advertisement, however truthful or reasonable it may be, is not the sort of expression that the Amendment was adopted to protect.

I think my Brother POWELL persuasively demonstrates in his dissenting opinion that the Court's opinion offers very little guidance as to the extent or nature of permissible state regulation of professions such as law and medicine. I would join his opinion except for my belief that once

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 26, 1977

Re: 76-316 - Bates v. Arizona

Dear Harry:

Confirming my oral statements, I will definitely join your discussion of the First Amendment, and may well join the Sherman Act discussion, but I have not yet had sufficient time to rethink some of the ramifications of Cantor.

Respectfully,



Mr. Justice Blackmun

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 13, 1977

RE: 76-316 Bates v. State Bar of Arizona

Dear Harry:

After restudying Parker and Cantor, I have concluded that I can join your entire opinion in Bates if you will make two rather modest changes on page 9. I wonder if these changes, or something similar, would be acceptable to you:

✓(1) Revise the second sentence in the full paragraph on page 9 to read:

"First, and most obviously, Cantor would have been an entirely different case if the claim had been directed against a public official or public agency, rather than against a private party.^{13/}"

(2) Revise the first sentence in footnote 13 to read:

"Mr. Justice Stevens, in a portion of his opinion in Cantor that was joined by Brennan, White, and Marshall, JJ., observed that Parker v. Brown was a suit against public officials, whereas in Cantor the claims were directed against only a private defendant.
428 U.S., at 585-592, 600-601.]

If these suggestions are not acceptable, perhaps we can work out something similar. You have written a fine opinion and I would like to join it.

Respectfully,



Mr. Justice Blackmun

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 13, 1977

Re: 76-316 - Bates v. State Bar of Arizona

Dear Harry:

Please join me.

Respectfully,



Mr. Justice Blackmun

Copies to the Conference