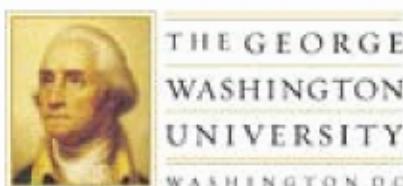


The Burger Court Opinion Writing Database

Reiter v. Sonotone Corp.
442 U.S. 330 (1979)

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



To: Mr. Justice
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: MAY 30 1979

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-690

Kathleen R. Reiter, Petitioner, On Writ of Certiorari to the
v. United States Court of Appeals for the Eighth Circuit.
Sonotone Corporation et al.

[June —, 1979]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari to decide whether consumers who pay a higher price for goods purchased for personal use as a result of antitrust violations sustain an injury in their "property" within the meaning of § 4 of the Clayton Act, 38 Stat. 731, 15 U. S. C. § 15.

I

Petitioner brought a class action on behalf of herself and all persons in the United States who purchased hearing aids manufactured by five corporations, respondents here. Her complaint alleges that respondents have committed a variety of antitrust violations, including vertical and horizontal price fixing.¹ Because of these violations, the complaint alleges, petitioner and the class of persons she seeks to represent have been forced to pay illegally fixed higher prices for the hearing aids and related services they purchase from respondents'

¹ Specifically, Reiter alleges that respondents violated §§ 1 and 2 of the Sherman Act, 26 Stat. 209, 15 U. S. C. §§ 1-2, and § 3 of the Clayton Act, 38 Stat. 731, 15 U. S. C. § 14. She claims respondents restricted the territories, customers, and brands of hearing aids offered by their retail dealers, used the customer lists of their retail dealers for their own purposes, prohibited unauthorized retailers from dealing in or repairing their hearing aids, and conspired among themselves and with their retail dealers to fix the retail prices of the hearing aids.

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

CHAMBERS OF
THE CHIEF JUSTICE

May 31, 1979

Re: 78-690 - Reiter v. Sonotone Corp.

MEMORANDUM TO THE CONFERENCE:

Absent dissent, I conclude to eliminate from page 4 the second sentence, first full paragraph, "It begins . . . foreign governments."

Regards,



CHANGES AS MARKED:

pp. 1-12

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:

2nd DRAFT

Recirculated: JUN 7 1979

SUPREME COURT OF THE UNITED STATES

No. 78-690

Kathleen R. Reiter, Petitioner, On Writ of Certiorari to the
v. United States Court of Appeals for the Eighth Circuit,
Sonotone Corporation et al.

[June —, 1979]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari to decide whether consumers who pay a higher price for goods purchased for personal use as a result of antitrust violations sustain an injury in their "business or property" within the meaning of § 4 of the Clayton Act, 38 Stat. 731, 15 U. S. C. § 15.

I

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¹ Specifically, Reiter alleges that respondents violated §§ 1 and 2 of the Sherman Act, 26 Stat. 209, 15 U. S. C. §§ 1-2, and § 3 of the Clayton Act, 38 Stat. 731, 15 U. S. C. § 14. She claims respondents restricted the territories, customers, and brands of hearing aids offered by their retail dealers, used the customer lists of their retail dealers for their own purposes, prohibited unauthorized retailers from dealing in or repairing their hearing aids, and conspired among themselves and with their retail dealers to fix the retail prices of the hearing aids.

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 30, 1979

RE: No. 78-690 Reiter v. Sonotone Corporation

Dear Chief:

Will you please add at the foot of your opinion

"Mr. Justice Brennan took no part in the decision
of this case."

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 31, 1979

Re: No. 78-690, Reiter v. Sonotone Corp.

Dear Chief,

I am glad to join your opinion for
the Court.

Sincerely yours,

P.S.
/

The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 4, 1979

No. 78-690 - Reiter v. Sonotone Corporation

Dear Chief,

Please join me.

Sincerely yours.



The Chief Justice

Copies to the Conference

cmc

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 5, 1979

Re: No. 78-690 - Reiter v. Sonotone

Dear Chief:

Please join me.

Sincerely,

JM.
T.M.

The Chief Justice

cc: The Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 31, 1979

Re: No. 78-690 - Reiter v. Sonotone Corp.

Dear Chief:

Please join me.

Sincerely,

H.A.B.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 1, 1979

78-690 Reiter v. Sonotone

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

lfp/ss

cc: The Conference

Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun
 Mr. Justice Powell
 Mr. Justice Stevens

1st DRAFT

SUPREME COURT OF THE UNITED STATES

Com: Mr. Justice Rehnquist

4 JUN 1979

No. 78-690

Circulated:

Kathleen R. Reiter, Petitioner, v. Sonotone Corporation et al. On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit.

[June —, 1979]

MR. JUSTICE REHNQUIST, concurring.

I join the Court's opinion, and write separately only to point out that the concern expressed by the Court of Appeals that an interpretation of "business or property" in the manner in which the Court interprets it today would "add a substantial volume of litigation to the already strained dockets of the federal courts and could be used to exact unfair settlements from retail businesses," *ante*, at 3, is by no means an unfounded one. Magisterial pronouncements from this Court exhorting District Courts to be "especially alert to identify frivolous claims brought to extort nuisance settlements" may not be a complete solution for those courts which are actually on the firing line in this type of litigation. But I fully agree that we must take the statute as Congress wrote it, and I also fully agree with the Court's construction of the ~~terms~~ "business or property." I think that the Court's observation in footnote 6, *ante*, at 10, that "the treble-damages remedy of § 4 took on new practical significance for consumers with the advent of Fed. Rule Civ. Proc. 23" is a miracle of understatement; and in the absence of any jurisdictional limit, there is considerable doubt in my mind whether this type of action is indeed ultimately of primary benefit to consumers themselves, who may recover virtually no monetary damages, as opposed to the attorneys for the class, who stand to obtain handsome rewards for their services. Be that as it may, the problem, if there is one, is for Congress and not for the courts.

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

Circulated:

Documented. 8 JUN 1979

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-690

Kathleen R. Reiter, Petitioner, | On Writ of Certiorari to the
v. | United States Court of Ap-
Sonotone Corporation et al. | peals for the Eighth Circuit.

[June —, 1979]

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 30, 1979

Re: 78-690 - Reiter v. Sonotone Corp.

Dear Chief:

Please join me.

Respectfully,



The Chief Justice
Copies to the Conference