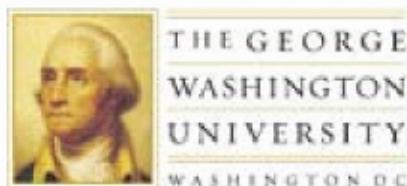


# The Burger Court Opinion Writing Database

*Curtiss-Wright Corp. v. General Electric Co.*

446 U.S. 1 (1980)

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



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: APR 11 1980

Recirculated: \_\_\_\_\_

1st DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 79-105

Curtiss-Wright Corporation, Petitioner, v. General Electric Company. } On Writ of Certiorari to the United States Court of Appeals for the Third Circuit.

[April —, 1980]

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

Federal Rule of Civil Procedure 54 (b) allows a district court dealing with multiple claims or multiple parties to direct the entry of final judgment as to fewer than all of the claims or parties; to do so, the court must make an express determination that there is no just reason for delay. We granted certiorari in order to examine the use of this procedural device. — U. S. — (1979).

### I

From 1968 to 1972, respondent General Electric Company entered into a series of 21 contracts with petitioner Curtiss-Wright Corporation for the manufacture of components designed for use in nuclear powered naval vessels. These contracts had a total value of \$215 million.

In 1976, Curtiss-Wright brought a diversity action in the United States District Court for the District of New Jersey, seeking damages and reformation with regard to the 21 contracts. The complaint asserted claims based on alleged fraud, misrepresentation and breach of contract by General Electric. It also sought \$19 million from General Electric on the outstanding balance due on the contracts already performed.

General Electric counterclaimed for \$1.9 million in costs allegedly incurred as the result of "extraordinary efforts" pro-

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

CHAMBERS OF  
THE CHIEF JUSTICE

April 15, 1980

RE: No. 79-105 - Curtiss-Wright v. General Electric

MEMORANDUM TO THE CONFERENCE:

I am making the following changes in the First Draft of the opinion. As soon as a printed version is ready, I will circulate it.

The last sentence of the second paragraph on page 8 will be changed to read:

"The reviewing court should disturb the trial court's assessment of the equities only if it can say that the judge's conclusion was clearly unreasonable."

The first sentence of the first full paragraph on page 10 will be changed to read:

"The Court of Appeals concluded that this was not enough, and suggested that the presence of such factors as economic duress and insolvency would be necessary to qualify the judgment for Rule 54(b) certification."

The following paragraph will be added at the end of the first full paragraph on page 10:

"Nor is General Electric's solvency a dispositive factor; if its financial position were such that a delay in entry of judgment on Curtiss-Wright's claims would impair Curtiss-Wright's ability to collect on the judgment, that would weigh in favor of certification. But the fact that General Electric is capable of paying, either now or later, is not a "just reason for delay." At most, as the District Court found, the fact that neither party is or will become insolvent renders that factor neutral in a proper weighing of the equities involved."

Regards,

*CEB*

*CHANGES AS MARKED:*

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: \_\_\_\_\_

Recirculated: APR 16 1980

**2nd DRAFT**

**SUPREME COURT OF THE UNITED STATES**

\_\_\_\_\_  
 No. 79-105  
 \_\_\_\_\_

Curtiss-Wright Corporation,  
 Petitioner, } On Writ of Certiorari to the  
 v. } United States Court of Ap-  
 General Electric Company, } peals for the Third Circuit.

[April —, 1980]

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

Federal Rule of Civil Procedure 54 (b) allows a district court dealing with multiple claims or multiple parties to direct the entry of final judgment as to fewer than all of the claims or parties; to do so, the court must make an express determination that there is no just reason for delay. We granted certiorari in order to examine the use of this procedural device. — U.S. — (1979).

II

From 1968 to 1972, respondent General Electric Company entered into a series of 21 contracts with petitioner Curtiss-Wright Corporation for the manufacture of components designed for use in nuclear powered naval vessels. These contracts had a total value of \$215 million.

In 1976, Curtiss-Wright brought a diversity action in the United States District Court for the District of New Jersey, seeking damages and reformation with regard to the 21 contracts. The complaint asserted claims based on alleged fraud, misrepresentation and breach of contract by General Electric. It also sought \$19 million from General Electric on the outstanding balance due on the contracts already performed.

General Electric counterclaimed for \$1.9 million in costs allegedly incurred as the result of "extraordinary efforts" pro-

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

STYLISTIC CHANGES

From: The Chief Justice

Circulated: \_\_\_\_\_  
 APR 17 1980  
 Recirculated: \_\_\_\_\_

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 79-105

Curtiss-Wright Corporation,  
 Petitioner,  
 v.  
 General Electric Company. | On Writ of Certiorari to the  
 United States Court of Appeals for the Third Circuit.

[April —, 1980]

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

Federal Rule of Civil Procedure 54 (b) allows a district court dealing with multiple claims or multiple parties to direct the entry of final judgment as to fewer than all of the claims or parties; to do so, the court must make an express determination that there is no just reason for delay. We granted certiorari in order to examine the use of this procedural device. — U. S. — (1979).

I

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In 1976, Curtiss-Wright brought a diversity action in the United States District Court for the District of New Jersey, seeking damages and reformation with regard to the 21 contracts. The complaint asserted claims based on alleged fraud, misrepresentation and breach of contract by General Electric. It also sought \$19 million from General Electric on the outstanding balance due on the contracts already performed.

General Electric counterclaimed for \$1.9 million in costs allegedly incurred as the result of "extraordinary efforts" pro-

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

CHAMBERS OF  
JUSTICE W. J. BRENNAN, JR.

April 14, 1980

RE: No. 79-105 Curtiss-Wright Corporation v. General  
Electric Company

Dear Chief:

I agree.

Sincerely,

*Bill*

The Chief Justice

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

April 14, 1980

Re: No. 79-105, Curtiss-Wright Corp. v.  
General Electric Co.

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

April 11, 1980

Re: No. 79-105 - Curtiss-Wright Corp. v.  
General Electric Co.

Dear Chief,

Please join me.

Sincerely yours,



The Chief Justice

Copies to the Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

April 16, 1980

Re: No. 79-105 - Curtiss-Wright Corporation v.  
General Electric Company

Dear Chief:

Please join me.

Sincerely,



T.M.

The Chief Justice

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

April 14, 1980

Re: No. 79-105 - Curtiss-Wright v. General Electric Co.

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.

April 14, 1980

79-105-Curtiss-Wright v. General Electric

Dear Chief:

Please join me.

Sincerely,

*Lewis*

The Chief Justice

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

April 14, 1980

Re: No. 79-105 - Curtiss-Wright v. General Electric

Dear Chief:

Please join me.

Sincerely,

The Chief Justice

Copies to the Conference

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

April 15, 1980

Re: 79-105 - Curtiss-Wright v. General Electric

Dear Chief:

Please join me.

Respectfully,



The Chief Justice

Copies to the Conference