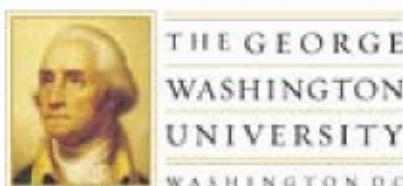


# The Burger Court Opinion Writing Database

*Northwest Airlines, Inc. v. Transport Workers*

451 U.S. 77 (1981)

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

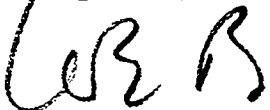
April 1, 1981

Re: 79-1056 - Northwest Airlines, Inc. v. Transport  
Workers Union of America, AFL-CIO

Dear John:

I join.

Regards,



Justice Stevens

Copies to the Conference

P.S. As of now, I have no strong feeling pro  
or con on your Note 42, Page 21.

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

CHAMBERS OF  
JUSTICE W. J. BRENNAN, JR.

March 23, 1981

RE: No. 79-1056 Northwest Airlines v. Transport  
Workers Union, etc.

Dear John:

I agree.

Sincerely,  
*W. J. BRENNAN, JR.*

Justice Stevens

cc: The Conference

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

CHAMBERS OF  
JUSTICE W. J. BRENNAN, JR.

March 26, 1981

RE: No. 79-1056 Northwest Airlines, Inc. v. Transport  
Workers Union of America

Dear John:

I'm still with you.

Sincerely,



Mr. Justice Stevens

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

March 26, 1981

Re: No. 79-1056, Northwest Airlines  
v. Transport Workers

Dear John,

I am glad to join your opinion for  
the Court.

Sincerely yours,

?S.  
✓

Justice Stevens

Copies to the Conference

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

March 20, 1981

Re: 79-1056 - Northwest Airlines,  
Inc. v. Transport Workers Union of  
America, AFL-CIO, et al.

Dear John,

Please join me.

Sincerely yours,



Mr. Justice Stevens  
Copies to the Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

April 1, 1981

Re: No. 79-1056 - Northwest Airlines v. Transport  
Workers

---

Dear John:

Please join me.

Sincerely,

*J.M.*

T.M.

Justice Stevens

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

March 20, 1981

Re: No. 79-1056 - Northwest Airlines, Inc. v. Transport  
Workers Union of America

Dear John:

At the end of your opinion would you please add the following:

"JUSTICE BLACKMUN took no part in the  
consideration or decision of this case."

Sincerely,

Harry

Mr. Justice Stevens

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

March 23, 1981

79-1056 Northwest Airlines v. Transport Workers

Dear John:

Please join me in your opinion for the Court.  
I may write a brief concurring opinion.

Sincerely,



Mr. Justice Stevens

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

March 27, 1981

79-1056 Northwest Airlines v. Transport Workers

Dear John:

In view of the clarifications in your draft of March 26, I confirm my join and no longer plan to write a concurring opinion.

Sincerely,

*L Lewis*

Mr. Justice Stevens

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

March 26, 1981

Re: No. 79-1056 Northwest Airlines, Inc. v.  
Transport Workers Union of America, AFL-CIO

Dear John:

Please join me.

Sincerely,

Mr. Justice Stevens

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

**1st DRAFT**

**SUPREME COURT OF THE UNITED STATES**

No. 79-1056

Northwest Airlines, Inc.,  
Petitioner,  
*v.*  
Transport Workers Union of  
America, AFL-CIO, et al. } On Writ of Certiorari to the  
United States Court of Appeals for the District of  
Columbia Circuit.

[March —, 1981]

JUSTICE STEVENS delivered the opinion of the Court.

The question presented in this case is whether an employer held liable to its female employees for backpay because collectively bargained wage differentials were found to violate the Equal Pay Act of 1963<sup>1</sup> and Title VII of the Civil Rights

<sup>1</sup> The Equal Pay Act, 29 U. S. C. § 206 (d), which was enacted in 1963 as an amendment to the Fair Labor Standards Act, 29 U. S. C. § 201, *et seq.*, provides, in relevant part:

"(d)(1) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex: *Provided*, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.

"(2) No labor organization, or its agents, representing employees of an employer having employees subject to any provisions of this section

### Mr. Charles Stover

## 2nd DRAFT

MAR 26 '81

**SUPREME COURT OF THE UNITED STATES**

No. 79-1056

Northwest Airlines, Inc.,  
Petitioner,  
*v.*  
Transport Workers Union of  
America, AFL-CIO, et al. } On Writ of Certiorari to the  
United States Court of Ap-  
peals for the District of  
Columbia Circuit.

[March —, 1981]

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(2) No labor organization, or its agents, representing employees of an employer having employees subject to any provisions of this section

cc. the Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

PP. 13, 14, 21

From: Mr. Justice Stevens

Circulated.

3rd DRAFT

4/11/81 10:15 AM

## SUPREME COURT OF THE UNITED STATES

No. 79-1056

Northwest Airlines, Inc.,  
Petitioner,  
v.  
Transport Workers Union of  
America, AFL-CIO, et al. } On Writ of Certiorari to the  
United States Court of Appeals for the District of  
Columbia Circuit.

[March —, 1981]

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The question presented in this case is whether an employer held liable to its female employees for backpay because collectively bargained wage differentials were found to violate the Equal Pay Act of 1963<sup>1</sup> and Title VII of the Civil Rights

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"(2) No labor organization, or its agents, representing employees of an employer having employees subject to any provisions of this section

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

April 20, 2981

MEMORANDUM TO THE CONFERENCE

Re: Case held for No. 79-1056, Northwest Airlines, Inc. v. Transport Workers Union of America

One case, Retail, Wholesale and Department Store Union v. G.C. Murphy Co., No. 80-461, has been held for Northwest Airlines. The question presented in this case is whether an employer held liable for backpay under Title VII has a cause of action for contribution against a labor union that allegedly participated in the Title VII violation. (X)

The plaintiffs in the underlying employment discrimination class action in G.C. Murphy asserted claims under Title VII and the Equal Pay Act. The employer cross-claimed against the union for contribution, contending that the union was solely responsible for the alleged violations. After the employer settled with the plaintiff class, a trial was held on the contribution cross-claim. The District Court (Scalera, J.) ruled that while contribution was not available under the Equal Pay Act, the federal courts do have the authority to award contribution in Title VII cases. On appeal, CA3 (Adams, Biggs, Hunter) did not address the merits of the District Court's Title VII decision; rather, the court remanded for consideration of certain jurisdictional issues. Glus v. G.C. Murphy Co., 562 F.2d 880 (1977). In a related appeal, CA3 (Adams, Biggs, Hunter) affirmed the District Court's conclusion that contribution was not available under the Equal Pay Act. Denicola v. G.C. Murphy Co., 562 F.2d 889 (1977).

On remand, the District Court (McCune, J.) found that the jurisdictional requirements of Title VII had been satisfied with respect to the