

# The Burger Court Opinion Writing Database

## *Chicago & North Western Transportation Co. v. Kalo Brick & Tile Co.*

450 U.S. 311 (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

March 5, 1981

Re: 79-1336 - Chicago and North Western Transportation Co.  
v. Kalo Brick & Title Co.

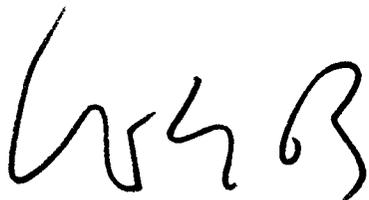
Dear Thurgood:

I join.

Regards,

Justice Marshall

Copies to the Conference

A large, handwritten signature in black ink, appearing to be 'WMB', is written over the typed name 'Justice Marshall' and extends to the right of the 'Copies to the Conference' line.

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

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

February 25, 1981

RE: No. 79-1336 Chicago & Northwestern Transportation  
Co. v. Kalo Brick and Tile Company

Dear Thurgood:

I agree.

Sincerely,

*Bue*

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

February 25, 1981

Re: 79-1336 - Chicago and North Western Tr.  
Co. v. Kalo Brick & Tile

Dear Thurgood:

I am glad to join your opinion for  
the Court.

Sincerely yours,

P.S.  
/

Justice Marshall

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CHAMBERS OF  
JUSTICE BYRON R. WHITE

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

February 26, 1981

Re: 79-1336 - Chicago and North  
Western Transportation Company v.  
Kalo Brick & Tile Company

Dear Thurgood,

Please join me.

Sincerely yours,

Mr. Justice Marshall

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U.S. DEPARTMENT OF COMMERCE

23 FEB 1981

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 79-1336

Chicago and North Western Transportation Company, Petitioner, v. Kalo Brick & Tile Company.	}	On Writ of Certiorari to the Supreme Court of California.
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[March —, 1981]

JUSTICE MARSHALL delivered the opinion of the Court.

Through the Interstate Commerce Act and its amendments, Congress has granted to the Interstate Commerce Commission authority to regulate various activities of interstate rail carriers, including their decisions to cease service on their branch lines. Under Iowa state law, a shipper by rail who is injured as the result of a common carrier's failure to provide adequate rail service has available several causes of action for damages. In this case we are called upon to decide whether these state-law actions may be asserted against a regulated carrier when the Commission has approved its decision to abandon the line in question.

I

Petitioner, an interstate common carrier by rail, is subject to the jurisdiction of the Interstate Commerce Commission. For some time prior to April of 1973, petitioner operated a 5.6-mile railroad branch line between the towns of Kalo and Fort Dodge in Iowa. Respondent operated a brick manufacturing plant near Kalo, and used petitioner's railroad cars and branch line to transport its products to Fort Dodge and outward in interstate commerce.<sup>1</sup>

<sup>1</sup> Respondent used petitioner's branch line only for the shipment of

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Typographical  
changes as marked  
on 1st draft  
+ P1

25 FEB 1981

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 79-1336

Chicago and North Western  
Transportation Company,  
Petitioner,  
v.  
Kalo Brick & Tile Company.

On Writ of Certiorari to the  
~~Supreme Court of California.~~  
Court of Appeals of Iowa

[March —, 1981]

JUSTICE MARSHALL delivered the opinion of the Court.

Through the Interstate Commerce Act and its amendments, Congress has granted to the Interstate Commerce Commission authority to regulate various activities of interstate rail carriers, including their decisions to cease service on their branch lines. Under Iowa state law, a shipper by rail who is injured as the result of a common carrier's failure to provide adequate rail service has available several causes of action for damages. In this case we are called upon to decide whether these state-law actions may be asserted against a regulated carrier when the Commission has approved its decision to abandon the line in question.

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<sup>1</sup> Respondent used petitioner's branch line only for the shipment of

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

February 26, 1981

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

Re: No. 79-1336 - Chicago & Northwestern Transportation Co.  
v. Kalo Brick and Tile Company

Dear Thurgood:

Please join me.

Sincerely,

*Harry*

Mr. Justice Marshall

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

February 26, 1981

79-1336 Chicago and North Western v. Kalo

Dear Thurgood:

Please join me.

Sincerely,

*Lewis*

Mr. Justice Marshall

lfp/ss

cc: The Conference

*Thurgood your opinion  
is excellent.  
L*

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

February 26, 1981

Re: No. 79-1336 Chicago & Northwestern Transportation  
Co. v. Kalo Brick & Tile Co.

Dear Thurgood:

Please join me.

Sincerely,

*WRM*

Mr. Justice Marshall

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U.S. DEPARTMENT OF COMMERCE

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

February 24, 1981

Re: 79-1336 - Chicago and North Western  
Trans. Co. v. Kalo Brick

Dear Thurgood:

Please join me.

Respectfully,



Justice Marshall

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