

The Burger Court Opinion Writing Database

American Express Co. v. Koerner

452 U.S. 233 (1981)

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



M

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

CHAMBERS OF
THE CHIEF JUSTICE

May 4, 1981

Re: 80-202 - American Express Co. v. Koerner

Dear Thurgood:

The above case is assigned to Justice Blackmun.

No. 78-1789 - Arkansas Louisiana Gas Company v. Hall
is assigned to you.

Revised Assignment List is enclosed.

Regards,



Justice Marshall

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

CHAMBERS OF
THE CHIEF JUSTICE

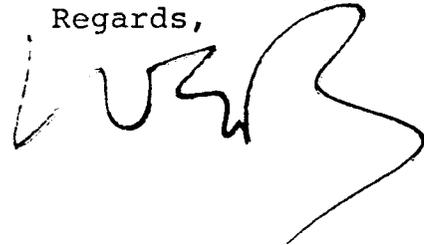
June 3, 1981

RE: 80-202 - American Express Co. v. Koerner

Dear Harry:

I join.

Regards,

A handwritten signature in black ink, appearing to be 'LUBB', written in a cursive style.

Justice Blackmun

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 2, 1981

RE: No. 80-202 American Express Co. v. Koerner, Sr.

Dear Harry:

I agree.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill".

Justice Blackmun

cc: The Conference

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

MM
CHAMBERS OF
JUSTICE POTTER STEWART

May 4, 1981

Re: 80-202 - American Express Co. v. Koerner

Dear Chief:

In the light of Thurgood's note to you about his being assigned the opinion in this case, I have told him that I would be glad to undertake the opinion in this case, in exchange for his taking the opinion in 80-289, UMW v. NLRB, and its connecting case, at present assigned to me. If we do not hear from you to the contrary, we shall assume that the exchange is satisfactory.

Sincerely yours,

P.S.
/

The Chief Justice

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

CHAMBERS OF
 JUSTICE POTTER STEWART

May 28, 1981

Re: No. 80-~~101~~ American Express Co.
v. Koerner

Dear Harry,

I am glad to join your opinion for the Court. Along with John Stevens, I hope you will give favorable consideration to deleting the first paragraph of Part IV on page 15.

Sincerely yours,

P.S.

Justice Blackmun

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Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

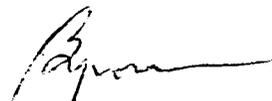
May 28, 1981

Re: 80-202 - American Express Company
v. Koerner

Dear Harry,

Please join me.

Sincerely yours,



Justice Blackmun

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cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 4, 1981

Re: No. 80-202 - American Express Co. v. Koerner

Dear Chief:

You have assigned me the above opinion.

Will you please remember that one day last week I told you I would appreciate not getting this opinion because the lawyer for the winning side, Ron Greene, was a former law clerk of mine.

Sincerely,



T.M.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 2, 1981

Re: No. 80-202 - American Express v. Koerner

Dear Harry:

Please join me.

Sincerely,

JM
T.M.

Justice Blackmun

cc: The Conference

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

80-202

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 4, 1981

Dear Chief:

Potter's note concerning No. 80-202, American Express Co. v. Koerner and your revised assignment list reached me at the same time. I am somewhat confused, but, unless I am otherwise advised, I shall assume that American Express is now assigned to me and that Ark. La. is assigned to Thurgood. I write this so that Potter, Thurgood, and I will not be duplicating effort.

Sincerely,

H.A.B.

The Chief Justice

cc: The Conference

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: MAY 27 1981

No. 80-202 - American Express Company v. Louis R. Koerner, Sr. Recirculated:

JUSTICE BLACKMUN delivered the opinion of the Court.

The question presented is whether a creditor must follow the requirements specified in 1974 by the Fair Credit Billing Act, Pub. L. 93-495, Tit. III, 88 Stat. 1511, for the correction of billing errors, when both a corporation and an individual officer are liable for a debt.

I

The Fair Credit Billing Act added a number of provisions to the Truth in Lending Act (TILA), Pub. L. 90-321, Tit. I, 82 Stat. 146 (1968). A primary provision, and the one at issue in this case, is §161(a), as so added. 88 Stat. 1512, 15 U.S.C.

§1666(a).¹ This section applies whenever a creditor transmits to an obligor "a statement of the obligor's account in connection with an extension of consumer credit". If the obligor believes that the statement contains a billing error², he then may send

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 28, 1981

Re: No. 80-202 - American Express Co. v. Koerner

Dear John:

In view of the reaction from you and Potter, I shall be glad to eliminate the first paragraph of part IV. This is an insignificant change. My intent, I suppose, was to cast an aspersion, for I suspect that all of us have had experience with the way these credit card companies operate.

I think, however, that your concern about repeated complaints by a customer is unfounded. The last sentence of §161(a) states that a creditor who follows the statutory procedures "has no further responsibility under this section if the obligor continues to make substantially the same allegation with respect to such error."

Sincerely,



Mr. Justice Stevens

cc: The Conference

Pp. 4, 7, 11

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 2 1981

Printed
 1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-202

American Express Company, Petitioner, v. Louis R. Koerner, Sr.	}	On Writ of Certiorari to the United States Court of Ap- peals for the Fifth Circuit,
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[June —, 1981]

JUSTICE BLACKMUN delivered the opinion of the Court.

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The Fair Credit Billing Act added a number of provisions to the Truth in Lending Act (TILA), Pub. L. 90-321, Tit. I, 82 Stat. 146 (1968). A primary provision, and the one at issue in this case, is § 161 (a), as so added. 88 Stat. 1512, 15 U. S. C. § 1666 (a).¹ This section applies whenever a

¹Section 161 (a) provides:

“If a creditor, within sixty days after having transmitted to an obligor a statement of the obligor’s account in connection with an extension of consumer credit, receives at the address disclosed under section 127 (b) (11) a written notice (other than a notice on a payment stub or other payment medium supplied by the creditor if the creditor so stipulates with the disclosure required under section 127 (a) (8) from the obligor in which the obligor—

“(1) sets forth or otherwise enables the creditor to identify the name and account number (if any) of the obligor,

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 29, 1981

80-202 American Express Company v. Koerner

Dear Harry:

Please join me.

Sincerely,



Mr. Justice Blackmun

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

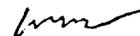
May 29, 1981

Re: No. 80-202 American Express Co. v. Koerner

Dear Harry:

Please join me. I am pleased that you have agreed to delete the first paragraph of Part IV on page 15 of your typewritten draft, as John and Potter suggested; I suspect all of us have had run-ins with furnishers of credit over disputed items -- I know that Nan and I have -- but I think your opinion will be the better from a strictly judicial point of view with the revision which you have now agreed to make.

Sincerely,



Justice Blackmun

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Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 28, 1981

Re: 80-202 - American Express Co. v. Koerner

Dear Harry:

Would you consider omitting the first paragraph of Part IV on page 15 of your typewritten draft? It seems to me that there may be situations in which a delinquent card holder could raise questions about his account in a way that would postpone the company's right to terminate because of the need to make repeated responses. I just do not know enough about the intricacies of the statute and the processing of complaints, termination of accounts and the like to be able to express an informed opinion about the burdensomeness of complying with the statutory procedures.

Except for this concern, I have no hesitation in joining your opinion.

Respectfully,



Justice Blackmun

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Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 29, 1981

Re: 80-202 - American Express v. Koerner

Dear Harry:

Please join me.

Respectfully,



Justice Blackmun

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