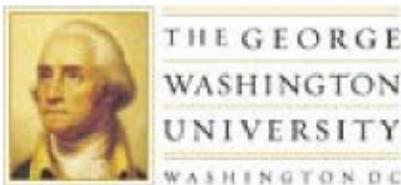


The Burger Court Opinion Writing Database

*Summit Valley Industries, Inc. v.
Carpenters*
456 U.S. 717 (1982)

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

May 26, 1982

Re: No. 81-497 - Summit Valley Industries, Inc. v.
Local 112

Dear Thurgood:

I join.

Regards,

Justice Marshall

Copies to the Conference

6

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 26, 1982

RE: No. 80-497 Summit Valley Industries v. Local 112, etc.

Dear Thurgood:

I agree.

95 JUN 22 1982

Sincerely,



Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 25, 1982

Re: 80-497 - Summit Valley Industries
v. Local 112, United Brotherhood of
Carpenters and Joiners of America

Dear Thurgood,

Please join me.

Sincerely yours,



Justice Marshall

Copies to the Conference

cpm

To: The Chief Justice
Justice Brennan
Justice White
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: **Justice Marshall**

Circulated: MAY 25 1982

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-497

SUMMIT VALLEY INDUSTRIES, PETITIONER *v.*
LOCAL 112, UNITED BROTHERHOOD OF CARPEN-
TERS AND JOINERS OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

[May —, 1982]

JUSTICE MARSHALL delivered the opinion of the Court.

We granted certiorari to decide whether § 303 of the Labor Management Relations Act (LMRA), 29 U. S. C. 187, authorizes the recovery of attorney's fees incurred in prior proceedings before the National Labor Relations Board (Board). The courts of appeals have divided on this issue.¹ — U. S. — (1981). In this case, the Court of Appeals for the Ninth Circuit held that attorney's fees may not be recovered. *Summit Valley Industries, Inc. v. Local 112, United Brotherhood of Carpenters and Joiners of America*, Civ. No. 79-4663 (CA9 1981). We affirm.

I

Petitioner Summit Valley Industries (Summit Valley) manufactures prefabricated modular homes. These homes are completed at petitioner's plant and sold directly to home buyers. The buyer then independently obtains the services of a

¹The First, Fifth, Sixth and Eighth Circuits have held that attorney's fees may be recovered. See *Associated General Contractors of Minnesota v. Construction and General Laborers Local No. 563*, 612 F. 2d 1060 (CA8 1979); *Texas Distributors, Inc. v. Local Union No. 100*, 598 F. 2d 393 (CA5 1979); *F. F. Instrument Corp. v. Union de Tronquistas de Puerto Rico*, 558 F. 2d 607 (CA1 1977); *Local Union No. 984, International Brotherhood of Teamster v. Humko Co.*, 287 F. 2d 231 (CA6), *cert denied*, 366 U. S. 962 (1961). The Ninth Circuit alone has reached a contrary conclusion. See *Mead v. Retail Clerks Local 839*, 523 F. 2d 1371 (CA9 1975).

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stylistic changes throughout
p-1

To: The Chief Justice
Justice Brennan
Justice White
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: **Justice Marshall**

Circulated: _____

Recirculated: MAY 28 1982

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-497

SUMMIT VALLEY INDUSTRIES, PETITIONER *v.*
LOCAL 112, UNITED BROTHERHOOD OF CARPENTERS
AND JOINERS OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

[June 1, 1982]

JUSTICE MARSHALL delivered the opinion of the Court.

We granted certiorari to decide whether § 303 of the Labor Management Relations Act (LMRA), 29 U. S. C. 187, authorizes the recovery of attorney's fees incurred in prior proceedings before the National Labor Relations Board (Board). — U. S. — (1981). The courts of appeals have divided on this issue.¹ In this case, the Court of Appeals for the Ninth Circuit held that attorney's fees may not be recovered. *Summit Valley Industries, Inc. v. Local 112, United Brotherhood of Carpenters and Joiners of America*, Civ. No. 79-4663 (CA9 1981). We affirm.

I

Petitioner Summit Valley Industries (Summit Valley) man-

¹The Fifth, Sixth and Eighth Circuits have held that attorney's fees may be recovered. See *Associated General Contractors of Minnesota v. Construction and General Laborers Local No. 563*, 612 F. 2d 1060 (CA8 1979); *Texas Distributors, Inc. v. Local Union No. 100*, 598 F. 2d 393 (CA5 1979); *Local Union No. 984, International Brotherhood of Teamsters v. Humko Co.*, 287 F. 2d 231 (CA6), *cert denied*, 366 U. S. 962 (1961). The First Circuit has expressed approval of this rule in dicta. See *F. F. Instrument Corp. v. Union de Tronquistas de Puerto Rico*, 558 F. 2d 607, 611 (CA1 1977). The Ninth Circuit alone has reached a contrary conclusion. See *Mead v. Retail Clerks Local 339*, 523 F. 2d 1371 (CA9 1975).

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 25, 1982

Re: No. 81-497 - Summit Valley Industries, Inc. v. Local 112

Dear Thurgood:

Please join me.

Sincerely,

Handwritten signature of H. A. Blackmun, consisting of stylized initials and a horizontal line.

Justice Marshall

cc: The Conference



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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 26, 1982

81-497 Summit Valley Industries v. Local 112

Dear Thurgood:

Please join me.

Sincerely,

Lewis

Justice Marshall

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 26, 1982

Re: No. 81-497 Summit Valley Industries v. Local 112,
United Brotherhood of Carpenters and
Joiners of America

Dear Thurgood:

Please join me.

Sincerely,



Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

2006 25 18 58

May 25, 1982

Re: 81-497 - Summit Valley Industries v. Local 112

Dear Thurgood:

Please join me.

Respectfully,



Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

May 25, 1982

No. 80-497 Summit Valley Industries v.
Local 112

Dear Thurgood,

Please join me.

Sincerely,



Justice Marshall

Copies to the Conference