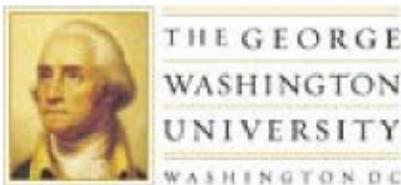


The Burger Court Opinion Writing Database

*Jefferson County Pharmaceutical
Association, Inc. v. Abbott Laboratories*
460 U.S. 150 (1983)

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
JUSTICE BYRON R. WHITE

February 8, 1982

Re: 81-827 - Jefferson County Pharmaceutical Ass'n,
Inc. v. Abbott Laboratories

Dear Lewis,

Please add my name to your opinion dissenting from
denial of certiorari.

Sincerely yours,



Justice Powell

Copies to the Conference

cpm

#HAB

✓
H
ed 13
but want you added

7
2

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

From: Justice Powell

Circulated: JAN 25 1982

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

JEFFERSON COUNTY PHARMACEUTICAL ASSOCIATION, INC. v. ABBOTT LABORATORIES, ET AL.

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

No. 81-827. Decided January —, 1982

JUSTICE POWELL, dissenting.

The question in this case is whether the Robinson-Patman Act, 15 U. S. C. § 13, applies to state and local governments that have entered the commercial marketplace as retailers of goods to the general public in competition with private firms. Because this is a substantial question, and because I think the decision of the Court of Appeals for the Fifth Circuit answered the question incorrectly, I dissent from the denial of certiorari.

I

Petitioner is an association of retail pharmacists doing business in Jefferson County, Alabama. Respondents are 15 drug companies and certain state and county pharmacies operated in conjunction with state and county hospitals.¹ In its complaint, petitioner alleged that the state and county pharmacies were receiving preferential prices from the drug manufacturers and were using their favored position to compete with private pharmacies in retail sales to the general public. Petitioner alleged that these preferential wholesale prices, followed by retail sales to consumers, violated the Robinson-Patman Act, 15 U. S. C. § 13.² Petitioner sought

¹The respondent pharmacies include those operated by the county hospital and by the hospitals and clinics of the Medical College of the University of Alabama.

²Under the Robinson-Patman Act it is "unlawful for any person engaged in commerce . . . to discriminate in price between different purchasers of commodities of like grade and quality . . . where such commodities are sold for use, consumption or resale within the United States . . . , and where the

Reproduced from the Collections of the Manuscript Division, Library of Congress

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

From: Justice Powell

Circulated: _____

Re-circulated: FEB 9 1982

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

JEFFERSON COUNTY PHARMACEUTICAL ASSOCIATION, INC. *v.* ABBOTT LABORATORIES, ET AL.

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

No. 81-827. Decided February —, 1982

JUSTICE POWELL, with whom JUSTICE WHITE joins, dissenting.

The question in this case is whether the Robinson-Patman Act, 15 U. S. C. § 13, applies to state and local governments that have entered the commercial marketplace as retailers of goods to the general public in competition with private firms. Because this is a substantial question, and because I think the decision of the Court of Appeals for the Fifth Circuit answered the question incorrectly, I dissent from the denial of certiorari.

I

Petitioner is an association of retail pharmacists doing business in Jefferson County, Alabama. Respondents are 15 drug companies and certain state and county pharmacies operated in conjunction with state and county hospitals.¹ In its complaint, petitioner alleged that the state and county pharmacies were receiving preferential prices from the drug manufacturers and were using their favored position to compete with private pharmacies in retail sales to the general public. Petitioner alleged that these preferential wholesale prices, followed by retail sales to consumers, violated the Robinson-Patman Act, 15 U. S. C. § 13.² Petitioner sought

¹The respondent pharmacies include those operated by the county hospital and by the hospitals and clinics of the Medical College of the University of Alabama.

²Under the Robinson-Patman Act it is "unlawful for any person engaged in commerce . . . to discriminate in price between different purchasers of commodities of like grade and quality . . . where such commodities are sold