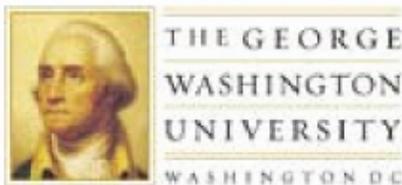


# The Burger Court Opinion Writing Database

*Burlington Northern, Inc. v. United States*  
459 U.S. 131 (1982)

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



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

From: **The Chief Justice**

Circulated: 12/3/82

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

1st DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 81-1008

BURLINGTON NORTHERN, INC., ET AL., PETITIONERS  
v. UNITED STATES ET AL.

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

[December —, 1982]

CHIEF JUSTICE BURGER delivered the opinion of the  
Court.

We granted certiorari to clarify the allocation of authority, as between the federal courts and the Interstate Commerce Commission, to set and review rates for coal movements by rail.

### I

This case arose as a result of a 1972 decision of San Antonio, Texas, acting through its City Public Service Board, to substitute coal-generated electricity for natural gas. Towards that end, in 1974, San Antonio entered into long-term contracts to purchase coal from two suppliers in Campbell County, Wyoming; began to construct two coal-fired generating units; and initiated negotiations with Burlington Northern, Inc. and Southern Pacific Transportation Company (the Railroads) for contracts to transport approximately three million tons of coal each year from Wyoming to the new plants. Although the Railroads originally quoted San Antonio a rate of \$7.90 per ton for moving coal from Campbell County to San Antonio, economic conditions, which were characterized by rapid inflation, quickly required the Railroads to raise their price to \$11.90 per ton. Unwilling to pay such a high rate, in May 1975, San Antonio filed a complaint

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

From: **The Chief Justice**

Circulated: \_\_\_\_\_

Recirculated: = 12/7/82 =

STYLISTIC CHANGES  
THROUGHOUT

2nd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 81-1008

**BURLINGTON NORTHERN, INC., ET AL., PETITIONERS v. UNITED STATES ET AL.**

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

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

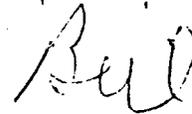
December 6, 1982

RE: No. 81-1008 Burlington Northern v. United States

Dear Chief:

I agree.

Sincerely,



The Chief Justice

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

December 8, 1982

*Handwritten notes:*  
D...  
No 81-1008

Re: 81-1008 - Burlington Northern  
v. United States

Dear Chief,

Please join me.

Sincerely yours,



The Chief Justice  
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cpm

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

December 9, 1982

Re: No. 81-1008 - Burlington Northern v. U.S.

Dear Chief:

Please join me.

Sincerely,

*JM.*

T.M.

The Chief Justice

cc: The Conference

FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

December 9, 1981

Re: No. 81-1008 - Burlington Northern, Inc. v. United States

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

December 6, 1982

81-1008 Burlington Northern, Inc. v. United States

Dear Chief:

As a dissent in this case is hardly worthwhile,  
you may record me as a "join".

Sincerely,



The Chief Justice

lfp/ss

cc: The Conference

AND RECORDS FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

December 9, 1982

Re: No. 81-1008 Burlington Northern v. United States

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

December 6, 1982

Re: 81-1008 - Burlington Northern, Inc. v.  
United States

Dear Chief:

Please join me.

Respectfully,



The Chief Justice

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

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

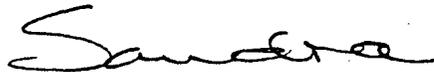
December 6, 1982

No. 81-1008 Burlington Northern, Inc. v. U.S.

Dear Chief,

Please join me.

Sincerely,



The Chief Justice

Copies to the Conference

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DATE 11-14-2011 BY 60322 UCBAW