

The Burger Court Opinion Writing Database

Bose Corp. v. Consumers Union of United States, Inc.

466 U.S. 485 (1984)

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 Wm. J. BRENNAN, JR.

April 21, 1983

Re: No. 82-1246

Bose Corporation v. Consumers Union
of the United States, Inc.

Dear Byron,

Please join me.

Sincerely,



Justice White

Copies to the Conference

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

From: Justice White

Circulated: 4/21/83

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

BOSE ~~CONSUMERS~~ CORPORATION v. CONSUMERS
UNION OF THE UNITED STATES, INC.

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

No. 82-1246. Decided April —, 1983

JUSTICE WHITE, dissenting.

Petitioner Bose Corporation is a manufacturer of stereo loudspeaker systems. In the May, 1970, issue of *Consumer Reports*, respondent Consumers Union of ~~AMERICA~~, Inc., published a review of one of petitioner's products, the Bose 901 Series I loudspeaker system. Petitioner brought suit for damages alleging, among other things, product disparagement. Following extensive discovery and a 19 day bench trial, the United States District Court for the District of Massachusetts determined that at least one statement in the review was both disparaging and false. The District Court also found that the "actual malice" standard of *New York Times v. Sullivan*, 376 U. S. 254 (1976), applied to product disparagement claims and that petitioner was a "public figure."¹

Applying the "actual malice" standard, the District Court held that petitioner had "sustained its burden of proving that the [respondent] published a false statement of material fact with the knowledge that it was false or with reckless disre-

¹The propriety of the District Court's determinations that petitioner was a "public figure" and that the "actual malice" standard applied to product disparagement suits was not before the Court of Appeals; neither of these questions are presented in the petition for certiorari. In addition, because the Court of Appeals reversed the District Court judgment on other grounds, it assumed without deciding both that the statement in question was a fact rather than an opinion, and that the statement was false. The propriety of the District Court's decision on these issues is not before the Court.

the United States

issue is

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

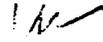
April 20, 1983

Re: No. 82-1246 Bose Corp. v. Consumers Union of the
United States

Dear Byron:

Please join me in your dissent from denial of certiorari.

Sincerely,



Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

April 21, 1983

No. 82-1246 Bose Corp. v. Consumers Union
of the United States, Inc.

Dear Byron,

Please join me.

Sincerely,

Sandra

Justice White

Copies to the Conference