

The Burger Court Opinion Writing Database

Pallas Shipping Agency, Ltd. v. Duris
461 U.S. 529 (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
THE CHIEF JUSTICE

May 18, 1983

Re: 82-502 - Pallas Shipping Agency, Ltd. v. Duris

Dear Thurgood:

I join.

Regards,



Justice Marshall
Copies to the Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 16, 1983

Re: No. 82-502

Pallas Shipping Agency, Ltd.
v. Joseph Duris

Dear Thurgood,

Please join me.

Sincerely,



Justice Marshall

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 13, 1983

Re: 82-502 - Pallas Shipping Agency, Ltd.
v. Duris

Dear Thurgood,

I agree.

Sincerely,

Byron

Mr. Justice Marshall
Copies to the Conference
cpm

p. 78

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

From: **Justice Marshall**

Circulated: 1983

Recirculated:

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-502

PALLAS SHIPPING AGENCY, LTD., PETITIONER *v.*
 JOSEPH DURIS

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

[May —, 1983]

JUSTICE MARSHALL delivered the opinion of the Court.

Under § 33(b) of the Longshoremen's and Harbor Workers' Compensation Act, an injured longshoreman who accepts "compensation under an award in a compensation order" has six months in which to file a negligence action against a third party, after which time the longshoreman's cause of action is irrevocably assigned to his employer. This case presents the question whether a longshoreman's acceptance of voluntary compensation payments gives rise to an assignment under § 33(b).

I

On May 19, 1975, respondent Joseph Duris fell from a ladder and was injured while working as a longshoreman aboard the M/V Regent Botan at the Port of Toledo, Ohio. At the time of the accident, the vessel was chartered by Erato Shipping, Inc. Duris' employer, Toledo Overseas Terminal, Inc., did not contest his right to compensation benefits under the Longshoremen's and Harbor Workers' Compensation Act (LHWCA). On June 2, 1975, the employer filed Form LS-206, entitled "Payment of Compensation Without Award," with the Department of Labor. The document indicated the employer's agreement to commence payments to Duris in the amount of \$149.14 every two weeks. Payments to Duris

PP. 3, 5, 9

Justice Brennan
 Justice White
 Justice Blackmun
 Justice Powell
 Justice Rehnquist
 Justice Stevens
 Justice O'Connor

From: **Justice Marshall**

Circulated: _____

Recirculated: MAY 13 1983

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-502

PALLAS SHIPPING AGENCY, LTD., PETITIONER *v.*
 JOSEPH DURIS

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

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I

On May 19, 1975, respondent Joseph Duris fell from a ladder and was injured while working as a longshoreman aboard the M/V Regent Botan at the Port of Toledo, Ohio. At the time of the accident, the vessel was chartered by Erato Shipping, Inc. Duris' employer, Toledo Overseas Terminal, Inc., did not contest his right to compensation benefits under the Longshoremen's and Harbor Workers' Compensation Act (LHWCA). On June 2, 1975, the employer filed Form LS-206, entitled "Payment of Compensation Without Award," with the Department of Labor. The document indicated the employer's agreement to commence payments to Duris in the amount of \$149.14 every two weeks. Payments to Duris

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 12, 1983

Re: No. 82-502 - Pallas Shipping Agency, Ltd. v. Duris

Dear Thurgood:

Could you see your way clear to make footnote one read substantially as follows:

"Even if §19(c) of the Act, 33 U.S.C. §919(c), requires the deputy commissioner to issue an order with respect to any uncontested compensation claim, as petitioner argues, cf. Czaplicki v. The Hoegh Silvercloud, 351 U.S. 525, 528, n. 9 (1956), it is undisputed that in this case no compensation order was filed by the deputy commissioner prior to Duris' commencement of the instant lawsuit."

If so, I shall be glad to join your opinion.

Sincerely,



Justice Marshall

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 12, 1983

Re: No. 82-502 - Pallas Shipping Agency, Ltd. v. Duris

Dear Thurgood:

I am glad to join your opinion in this case. It is my understanding, however, that a slight revision in footnote 1 on page 3 will be made and that footnote 4 on page 5 will be omitted.

Sincerely,

Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 13, 1983

Re: No. 82-502 - Pallas Shipping Agency, Ltd. v. Duris

Dear Thurgood:

I am glad to join your recirculation of May 13.

Sincerely,

H. A. B.

Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 12, 1983

82-502 Pallas Shipping Agency v. Duris

Dear Thurgood:

I would prefer to omit n. 4, p. 5, as it seems unnecessary to say anything about an agreement reached in informal conference.

We have too many of these LHWCA cases, and the note may invite litigation.

This is merely a suggestion. My join is unconditional.

Sincerely,



Justice Marshall

lfp/ss



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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 12, 1983

82-502 Pallas Shipping Agency v. Duris

Dear Thurgood:

Please join me.

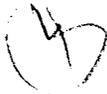
Sincerely,

Justice Marshall

lfp/ss

cc: The Conference

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



CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 12, 1983

Re: No. 82-502 Pallas Shipping Agency v. Duris

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

May 12, 1983

Re: 82-502 - Pallas Shipping Agency
v. Duris

Dear Thurgood:

Please join me. May I suggest that you simply omit footnote 4 on page 5. I think the footnote may unnecessarily invite further litigation.

Respectfully,



Justice Marshall

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

May 12, 1983

No. 82-502 Pallas Shipping Agency v.
Duris

Dear Thurgood,

Please join me.

Sincerely,



Justice Marshall

Copies to the Conference