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Service Merchandise Co., Inc. v. Amana Refrigeration, Inc.

466 U.S. 931 (1984)

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

*As to dealer
cancellation, both
cases present procedural issues.*

*See my
February 21, 1983
letter of 2/24
I am inclined
to agree with
HAB*

MEMORANDUM TO THE CONFERENCE

Re: No. 82-848 - Service Merchandise Co. v.
Amana Refrigeration
No. 82-914, Monsanto Co. v. Spray-Rite Service Corp.

After discussion at the conference on February 18, these case were relisted for me. After another review, I have concluded that the two cases are squarely in conflict on the question whether termination following competitor complaints is sufficient evidence of concerted action under §1 of the Sherman Act. I agree with Bryon that the conflict requires resolution. I therefore would grant one of the cases.

Since Byron is out of Monsanto, Amana seems the likely choice. If, however, he believes that he must stay out of both cases, Monsanto might be the better case; in that case, the SG raises the question whether Dr. Miles' per se rule against resale price maintenance should be overruled. I think the Court might want to consider whether Dr. Miles can really survive Sylvania, and Amana does not involve this issue.

Harry

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HAB

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

May 31, 1983

No. 82-898 Minnesota Community College v.
Knight
No. 82-977 Minnesota Community College
Faculty v. Knight

Dear Chief,

These cases were relisted for me. I now
vote to grant appellants' motion to expand the record and
enlarge the questions presented for review.

Sincerely,



The Chief Justice

Copies to the Conference