

The Burger Court Opinion Writing Database

Trans World Airlines, Inc. v. Franklin Mint Corp.

466 U.S. 243 (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
THE CHIEF JUSTICE

January 31, 1984

Re: 82-1186 - TWA v. Franklin Mint Corp.
82-1465 - Franklin Mint Corp. v. TWA

Dear Sandra:

I join.

Regards,

A handwritten signature in black ink, appearing to be 'WOB', written in a cursive style.

Justice O'Connor

Copies to the Conference

12

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

RECEIVED
SUPREME COURT
JUSTICE Wm. J. BRENNAN, JR.

January 23, 1984

'84 JAN 23 A11:12

Nos. 82-1186 & 82-1465

TWA, Inc. v. Franklin Mint Corp.
et al., etc.

Dear Sandra,

I agree.

Sincerely,

Bill

Justice O'Connor

Copies to the Conference

4

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 23, 1984

Re: 82-1186 and 82-1465 -
TWA v. Franklin Mint Corporation
Franklin Mint Corporation v. TWA

Dear Sandra,
Please join me.

Sincerely,



Justice O'Connor
Copies to the Conference
cpm

1

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 30, 1984

Re: Nos. 82-1186 and 1465-Trans World Airlines v.
Franklin Mint Corp. and Franklin Mint Corp. v.
Trans World Airlines

Dear Sandra:

Please join me.

Sincerely,



T.M.

Justice O'Connor

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 5, 1984

RECEIVED
SUPREME COURT U.S.
JUSTICE H. BLACKMUN

'84 MAR -5 A10:21

Re: No. 82-1186 - TWA, Inc. v. Franklin Mint Corp.
No. 82-1465 - Franklin Mint Corp. v. TWA, Inc.

Dear Sandra:

Please join me.

Sincerely,



Justice O'Connor

cc: The Conference

①

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

RECEIVED
SUPREME COURT U.S.
JUSTICE POWELL

January 20, 1984 '84 JAN 23 A9:51

82-1186 Trans World Airlines v. Franklin Mint Corp.

Dear Sandra:

Please join me.

Sincerely,

Lewis

Justice O'Connor

lfp/ss

cc: The Conference

(M)

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

RECORDED
SUPREME COURT U.S.
JUSTICE REHNQUIST, January 23, 1984

Re: Nos. 82-1186 & 82-1465 TWA v. Franklin Mint Corp.

Dear Sandra:

Please join me.

Sincerely,
WWR

Justice O'Connor

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

RECEIVED
SUPREME COURT U.S.
JUSTICE STEVENS

January 20, 1984

'84 JAN 23 A9:52

Re: 82-1186 and 82-1465 - Trans World
Airlines v. Franklin Mint Corp.

Dear Sandra:

Although I agree with part II of your opinion, I remain unpersuaded by part III and therefore will, unfortunately, be writing in dissent.

I wonder if my partial agreement with your circulation gives me standing to suggest that on page 2 instead of using the words "vacate its opinion" you might want to consider something like "reject the reasoning in its opinion" or words to that effect. Strictly speaking, I do not think the Court can vacate anything except the judgment of the Court of Appeals.

I'll try not to hold you up too long.

Respectfully,



Justice O'Connor

Copies to the Conference

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

From: **Justice Stevens**

Circulated: APR 6 '84

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 82-1186 AND 82-1465

82-1186 TRANS WORLD AIRLINES, INC., PETITIONER
v.
FRANKLIN MINT CORPORATION ET AL.

82-1465 FRANKLIN MINT CORPORATION, ET AL.,
PETITIONERS
v.
TRANS WORLD AIRLINES, INC.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SECOND CIRCUIT

[April —, 1984]

JUSTICE STEVENS, dissenting.

This case involves the interpretation of Article 22 of the Warsaw Convention. The plain language of that Article, quoted *ante*, at 3, requires that the liability limits be determined by reference to the value of "gold at the standard fineness of .900" and then converted into our "national currency in round figures."

The Court states that the Warsaw Convention's liability limitation remains enforceable in United States courts, but that is not what the Court holds. The Court holds that the liability limitation agreed upon by the Convention is *not* enforceable in United States courts. Rather, a liability limitation set by Trans World Airlines, and accepted by the Civil Aeronautics Board, is held to be enforceable in United States courts, because that limitation is deemed to correspond more closely to the Convention's "purposes" than the limitation actually selected by the Convention itself. Thus, instead of enforcing the Convention's liability limitation, the Court has re-written it.

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RECEIVED
SUPREME COURT, U.S.
JUSTICE

'84 APR -9 A9:56

STYLISTIC CHANGES THROUGHOUT,
SEE PAGES:

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

From: Justice Stevens

Circulated: _____

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 82-1186 AND 82-1465

82-1186 TRANS WORLD AIRLINES, INC., PETITIONER
v.
FRANKLIN MINT CORPORATION ET AL.

82-1465 FRANKLIN MINT CORPORATION, ET AL.,
PETITIONERS
v.
TRANS WORLD AIRLINES, INC.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SECOND CIRCUIT

[April —, 1984]

JUSTICE STEVENS, dissenting.

This case involves the interpretation of Article 22 of the Warsaw Convention. The plain language of that Article, quoted *ante*, at 3, requires that the liability limits be determined by reference to the value of "gold at the standard fineness of nine hundred thousandths" and then converted into our "national currency in round figures."

The Court states that the Warsaw Convention's liability limitation remains enforceable in United States courts, but that is not what the Court holds. The Court holds that the liability limitation agreed upon by the Convention is *not* enforceable in United States courts. Rather, a liability limitation set by Trans World Airlines, and accepted by the Civil Aeronautics Board, is held to be enforceable in United States courts, because that limitation is deemed to correspond more closely to the Convention's "purposes" than the limitation actually selected by the Convention itself. Thus, instead of enforcing the Convention's liability limitation, the Court has rewritten it.

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

STYLISTIC CHANGES THROUGHOUT

SEE PAGES: 15, 16, 17, 18, 19, 22, 23

From: Justice Stevens

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 82-1186 AND 82-1465

82-1186 TRANS WORLD AIRLINES, INC., PETITIONER
v.
FRANKLIN MINT CORPORATION ET AL.

82-1465 FRANKLIN MINT CORPORATION, ET AL.,
PETITIONERS
v.
TRANS WORLD AIRLINES, INC.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SECOND CIRCUIT

[April —, 1984]

JUSTICE STEVENS, dissenting.

This case involves the interpretation of Article 22 of the Warsaw Convention. The plain language of that Article, quoted *ante*, at 3, requires that the liability limits be determined by reference to the value of "gold at the standard fineness of nine hundred thousandths" and then converted into our "national currency in round figures."

The Court states that the Warsaw Convention's liability limitation remains enforceable in United States courts, but that is not what the Court holds. The Court holds that the liability limitation agreed upon by the Convention is *not* enforceable in United States courts. Rather, a liability limitation set by Trans World Airlines, and accepted by the Civil Aeronautics Board, is held to be enforceable in United States courts, because that limitation is deemed to correspond more closely to the Convention's "purposes" than the limitation actually selected by the Convention itself. Thus, instead of enforcing the Convention's liability limitation, the Court has rewritten it.

PP. 5,8,14

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens

From: Justice O'Connor

Circulated: JAN 19 1984

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 82-1186 AND 82-1465

TRANS WORLD AIRLINES, INC., PETITIONER
82-1186 v.
FRANKLIN MINT CORPORATION ET AL.

FRANKLIN MINT CORPORATION, ET AL.,
PETITIONERS
82-1465 v.
TRANS WORLD AIRLINES, INC.

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

[January —, 1984]

JUSTICE O'CONNOR delivered the opinion of the Court.

In 1974 the Civil Aeronautics Board (CAB) informed international air carriers doing business in the United States that the minimum acceptable carrier liability limit for lost cargo would thenceforth be \$9.07 per pound. Trans World Airlines, Inc. (TWA) has complied with the CAB order since that time. The question presented here is whether TWA's claimed liability limit of \$9.07 per pound is consistent with the "Warsaw Convention"¹ (Convention), an international air carriage treaty that the United States has ratified. As a threshold matter we must determine whether the 1978 repeal of legislation setting an "official" price of gold in the United States renders the Convention's gold-based liability limit unenforceable in this country.

¹Convention for the Unification of Certain Rules Relating to International Transportation by Air, Oct. 12, 1929, 49 Stat. 3000, T. S. No. 876 (1934), reprinted at 49 U. S. C. § 1502 note.

Handwritten notes and initials, including a large question mark and the name "Manning".

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

January 20, 1984

RECEIVED
SUPREME COURT U.S.
JUSTICE SANDRA DAY O'CONNOR

'84 JAN 23 A9:52

No. 82-1186 Trans World Airlines v.
Franklin Mint Corp.

Dear John,

You always have "standing" with me to suggest an appropriate change. I will alter the language in the next circulation to avoid the use of "vacat[ing] the opinion."

Sincerely,



Justice Stevens

Copies to the Conference

Reorganized material pp. 1, 9
Other Changes pp. 2, 3, 10, 16

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens

RECEIVED
SUPREME COURT OF U.S.
JUSTICE

From: Justice O'Connor

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'84 JAN 26 P3:25

~~SDO~~
SDO
P. 10
1/24

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 82-1186 AND 82-1465

TRANS WORLD AIRLINES, INC., PETITIONER
82-1186
v.
FRANKLIN MINT CORPORATION ET AL.

FRANKLIN MINT CORPORATION, ET AL.,
PETITIONERS
82-1465
v.
TRANS WORLD AIRLINES, INC.

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

[January —, 1984]

JUSTICE O'CONNOR delivered the opinion of the Court.

The question presented in this case is whether an air carrier's declared liability limit of \$9.07 per pound of cargo is inconsistent with the "Warsaw Convention"¹ (Convention), an international air carriage treaty that the United States has ratified. As a threshold matter we must determine whether the 1978 repeal of legislation setting an "official" price of gold in the United States renders the Convention's gold-based liability limit unenforceable in this country. We conclude that the 1978 legislation was not intended to affect the enforceability of the Convention in the United States, and that a \$9.07 per pound liability limit is not inconsistent with the Convention.

¹Convention for the Unification of Certain Rules Relating to International Transportation by Air, Oct. 12, 1929, 49 Stat. 3000, T. S. No. 876 (1934), reprinted at 49 U. S. C. § 1502 note.

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Stylistic changes +
pp. 2, 6, 9, 11, 12, 14, 15, 17

RECEIVED
SUPREME COURT U.S.
JUSTICE

'84 APR -9 A11:10

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens

From: Justice O'Connor

Circulated: _____

Recirculated: APR 9 1984

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 82-1186 AND 82-1465

TRANS WORLD AIRLINES, INC., PETITIONER
82-1186
v.
FRANKLIN MINT CORPORATION ET AL.

FRANKLIN MINT CORPORATION, ET AL.,
PETITIONERS
82-1465
v.
TRANS WORLD AIRLINES, INC.

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

[April —, 1984]

JUSTICE O'CONNOR delivered the opinion of the Court.

The question presented in this case is whether an air carrier's declared liability limit of \$9.07 per pound of cargo is inconsistent with the "Warsaw Convention"¹ (Convention), an international air carriage treaty that the United States has ratified. As a threshold matter we must determine whether the 1978 repeal of legislation setting an "official" price of gold in the United States renders the Convention's gold-based liability limit unenforceable in this country. We conclude that the 1978 legislation was not intended to affect the enforceability of the Convention in the United States, and that a \$9.07 per pound liability limit is not inconsistent with the Convention.

¹ Convention for the Unification of Certain Rules Relating to International Transportation by Air, Oct. 12, 1929, 49 Stat. 3000, T. S. No. 876 (1934), reprinted at 49 U. S. C. § 1502 note.

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SUPREME COURT, U.S.
JUSTICE

'84 APR 16 A11:32

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens

From: Justice O'Connor

Circulated: _____

Recirculated: APR 16 _____

4 Fl Draft

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

Nos. 82-1186 AND 82-1465

TRANS WORLD AIRLINES, INC., PETITIONER
82-1186
v.
FRANKLIN MINT CORPORATION ET AL.

FRANKLIN MINT CORPORATION, ET AL.,
PETITIONERS
82-1465
v.
TRANS WORLD AIRLINES, INC.

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

[April 17, 1984]

JUSTICE O'CONNOR delivered the opinion of the Court.

The question presented in this case is whether an air carrier's declared liability limit of \$9.07 per pound of cargo is inconsistent with the "Warsaw Convention"¹ (Convention), an international air carriage treaty that the United States has ratified. As a threshold matter we must determine whether the 1978 repeal of legislation setting an "official" price of gold in the United States renders the Convention's gold-based liability limit unenforceable in this country. We conclude that the 1978 legislation was not intended to affect the enforceability of the Convention in the United States, and that a \$9.07 per pound liability limit is not inconsistent with the Convention.

¹Convention for the Unification of Certain Rules Relating to International Transportation by Air, Oct. 12, 1929, 49 Stat. 3000, T. S. No. 876 (1934), reprinted at 49 U. S. C. § 1502 note.

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