

# The Burger Court Opinion Writing Database

*Tiffany Fine Arts, Inc. v. United States*

469 U.S. 310 (1985)

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

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SUPREME COURT OF THE U.S.  
JUSTICE DEPARTMENT

CHAMBERS OF  
THE CHIEF JUSTICE

'84 ABR -9 A11:10

April 9, 1984

RE: 83-1007 - Tiffany Fine Arts, Inc. v. United States

Dear Byron:

I voted at Conference to join your dissent from denial in this case but my memo to you noting my vote in advance did not circulate. For the record, add me to your dissent from denial.

Regards,

WBB

Justice White

Copies to the Conference

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

From: Justice White

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*stylistic + p. 1*

2nd DRAFT

## SUPREME COURT OF THE UNITED STATES

TIFFANY FINE ARTS, INC., ET AL., PETITIONER *v.*  
UNITED STATES ET AL.

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

No. 83-1007. Decided March —, 1984

JUSTICE WHITE, with whom JUSTICE O'CONNOR joins, dis-  
sents from the denial of certiorari.

*Justice  
Powell  
and*

Section 7602(a) of the Internal Revenue Code of 1954, 26 U. S. C. § 7602(a), empowers the Internal Revenue Service (IRS) to serve a direct summons on any person without prior judicial approval if the summons is necessary to facilitate the investigation of that person's tax liability. If the IRS wishes to serve a summons on a third-party recordkeeper, it ordinarily must provide notice to all parties whose tax records may be affected by the summons before serving it. 26 U. S. C. § 7609(a). An exception to this rule applies in cases in which the IRS is unable to determine the identities of these third parties. Under such circumstances, a "John Doe" summons—one that does not identify the person with respect to whose tax liability the summons is issued—may be served on the recordkeeper only after the IRS, in an *ex parte* hearing, has established the existence of the three limiting criteria listed in 26 U. S. C. § 7609(f).

This case presents an important question concerning the relationship among these provisions. In 1981, an IRS agent asked petitioner Tiffany Fine Arts, Inc., a holding company for various subsidiaries engaged in promoting tax shelters, to disclose the identities of licensees of a product marketed by one of its subsidiaries. Tiffany refused, and the agent issued four summonses under § 7602(a) identifying Tiffany and its subsidiaries as subjects of an IRS investigation. The summonses requested production of financial records of Tiffany and its subsidiaries and a list of names, addresses, and tax-

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

From: Justice White

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3rd DRAFT

## SUPREME COURT OF THE UNITED STATES

TIFFANY FINE ARTS, INC., ET AL., PETITIONER *v.*  
UNITED STATES ET AL.

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

No. 83-1007. Decided March —, 1984

JUSTICE WHITE, with whom JUSTICE POWELL and JUSTICE O'CONNOR join, dissenting from the denial of certiorari.

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CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

March 28, 1984

83-1007 Tiffany Fine Arts, Inc. v. United States

Dear Byron:

On the basis of the square conflict, I agree with your dissent. Please add my name.

Sincerely,

*Lewis*

Justice White

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

March 26, 1984

No. 83-1007 Tiffany Fine Arts v. U. S.

Dear Byron,

Please join me.

Sincerely,



Justice White

Copies to the Conference