

The Burger Court Opinion Writing Database

Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc.

473 U.S. 614 (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

CHAMBERS OF
THE CHIEF JUSTICE

PERSONAL

June 24, 1985

Re: No. 83-1569 - Mitsubishi Motors v. Soler Chrysler-
Plymouth
No. 83-1733 - Soler Chrysler-Plymouth v. Mitsubishi
Motors

Dear Harry:

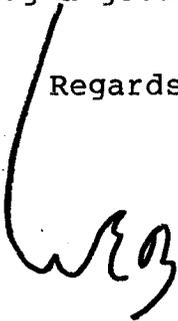
I join but I wonder if the last 8 lines on page 23 of the text doesn't reflect the "old" rather than the current judicial attitude toward arbitration. All of our cases in recent decades give wide latitude to arbitration as you note on page 16, and other references to the Bremen and Scherk show our hospitality toward alternative means of dispute resolution.

Why not make it something along the following lines:

The holdings of this and other courts show
the trend to "shake off the old judicial holding
. . . etc."

In short, "give the dog a good name" and it is more likely to live up to it!

Regards,



Justice Blackmun

4

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

CHAMBERS OF
THE CHIEF JUSTICE

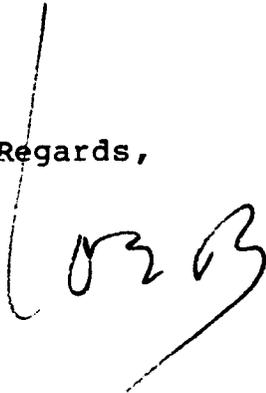
June 24, 1985

Re: No. 83-1569 - Mitsubishi Motors v. Soler Chrysler-
Plymouth
No. 83-1733 - Soler Chrysler-Plymouth v. Mitsubishi
Motors

Dear Harry:

I join.

Regards,



Justice Blackmun

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M

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

April 1, 1985

No. 83-1569) Mitsubishi Motors
) v. Soler Chrysler-
) Plymouth
)
) Soler Chrysler-
) Plymouth v.
No. 83-1733) Mitsubishi Motors

Dear John,

You, Thurgood and I are in dissent in the
above. Would you be willing to undertake the
dissent?

Sincerely,

Bill

Justice Stevens

Justice Marshall

84 APR 30 1985

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

June 24, 1985

No. 83-1569

Mitsubishi Motors Corporation
v. Soler Chrysler-Plymouth, Inc.

Dear John,

Please join me in your dissent.

Sincerely,



Justice Stevens

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W

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 30, 1985

83-1569 and 83-1733 -

Mitsubishi Motors Corporation v. Soler Chrysler-Plymouth, Inc.
Soler Chrysler-Plymouth, Inc. v. Mitsubishi Motors Corporation

Dear Harry,

I agree.

Sincerely,



Justice Blackmun

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 12, 1985

Re: Nos. 83-1569 and 1733-Mitsubishi Motors v.
Soler Chrysler-Plymouth and Chrysler-Plymouth
v. Mitsubishi Motors

Dear Harry:

I await the dissent.

Sincerely,

Jm.

T.M.

Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 25, 1985

Re: No. 83-1569-Mitsubishi Motors v. Soler Chrysler-
Plymouth

Dear John:

Please note in your opinion that I join all but
Part II.

Sincerely,

JM.
T.M.

Justice Stevens

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

From: Justice Blackmun

Circulated: MAY 29 1985

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*HAS
I await the dissent
M*

1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 83-1569 AND 83-1733

MITSUBISHI MOTORS CORPORATION, PETITIONER
83-1569
v.
SOLER CHRYSLER-PLYMOUTH, INC.

SOLER CHRYSLER-PLYMOUTH, INC., PETITIONER
83-1733
v.
MITSUBISHI MOTORS CORPORATION

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

[May —, 1985]

JUSTICE BLACKMUN delivered the opinion of the Court.

The principal question presented by these cases is the arbitrability, pursuant to the federal Arbitration Act, 9 U. S. C. §1 *et seq.*, and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (Convention), 21 U. S. T. 2517, T. I. A. S. No. 6997, of claims arising under the Sherman Act, 15 U. S. C. §1 *et seq.*, and encompassed within a valid arbitration clause in an agreement embodying an international commercial transaction.

I

Petitioner-cross-respondent Mitsubishi Motors Corporation (Mitsubishi) is a Japanese corporation which manufactures automobiles and has its principal place of business in Tokyo, Japan. Mitsubishi is the product of a joint venture between, on the one hand, Chrysler International, S. A. ("CISA"), a Swiss corporation registered in Geneva and wholly owned by Chrysler Corporation, and, on the other, Mitsubishi Heavy Industries, Inc., a Japanese corporation. The aim of the joint venture was the distribution through

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 12, 1985

Re: No. 83-1569 Mitsubishi Motors v. Soler Chrysler-Plymouth

Dear Harry,

Please join me.

Sincerely,

WM

Justice Blackmun

cc: The Conference

JUN 15 1985

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W

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

April 2, 1985

Re: 83-1569) - Mitsubishi v. Soler
) Chrysler-Plymouth
 83-1733) - Soler Chrysler-Plymouth
 v. Mitsubishi

 84-5743 - Baldwin v. Alabama

Dear Bill:

Yes, I'll be happy to draft the dissent in these two cases.

Respectfully,



Justice Brennan

cc: Justice Marshall

APR 30 1985

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

From: Justice Stevens

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83-1569 - Mitsubishi Motors Corp. v.

Soler Chrysler-Plymouth, Inc.

JUSTICE STEVENS, dissenting.

One element of this rather complex litigation is a claim asserted by an American dealer in Plymouth automobiles that two major automobile companies are parties to an international cartel that has restrained competition in the American market. Pursuant to an agreement that is alleged to have violated §1 of the Sherman Act, 15 U.S.C. §1, those companies allegedly prevented the dealer from transshipping some 966 surplus vehicles from Puerto Rico to other dealers in the American market. App. 92.

The petitioner denies the truth of the dealer's allegations and takes the position that the validity of the antitrust claim must be resolved by an arbitration tribunal in Tokyo, Japan. Largely because the auto manufacturers' defense to the antitrust allegation is based on provisions in the dealer's franchise agreement, the Court of Appeals concluded that the arbitration clause in that agreement encompassed the antitrust claim. 723 F.2d 155, 159 (CA1 1983). It held, however, as a matter of law, that arbitration of such a claim may not be compelled under

LPS
Please write in your opinion that
I give all but Part II
JM

2, 8, 21, 24, 26-27

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

From: Justice Stevens

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 83-1569 AND 83-1733

MITSUBISHI MOTORS CORPORATION, PETITIONER
83-1569
v.
SOLER CHRYSLER-PLYMOUTH, INC.

SOLER CHRYSLER-PLYMOUTH, INC., PETITIONER
83-1733
v.
MITSUBISHI MOTORS CORPORATION

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

[June —, 1985]

JUSTICE STEVENS, dissenting.

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

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: 1, 18, 27

From: Justice Stevens

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Recirculated: JUN 26 1985

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 83-1569 AND 83-1733

MITSUBISHI MOTORS CORPORATION, PETITIONER
83-1569
v.
SOLER CHRYSLER-PLYMOUTH, INC.

SOLER CHRYSLER-PLYMOUTH, INC., PETITIONER
83-1733
v.
MITSUBISHI MOTORS CORPORATION

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

[June —, 1985]

JUSTICE STEVENS, with whom JUSTICE BRENNAN joins,
and with whom JUSTICE MARSHALL joins except as to Part
II, dissenting.

One element of this rather complex litigation is a claim asserted by an American dealer in Plymouth automobiles that two major automobile companies are parties to an international cartel that has restrained competition in the American market. Pursuant to an agreement that is alleged to have violated § 1 of the Sherman Act, 15 U. S. C. § 1, those companies allegedly prevented the dealer from transshipping some 966 surplus vehicles from Puerto Rico to other dealers in the American market. App. 92.

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

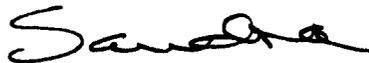
June 3, 1985

Nos. 83-1569 & 83-1733 Mitsubishi Motors
Corporation v. Soler Chrysler-Plymouth

Dear Harry,

Please join me.

Sincerely,



Justice Blackmun

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JUN 13 1985

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