

The Burger Court Opinion Writing Database

Burger King Corp. v. Rudzewicz

471 U.S. 462 (1985)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



(5)

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

CHAMBERS OF
THE CHIEF JUSTICE

May 14, 1985

Re: No. 83-2097 - Burger King v. Rudzewicz

Dear Bill:

I join your second draft.

Regards,



Justice Brennan

Copies to the Conference

69 MAY 12 11 00

10. The Chief Justice
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: Justice Brennan

Circulated: APR 12 1985

Recirculated: _____

~~WJB
Please join me~~

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-2097

**BURGER KING CORPORATION, APPELLANT v.
JOHN RUDZEWICZ**

ON APPEAL FROM THE UNITED STATES COURT OF
APPEALS FOR THE ELEVENTH CIRCUIT

[April —, 1985]

JUSTICE BRENNAN delivered the opinion of the Court.

The State of Florida's long-arm statute extends jurisdiction to "[a]ny person, whether or not a citizen or resident of this state," who, *inter alia*, "[b]reaches a contract in this state by failing to perform acts required by the contract to be performed in this state," so long as the cause of action arises from the alleged contractual breach. Fla. Stat. §48.193-(1)(g). The United States District Court for the Southern District of Florida, sitting in diversity, relied on this provision in exercising personal jurisdiction over a Michigan resident who allegedly had breached a franchise agreement with a Florida corporation by failing to make required payments in Florida. The question presented is whether this exercise of long-arm jurisdiction offended "traditional conception[s] of fair play and substantial justice" embodied in the Due Process Clause of the Fourteenth Amendment. *International Shoe Co. v. Washington*, 326 U. S. 310, 320 (1945).

I

A

Burger King Corporation is a Florida corporation whose principal offices are in Miami. It is one of the world's largest restaurant organizations, with over 3,000 outlets in the 50 states, the Commonwealth of Puerto Rico, and 8 foreign na-

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

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

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: _____

From: Justice Brennan

Circulated: _____

Recirculated: MAY 3 1985

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-2097

BURGER KING CORPORATION, APPELLANT *v.*
JOHN RUDZEWICZ

ON APPEAL FROM THE UNITED STATES COURT OF
APPEALS FOR THE ELEVENTH CIRCUIT

[May —, 1985]

JUSTICE BRENNAN delivered the opinion of the Court.

The State of Florida's long-arm statute extends jurisdiction to "[a]ny person, whether or not a citizen or resident of this state," who, *inter alia*, "[b]reach[es] a contract in this state by failing to perform acts required by the contract to be performed in this state," so long as the cause of action arises from the alleged contractual breach. Fla. Stat. §48.193-(1)(g) (Supp. 1984). The United States District Court for the Southern District of Florida, sitting in diversity, relied on this provision in exercising personal jurisdiction over a Michigan resident who allegedly had breached a franchise agreement with a Florida corporation by failing to make required payments in Florida. The question presented is whether this exercise of long-arm jurisdiction offended "traditional conception[s] of fair play and substantial justice" embodied in the Due Process Clause of the Fourteenth Amendment. *International Shoe Co. v. Washington*, 326 U. S. 310, 320 (1945).

I

A

Burger King Corporation is a Florida corporation whose principal offices are in Miami. It is one of the world's largest restaurant organizations, with over 3,000 outlets in the 50 States, the Commonwealth of Puerto Rico, and 8 foreign na-

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

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

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: 7, 15, 18, 21

From: Justice Brennan

Circulated: _____

Recirculated: MAY 16 1985

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-2097

**BURGER KING CORPORATION, APPELLANT v.
JOHN RUDZEWICZ**

**ON APPEAL FROM THE UNITED STATES COURT OF
APPEALS FOR THE ELEVENTH CIRCUIT**

[May —, 1985]

JUSTICE BRENNAN delivered the opinion of the Court.

The State of Florida's long-arm statute extends jurisdiction to "[a]ny person, whether or not a citizen or resident of this state," who, *inter alia*, "[b]reach[es] a contract in this state by failing to perform acts required by the contract to be performed in this state," so long as the cause of action arises from the alleged contractual breach. Fla. Stat. §48.193-(1)(g) (Supp. 1984). The United States District Court for the Southern District of Florida, sitting in diversity, relied on this provision in exercising personal jurisdiction over a Michigan resident who allegedly had breached a franchise agreement with a Florida corporation by failing to make required payments in Florida. The question presented is whether this exercise of long-arm jurisdiction offended "traditional conception[s] of fair play and substantial justice" embodied in the Due Process Clause of the Fourteenth Amendment. *International Shoe Co. v. Washington*, 326 U. S. 310, 320 (1945).

I

A

Burger King Corporation is a Florida corporation whose principal offices are in Miami. It is one of the world's largest restaurant organizations, with over 3,000 outlets in the 50 States, the Commonwealth of Puerto Rico, and 8 foreign na-

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

HAB

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

May 28, 1985

MEMORANDUM TO THE CONFERENCE

Case Heretofore Held for Decision in No. 83-2097,
Burger King Corp. v. Rudzewicz

We held only one case for Burger King: American Horse Shows Association, Inc. v. Eighth Judicial District Court of the State of Nevada, No. 84-708.

The petitioner Association is a non-profit worldwide organization of horse enthusiasts with offices in New York. Among its major functions is the promulgation of rules for the operation of horse-show competitions. The respondents, Nevada residents, are members of the Association. They entered their Morgan horse, "Jade's Hot Shot," in a California horse show operated under the Association's rules. The horse won first place in its class, but subsequently was disqualified because its hoof was one-eighth of an inch too long. The respondents, alleging that the Association's rules and regulations gave them various rights of redress, unsuccessfully sought a hearing from the Association's New York office. They then filed suit in Nevada district court alleging breach of their membership contract (for the Association's failure to abide by the rules) and various tortious injuries (e.g., defamation of the horse, and humiliation and embarrassment to the owners).

The state district court dismissed the action on the ground that it did not have personal jurisdiction over the Association. On writ of mandamus, the Nevada Supreme Court held that the district court must accept personal jurisdiction over the Association. It found that the Association fell within the terms of Nev. Rev. Stat. §14.065, which subjects out-of-state defendants to the jurisdiction of Nevada courts as to any cause of action that arises from the transaction of business within Nevada. The court reasoned that the Association had solicited the respondents for membership in Nevada and had bound itself to abide by certain procedural rules, that the Association had sent material to the respondents in Nevada inducing them to attend the California show, and that the Association's alleged failure to

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 18, 1985

83-2097 - Burger King v. Rudzewicz

Dear Bill,

I shall wait for John's writing.

Sincerely yours,



Justice Brennan

Copies to the Conference

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

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 15, 1985

83-2097 -

Burger King Corporation v. Rudzewicz

Dear John,

Please add my name to your dissent.

Sincerely,



Justice Stevens

Copies to the Conference

84 MAY 12 61:50

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 12, 1985

Re: No. 83-2097-Burger King v. Rudzewicz

Dear Bill:

Please join me.

Sincerely,

J.M.

T.M.

Justice Brennan

cc: The Conference

H

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 22, 1985

Re: No. 83-2097, Burger King v. Rudzewicz

Dear Bill:

Please join me.

Sincerely,



Justice Brennan

cc: The Conference

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

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 12, 1985

83-2097 Burger King Corporation v. Rudzewicz

Dear Bill:

Please show at the end of the next draft of your opinion that I took no part in the consideration or decision of the above case.

Sincerely,



Justice Brennan

lfp/ss

cc: The Conference

84 APR 15 1985

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

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


CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

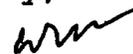
April 18, 1985

Re: No. 83-2097 Burger King v. Rudzewicz

Dear Bill,

Please join me.

Sincerely,



Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

April 18, 1985

Re: 83-2097 - Burger King v. Rudzewicz

Dear Bill:

Your draft opinion has not persuaded me. I will probably circulate a dissent which may do a little more than quote at some length from the majority opinion in the Court of Appeals.

Respectfully,



Justice Brennan

Copies to the Conference

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

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

From: Justice Stevens

MAY 13 1985

Circulated: _____

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-2097

BURGER KING CORPORATION, APPELLANT *v.*
JOHN RUDZEWICZ

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

[May —, 1985]

JUSTICE STEVENS, dissenting.

In my opinion there is a significant element of unfairness in requiring a franchisee to defend a case of this kind in the forum chosen by the franchisor. It is undisputed that respondent maintained no place of business in Florida, that he had no employees in that State, and that he was not licensed to do business there. Respondent did not prepare his french fries, shakes, and hamburgers in Michigan, and then deliver them into the stream of commerce "with the expectation that they [would] be purchased by consumers in" Florida. *Ante*, at 10. To the contrary, respondent did business only in Michigan, he paid business, property, and payroll taxes in that state, and he sold all of his products there.

Throughout the business relationship, respondent's principal contacts with petitioner were with its Michigan office. Notwithstanding its disclaimer, *ante*, at 16, the Court seems ultimately to rely on nothing more than standard boilerplate language contained in various documents, *ante*, at 18-19, to establish that respondent "purposefully availed himself of the benefits and protections of Florida's laws." *Id.*, at 19. Such superficial analysis creates a potential for unfairness not only in negotiations between franchisors and their franchisees but, more significantly, in the resolution of the disputes that inevitably arise from time to time in such relationships.

12

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

April 12, 1985

No. 83-2097 Burger King Corporation v.
Rudzewicz

Dear Bill,

Please join me.

Sincerely,

Sandra

Justice Brennan

Copies to the Conference

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