

The Burger Court Opinion Writing Database

Connolly v. Pension Benefit Guaranty Corporation

475 U.S. 211 (1986)

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



Jimmy
~~Jimmy~~ - write BRW

"Please add my name to your dissent"

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

From: Justice White

Circulated: MAY 30 1985

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

JOHN L. CONNOLLY, ET AL., ETC.
84-1555 v.
PENSION BENEFIT GUARANTY CORPORATION,
ETC., ET AL.

WOODWARD SAND COMPANY, INC.
84-1567 v.
PENSION BENEFIT GUARANTY CORPORATION,
ETC., ET AL.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR
THE CENTRAL DISTRICT OF CALIFORNIA

Nos. 84-1555 AND 84-1567. Decided May —, 1985

JUSTICE WHITE, dissenting.

The Employee Retirement Income Security Act (ERISA), 88 Stat. 829, 29 U. S. C. § 1001 *et seq.*, created, among other things, a termination insurance program for pension plans. The Pension Benefit Guaranty Corp. (PBGC), a wholly-owned government corporation, was to collect premiums from covered plans and pay benefits to participants in plans terminating with insufficient assets. Before this scheme went into effect, however, it became clear that because so many employers were withdrawing from multiemployer plans, PBGC was likely to be faced with greater obligations than it could handle. To avoid this problem, Congress enacted the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96-364, 94 Stat. 1208. The critical provisions of the MPPAA impose "withdrawal liability" on employers withdrawing from multiemployer plans. An employer's liability is its proportionate share of the plan's "unfunded vested benefits," calculated as the difference between the present value of vested benefits and that of the plan's assets. 29 U. S. C. §§ 1381, 1391.

For protection of employees when plans are terminated.

many employees were withdrawn

1980 act imposed "withdrawal" liability

Join. This is consistent with your vote.

Lynda.

P1

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

From: Justice White

Circulated: JUN 4 1985

Recirculated:

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

JOHN L. CONNOLLY, ET AL., ETC.

84-1555

v.

PENSION BENEFIT GUARANTY CORPORATION,
ETC., ET AL.

WOODWARD SAND COMPANY, INC.

84-1567

v.

PENSION BENEFIT GUARANTY CORPORATION,
ETC., ET AL.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR
THE CENTRAL DISTRICT OF CALIFORNIA

Nos. 84-1555 AND 84-1567. Decided June —, 1985

JUSTICE WHITE, with whom JUSTICES POWELL and REHN-
QUIST join, dissenting.

o to Note

The Employee Retirement Income Security Act (ERISA), 88 Stat. 829, 29 U. S. C. § 1001 *et seq.*, created, among other things, a termination insurance program for pension plans. The Pension Benefit Guaranty Corp. (PBGC), a wholly-owned government corporation, was to collect premiums from covered plans and pay benefits to participants in plans terminating with insufficient assets. Before this scheme went into effect, however, it became clear that because so many employers were withdrawing from multiemployer plans, PBGC was likely to be faced with greater obligations than it could handle. To avoid this problem, Congress enacted the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96-364, 94 Stat. 1208. The critical provisions of the MPPAA impose "withdrawal liability" on employers withdrawing from multiemployer plans. An employer's liability is its proportionate share of the plan's "unfunded vested benefits," calculated as the difference between the present value of vested benefits and that of the plan's assets. 29 U. S. C. §§ 1381, 1391.

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 3, 1985

84-1555 CONNOLLY v. PENSION BENEFIT GUARANTY CORP.

Dear Byron:

Please add my name to your dissent.

Sincerely,



Justice White

Copies to the Conference

LFP/vde

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 3, 1985

Re: No. 84-1555) Connolly v. Pension Benefit Guaranty Corp.
84-1567) Woodward Sand Company, Inc. v. Pension Benefit
Guaranty Corp.

Dear Byron,

Please join me.

Sincerely,

WRW

Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

June 4, 1985

No. 84-1555 Connolly v. Pension Benefit Guaranty
No. 84-1567 Woodward Sand Co. v. Pension Benefit
Guaranty Corporation

MEMORANDUM TO THE CONFERENCE

I will change my vote to note and consolidate
these cases rather than affirm summarily.

Sincerely,

Sandra