SUPREME COURT OF THE UNITED STATES

No. 03–377

KOONS BUICK PONTIAC GMC, INC., PETITIONER *v.* BRADLEY NIGH

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

[November 30, 2004]

JUSTICE KENNEDY, with whom THE CHIEF JUSTICE joins, concurring.

In the case before us, there is a respectable argument that the statutory text, 15 U. S. C. § 1640(a)(2)(A)(ii), provides unambiguous instruction in resolving the issue: The word "subparagraph" directs that the $1,000 cap applies to recoveries under both clause (A)(i) and clause (A)(ii), as both fall under subparagraph (A). Were we to adopt that analysis, our holdings in cases such as *Lamie* v. *United States Trustee,* 540 U. S. 526, 533-35 (2004), *Connecticut Nat. Bank* v. *Germain,* 503 U. S. 249, 253-54 (1992), and *United States* v. *Ron Pair Enterprises, Inc.,* 489 U. S. 235, 241-42 (1989), would be applicable, absent a showing that the result made little or no sense.

The Court properly chooses not to rest its holding solely on the words of the statute. That is because of a counterargument that "subparagraph" cannot be read straightforwardly to apply to all of subparagraph (A) in light of the different recovery cap of $2,000 for recoveries under clause (A)(iii). I agree with the Court's decision to proceed on the premise that the text is not altogether clear. That means that examination of other interpretive resources, including predecessor statutes, is necessary for a full and complete understanding of the congressional intent. This approach is fully consistent with cases in which, because the statu-

tory provision at issue had only one plausible textual reading, we did not rely on such sources. In the instant case, the Court consults extratextual sources and, in my view, looking to these materials confirms the usual interpretation of the word "subparagraph."

With these observations, I join the Court's opinion.