SUPREME COURT OF THE UNITED STATES

No. 01–757

SYNGENTA CROP PROTECTION, INC., ROBERT BABB, EDEE TEMPLET, AND KENNETH A. DEVUN, PETITIONERS *v.* HURLEY HENSON

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

[November 5, 2002]

JUSTICE STEVENS, concurring.

As the Court acknowledges, *ante*, at 3, the decisions of the Courts of Appeal that we disapprove today have relied in large part on our decision in *United States* v. *New York Telephone Co.,* 434 U. S. 159 (1977).* For the reasons stated in Part II of my dissenting opinion in that case—reasons that are echoed in the Court's opinion today—I believe that it clearly misconstrued the All Writs Act. *Id.,* at 186–190 (opinion dissenting in part). See also *id.,* at 178 (Stewart, J., concurring in part and dissenting in part). Because the overly expansive interpretation given to the All Writs Act in *New York Telephone* may produce

*See, *e.g., In re VMS Securities Litigation*, 103 F. 3d 1317, 1323 (CA7 1996); *Sable* v. *General Motors Corp.*, 90 F. 3d 171, 175 (CA6 1996); *In re Agent Orange Product Liability Litigation*, 996 F. 2d 1425, 1431 (CA2 1993). See also Hoffman, Removal Jurisdiction and the All Writs Act, 148 U. Pa. L. Rev. 401, 417 (1999) (noting that nearly all courts that have approved removal pursuant to the All Writs Act have relied on *New York Telephone*).

Indeed, the court below observed that the most powerful argument in favor of petitioners' position is provided by the "broad view of the All Writs Act's purpose" articulated in *New York Telephone*. *Henson* v. *Ciba-Geigy Corp.*, 261 F. 3d 1065, 1070 (CA11 2001).

further mischief, I would expressly overrule that misguided decision.

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