

Robert M. Landis, Esquire
4000 Bell Atlantic Tower
1717 Arch Street
Philadelphia, PA 19103

RE: CIVIL JUSTICE REFORM ACT ADVISORY GROUP

Dear Mr. Landis:

This is in response to your letter dated February 17, 1993 asking for my experience in dealing with the Civil Justice Reform Act in the United States District Court for the Eastern District. Enclosed are my responses to your questionnaire.

The [redacted] is currently involved in litigation with [redacted] in three cases before the Eastern District Court, Docket Nos. C.A. [redacted] and [redacted]. This is my initial exposure to litigation in the Eastern District and have found it to be confusing. A short history of this litigation and the reasons for my confusion follows.

After [redacted] filed complaints against the [redacted] we responded with Motions to Dismiss. Before the Court decided the Motions to Dismiss, Judge [redacted] scheduled a status call for April 8, 1992. I believe that this was premature, given the fact that the Motions to Dismiss had not been decided. Another attorney in my office and I drove to Philadelphia from Harrisburg for the status conference, which lasted approximately 15 minutes. At the conclusion of the status conference, Judge [redacted] indicated that he would rule on the Motions to Dismiss in the near future. Judge [redacted] did not indicate in what track, if any, he was placing the case.

I believe the status conference was unnecessary in light of the outstanding motions to dismiss. It was also unnecessary to have attorneys travel for the conference in light of its brevity. The conference could have been conducted by telephone and should have taken place after the motions to dismiss were decided.

After the Motions to Dismiss were decided against the [redacted], a further conference was not held. Rather, the Court issued an order on October 5, 1992 directing that discovery be completed by December 1, 1992 and that dispositive motions be filed by December 8, 1992. The order also stated that the

Plaintiff's pretrial memorandum was due December 15, 1992 and Defendant's pretrial memorandum was due December 22, 1992. This entire schedule was established without input from any of the parties. In conferring with attorneys from the Pennsylvania Attorney General's Office, I discovered that a conference is usually held in order to establish a discovery schedule with input from all parties. This order did not place the case on a particular track.

It became apparent that Judge _____'s office was not aware of the requirements of the Act or of any of its provisions. One of the attorneys in our cases, _____, representing _____, contacted _____, Judge _____ Deputy Clerk, regarding the discovery order, the lack of time to comply with the self-executing discovery provisions set forth in the Civil Justice Reform Act and lack of time complete discovery. The order issued by Judge _____ simply did not allow enough time to comply with the self-executing discovery requirements and a reasonable amount of time to complete discovery afterwards.

_____ stated to me that _____ was unaware of the provisions of the Civil Justice Reform Act or the need for self-executing discovery. Furthermore, Judge _____'s order of October 5, 1992 directs that the parties file pretrial memorandums before the dispositive motions are decided. Because the Court's order did not assign the cases to a particular track, the parties proceeded on the assumption that the Act did not apply and none of the parties complied with the self-executing discovery provisions. Discovery was accomplished in the normal way, with depositions and requests for production of documents.

In conclusion, it appears that, at least in this instance, Judge _____ did not comply with the provisions of the Civil Justice Reform Act. If there are cases where the judge believes that it is not necessary to comply with the case tracking and self-executing discovery provisions of the Act, the judge should make the parties aware of that in the first instance so that the parties may act accordingly. I can find no provision in the Act which exempts any class of cases from the tracking and self-executing discovery provisions. In this case, there was confusion in my mind as to whether the Act applied and whether the Court had exempted the case from the Act's requirements. In conclusion, I believe the goals and objectives of the Act are admirable but that the Act needs to be implemented consistently so that those goals and objectives can be realized.

Very truly yours,