

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DOLORES KAMINSKI, on Behalf of Herself :
and all Similarly Situated Persons, : CIVIL ACTION
Plaintiff :

v. :

FIRST UNION CORPORATION, as :
successor- in-interest to CORESTATES, : No. 98-CV-1623
FINANCIAL CORP., :
Defendant. :

MICHAEL IRETON, ROBERT GEIGER :
JOSEPH MENTA, JOSEPH TYSON, : CIVIL ACTION
WILLIAM GROSS, IV AND MARK :
DEOURVAL, on Behalf of Themselves :
and All Similarly Situated Persons, :
Plaintiffs, :

v. :

FIRST UNION CORPORATION, as :
successor- in-interest to CORESTATES : No. 98-CV-6318
FINANCIAL CORP., :
Defendant. :

BARBARA JOHNSON and DENNIS :
ANDERSON, :
Plaintiffs, : CIVIL ACTION

v. :

FIRST UNION CORPORATION, as :
successor- in-interest to CORESTATES : No. 99-CV-1509
FINANCIAL CORP., :
Defendant. :

ANTHONY VENTURA, et al., on behalf of :
Themselves and All Similarly Situated : CIVIL ACTION
Persons, :
Plaintiffs, :

v. :

FIRST UNION CORPORATION, as	:	
successor- in-interest to CORESTATES	:	No. 99-CV-4783
FINANCIAL CORP.,	:	
Defendant,	:	
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EVETTE ARANGO, et al.,	:	
Plaintiffs,	:	CIVIL ACTION
	:	
v.	:	
	:	
FIRST UNION CORPORATION, as	:	
successor- in-interest to CORESTATES.,	:	No. 99-CV-6532
FINANCIAL CORP.,	:	
Defendant.	:	

MEMORANDUM ORDER

J.M. KELLY, J.

DECEMBER , 2000

Presently before the Court is the Motion of Plaintiff, James Moore, Sr. (“Moore”), to reinstate his claim. The Court dismissed Moore’s claim on July 19, 2000 for failure to comply with Court Orders and produce documents in discovery.

This is an opt-in class action under the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-626 (1994), filed by terminated employees of CoreStates Financial Corp., the predecessor to Defendant First Union Corporation (“First Union”). On May 24, 2000, the Court held a hearing on First Union’s Motion to Dismiss several unrepresented Plaintiffs that opted-into the class but failed to respond to First Union’s discovery requests. Moore was the only Plaintiff to attend the May 24, 2000 hearing. He stated that he wanted to pursue his claim. The Court dismissed all Plaintiffs that were the subject of the Motion to Dismiss, except for Moore. The Court gave Moore thirty days to respond to First Union’s discovery requests, otherwise, he would be dismissed. The Court specifically told Moore “it’s put up or get out. This is the last chance. If you don’t comply with this order within 30 days, it’s by[e], by[e], Mr. Moore.” (Tr. of May 24, 2000 Hr’g, at 10).

On June 30, 2000, First Union filed a Motion to Dismiss Moore from the case as he had

neither responded to discovery nor complied with a December 7, 1999 Order that granted First Union's Motion to Compel. The Court granted the Motion to Dismiss on July 19, 2000. It is undisputed that Moore retained counsel on July 6, 2000 and served First Union with discovery responses on July 14, 2000. Apparently there was also some discussion between counsel concerning withdrawal of the Motion to Dismiss, but no stipulation was ever filed with the Court. The Court's Order of July 19, 2000 stated "Plaintiff may apply to the Court within thirty (30) days for reinstatement of his claims upon a showing that he had a good faith reason for failing to comply with Orders of the Court." (Order of July 19, 2000).

Moore argues he complied with the Orders of the Court by serving discovery responses on July 14, 2000. In fact, Moore's thirty day clock started ticking on May 24, 2000 when his claim was not dismissed for failing to comply with the Court's Order granting a Motion to Compel. June 23, 2000 came and June 23, 2000 went without discovery responses from Moore. Moore has made no attempt to explain this lapse. In fact, Moore was directed to discuss his case with Gianna Santarelli, Esq., attorney for the Plaintiff class in this case, who was present at the May 24, 2000 Hearing. Yet, Moore apparently did not even retain an attorney until after he had violated the Court's May 24, 2000 Order.

In sum, Moore has failed to comply with the Federal Rules of Civil Procedure, failed to comply with a Court Order that compelled his discovery responses, failed to provide timely discovery responses upon pain of dismissal and failed to provide the necessary reason for reinstating his claim. Accordingly, the Motion to Reinstate Moore's Claim is DENIED.

BY THE COURT:

JAMES McGIRR KELLY, J.