

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, | : | |
| <hr/> | | |
| 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.

JANUARY , 2001

Presently before the Court is the Motion for a Protective Order of Defendant, First Union Corporation (“First Union”) and the Motion of Plaintiffs for leave to file a Sur-reply in opposition to First Union’s Motion for a Protective Order. As First Union has not opposed Plaintiffs’ Motion for Leave to File a Sur-reply, that Motion (Doc. No. 259) is GRANTED and the Court will consider the Sur-reply to the extent that it addresses issues first raised in First Union’s Reply. In it’s Motion for a Protective Order, First Union seeks to prohibit Plaintiffs from further deposing Donna Ewald (“Ewald”), who was deposed for less than two hours on August 15, 2000.

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. (“CoreStates”), the predecessor of First Union. In 1995, CoreStates engaged in a company-wide reorganization, known as “BEST,” designed to streamline its operations. As a result of BEST, more than 2000 jobs were pared from the CoreStates workforce and more than 800 employees were involuntarily terminated. Ewald is a paralegal and human resources consultant for First Union. Ewald has verified First Union’s Interrogatory Responses in this case. During her

August 15 deposition, Ewald was questioned extensively about the termination of Plaintiff Richard Bull (“Bull”). Apparently Plaintiffs had completed their questions to Ewald about the termination of Bull when First Union terminated Ewald’s deposition.

First Union argues that Ewald’s verification of interrogatory responses was purely a ministerial act and that deposing Ewald about the decision to terminate each Plaintiff would be fruitless. First Union has designated corporate representatives to testify about the termination of each individual plaintiff pursuant to Federal Rule of Civil Procedure 30(b)(6). First Union then multiplies the nearly two hours spent to depose Ewald about Bull by 200 plaintiffs to estimate that Ewald’s deposition will last 400 hours. Plaintiffs focus upon perceived inconsistencies in First Union’s various Interrogatory Responses as to who made termination decisions, which employees were ranked against individual plaintiffs and what ranks individual plaintiffs received.

Review of Ewald’s deposition concerning Bull’s termination demonstrates that Ewald has verified inconsistent responses as a result of potentially hidden or contradictory records and recollections of how CoreStates made its BEST termination decisions. It also appears that Ewald has fully described the verification process. The history of the inconsistent responses at least may lead to evidence that BEST termination decisions were result-oriented and may, in fact, be evidence that the BEST terminations were not as dependent upon forced rankings as asserted by First Union. While the 30(b)(6) depositions may well be the best source of evidence as to why each Plaintiff was terminated, it is neither the place of the Court nor First Union to determine how Plaintiffs should direct their discovery in this matter. At the same time, it appears that the scope of the potential value of Ewald’s testimony is somewhat limited.

Accordingly, the Court finds that, although First Union’s Motion for a Protective Order is premature, some Court control over the deposition of Ewald is necessary. Based upon the foregoing, it is ORDERED:

1. First Union’s Motion for a Protective Order (Doc. No. 237) is DENIED.

2. Plaintiffs may depose Ewald for two (2) calendar days, with the deposition to commence by 9:30 A.M. and to continue until 5:00 P.M., with no more than one hour and thirty minutes each day for breaks.

3. Following two (2) days of deposition, and if the parties cannot agree upon the length of further depositions of Ewald, if any, Plaintiffs may apply to the Court for additional time to depose Ewald, setting forth with specificity the reasons that more deposition testimony needs to be taken. First Union may respond to a request for additional time within seven (7) calendar days.

BY THE COURT:

JAMES McGIRR KELLY, J.