

CA - General

5-Jan-76

P's memo in response to D's  
motion to ban experts.

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January 5, 1976

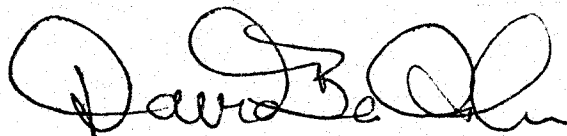
Honorable David D. Furman  
Post Office Box 788  
New Brunswick, New Jersey 08903

RE: Urban League of Greater New Brunswick, et al.  
v. The Mayor and Council of the Borough of  
Carteret, et al. Docket No. C-4122-73

Dear Judge Furman:

Enclosed please find an original and one copy  
of Plaintiffs' Memorandum in Response to Defendants'  
Motion to Bar Experts in the above-captioned case.

Sincerely,



DAVID H. BEN-ASHER  
Attorney for Plaintiffs

Enclosure

cc: All Attorneys of Record

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION - MIDDLESEX COUNTY  
DOCKET NO. C-4122-73

URBAN LEAGUE OF GREATER  
NEW BRUNSWICK, et al.

Plaintiffs,

v.

THE MAYOR AND COUNCIL OF  
THE BOROUGH OF CARTERET  
et al.,

Defendants.

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PLAINTIFFS' MEMORANDUM IN RESPONSE TO  
DEFENDANTS' MOTION TO BAR EXPERTS

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### INTRODUCTION

This action, filed on July 24, 1974, has been before this Court many times on motions of both plaintiffs and defendants. On November 14, 1975, the Court entered a Pretrial Order, setting February 2, 1976, as the trial date. On December 15, 1975, defendants moved for an order barring the plaintiffs from producing any expert testimony by virtue of their failure to provide the names and addresses of expert witnesses and for their failure to attach copies of any proposed experts' reports to answers to interrogatories.

### ARGUMENT

Defendants have not provided any arguments in support of their motion. Plaintiffs request that their motion be denied for the following reasons.

First, several experts have already been identified to defendants. Mr. Ernest Erber has been known to defendants for over a year as a person with knowledge of the facts in this case, through plaintiffs' response to each set of defendants' interrogatories in which such a question was asked. On December 23, 1974, defendants were again given Mr. Erber's name, along with the name of Mr. Alan Mallach, as expert witnesses.

At no time to date have plaintiffs received a request either to interview or depose either person. Plaintiffs argue that defendants are estopped from barring experts about which they have had adequate notice.

Second, plaintiffs are not in a position to provide the names of experts to be used in rebuttal because defendants have not provided other than very general information regarding their defenses. Until plaintiffs have had an opportunity to hear testimony in defense and examine the reports of defendants' experts - which have not been provided - plaintiffs argue that it is patently unfair to bar the use of potential rebuttal experts.

Third, plaintiffs' experts to be used for their case-in-chief will be known by and identified to defendants by January 13, 1976, in compliance with R. 4:17-7 requiring amendments to interrogatories not later than 20 days prior to the trial date.

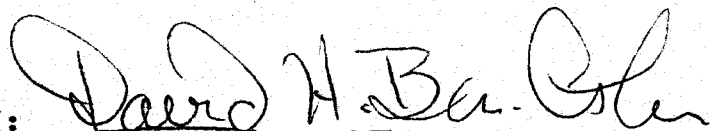
Fourth, on the issue of reports, defendants have had the report of the fair share plan prepared by Mr. Erber since November 13, 1975. Plaintiffs will provide reports, if any, in compliance with R. 4:17-7; and in any case, although not required, plaintiffs will provide a summary of the experts' testimony at least 20 days prior to trial.

Plaintiffs respectfully request that defendants' motion to bar experts be denied.

BAUMGART & BEN-ASHER  
Attorneys for Plaintiffs

01-05-76

BY:



DAVID H. BEN-ASHER