

Memorandum



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| Subject Central States Pension Fund Litigation | Date September 7, 1982 |
| To The Attorney General | From John Roberts <i>JR</i> |

The Secretary of Labor has requested a meeting with you on Friday to discuss the latest developments in the Central States Pension Fund litigation. As you know, our civil suit against the trustees seeks both damages from the trustees (for the benefit of the beneficiaries of the Fund) and injunctive relief concerning how the Fund is to be operated in the future. Labor, through Solicitor Tim Ryan, has reached a tentative accord with the trustees concerning the injunctive aspects that would attain practically all of Labor's objectives. It is critical in Labor's view that a consent decree on the injunctive aspects be formalized prior to October 3, when the current scheme providing for independent management of the Fund by Equitable will expire. If no new agreement is reached before then, the multi-billion dollar Fund will lie open and defenseless before the trustees.

Agreement on the injunctive side of the case, however, may move the district judge to resolve the damages aspect simultaneously, for an amount that does not require significant individual contribution (as opposed to insurance coverage) from the trustees. The judge could do this by accepting a settlement in the parallel private class action suit brought by certain Fund beneficiaries against the trustees, and then declaring our damage suit res judicata. The private class plaintiffs, more or less "friendly" to the trustees, are willing to accept a damage settlement without significant individual contribution. Lawyers handling our case think the judge will be anxious to dispose of the whole complex case and may take the above route to do so.

The dilemma is that if we agree to a consent decree on the injunctive aspects of the case, the judge may resolve the damage claims in a manner that lets the trustees off scot-free. On the other hand, if we oppose settling the injunctive aspects, the hen house will be open to the wolves as of October 3, since Equitable management will expire and the trustees will take over with no controls. Even if we agree to a consent decree on the injunctive aspects, our lawyers will vigorously resist any effort by the judge to resolve the damage claims cheaply, but the lawyers are not optimistic about successfully keeping that aspect of the case alive once the injunctive aspects have been resolved.

Paul McGrath will be receiving papers from Labor later today, and will transmit those, with his recommendation, as soon as he has reviewed them. He would like to meet with you on Thursday to prepare for the contemplated meeting with Donovan and Ryan on Friday.

cc: Ed Schmults
Ken Starr