



Box 129
Settlement Neg/Agreement Folder

Bill

Center for National Policy Review

William L. Taylor, Director

February 16, 1977

SUMMARY OF CONFERENCE IN JUDGE GESELL'S CHAMBERS 2/15/77

Present: Taylor, Kuhn, Shore, Rader, Kennedy plus Judge Gesell and Clerk.

The judge expressed displeasure that the case wasn't moving as required by his December 8 order, commented that he suspected that plaintiffs had brought the suit (prematurely in light of ECOA) to secure leverage against the agencies and were seeking now to use the court to pressure the defendants, said that he was unwilling to act as arbitrator or be used as a pressure point, and stated that his judicial function was to try cases and enter decrees on appropriate records. He indicated that he was unwilling to get involved in monitoring details of an agreement or to enter consent decree whose enforcement he'd be responsible for without a factual record on which to base it. He talked of dismissing the case unless it was going to be litigated in earnest.

Lawyers for both sides indicated that settlement talks were making progress, and that we hoped litigation would prove unnecessary. Rader urged that litigation would be useless since, even if plaintiffs won, there would be little relief appropriate in view of the steps defendants were planning under ECOA. We indicated that we were still prepared to litigate but hoped to avoid it through settlement, that we did not seek to involve the court in monitoring the agreement although we did want the case held on the court's inactive calendar -- which judge ruled out. The judge indicated that if we reached an agreement, the case should be dismissed without prejudice, and the plaintiffs would be free to renew their action against such agencies as they felt were violating the law at a later date.

The judge reluctantly signed the stipulations extending defendants' time to Feb. 28 on our joint agreement that by then we would either have reached an agreed settlement at the staff level or would have worked out a discovery schedule -- in which case the judge would call a status conference for the first week in March.