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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 95-5276

RICHARD M. BALGOWAN; THOMAS M. BATZ; THOMAS BETTEN;
KARL L. BLUM; RAYMOND A. BURROUGHS; DENNIS CARLSON;
JOHN I. CORBO; MICHAEL D. CRONIN; STEFFAN FRANKLIN;
HERMAN J. KRIEG; JOSEPH J. LAGULLO; CHESTER J. LYSZCZEK;
ALBERT M. MALATESTA; ARAM MARDEKIAN; IKE MARDEKIAN;
WILLIAM L. MUNCZINSKI; ALAN S. NASS; THOMAS M. NORRIS;
MALCOLM J. PALMER; JOHN C. POWERS; FRANCIS F. REALINI;
CARL G. REBBECK; STANLEY F. RIPISH; EMIL H. ROESSLER;
WAYNE A. RUMSEY; RICHARD F. SPOERL; LAWRENCE A. SROKA;
JOHN W. STULTS; ROBERT L. SWAIN; DENNIS R. SYMONS;
JOHN B. TAYLOR, JR.; CHARLES A. TERRITO, JR.;
PETER W. TOMORY; ALFRED T. WOODROW; DANIEL YACOVINO;
CHARLES W. YOUNG; RICHARD ZOLNOWSKI

Appellants

v.

STATE OF NEW JERSEY,
DEPARTMENT OF TRANSPORTATION

O R D E R

BEFORE: STAPLETON, COWEN and GARTH, Circuit Judges

The petition for panel rehearing filed by appellee in the above-entitled case is hereby granted, and the Opinion and Judgment filed on May 16, 1996, is hereby vacated. The parties are hereby ordered to comply with the following rebriefing schedule:

Appellants' shall file their opening brief within 30 days from the date of this order; appellee shall file its answering brief 30 days thereafter and any reply by appellants' shall be filed 15 days thereafter. Briefing shall be on all issues raised by the parties including, but not limited to, the issues raised in the Petition for Rehearing and the Answer filed to the Petition.

The court observes that appellants have requested transfer to the state court. Does such a procedure exist under

New Jersey law? If appellants were to file in state court at this time, does New Jersey law toll the statute of limitations on plaintiffs' cause of action for the period of time that the matter was pending in federal court?

In light of the briefing order entered herein which may encompass the subject of the June 28, 1996 letter motion it desired, that motion by appellee to supplement the record on the Petition for Rehearing En Banc is denied.

By the Court,

/s/ Robert E. Cowen
Circuit Judge

Dated: July 9, 1996