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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EBONY DAVIS,
ON BEHALF OF HIMSELF AND
ALL THOSE SIMILARLY SITUATED,
Plaintiffs

: CIVIL ACTION NO. 03- 1400
: JURY TRIAL DEMANDED

v.

: CLASS ACTION

FILED

CITY OF PHILADELPHIA,
PHILADELPHIA TRAFFIC COURT,
HONORABLE FRANCIS E. KELLY,
Individually as President Judge of
Philadelphia Traffic Court,
HONORABLE FORTUNATO PERRI,
Individually as Administrative Judge
of Philadelphia Traffic Court,
OFFICERS JOHN DOE(S) and
OFFICERS RICHARD ROE(S),
Individually as Officers of the
Philadelphia Police Department,
Defendants

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MAR - 4 2003

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COMPLAINT
Preliminary Statement

1. Plaintiff Ebony Davis was arrested by Philadelphia police officers who erroneously claimed that he owed outstanding fines and costs in connection with alleged violations of the Pennsylvania Motor Vehicle Code. The officers failed to consider available information which demonstrated that Plaintiff Davis was not the individual who had committed the alleged Motor Vehicle Code violations. Despite the absence of probable cause to arrest, Plaintiff was detained, searched, handcuffed and transported to Philadelphia Traffic Court. After a Traffic Court proceeding at which he was not afforded counsel, notice of the specific charges against him, the opportunity to prepare a defense, to confront and cross-examine the witnesses against him, and to present evidence on his

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own behalf, Plaintiff was sentenced to a period of incarceration in the Philadelphia County Prison System. Plaintiff, who is indigent, was forced to remain in custody for nearly one month because he was unable to remit a portion of the outstanding fines and costs to secure his release, a right granted only to those with the means to make substantial monetary payments.

2. On behalf of himself and all others similarly situated, Plaintiff seeks to enjoin Defendants' pattern, practice and policy of unlawfully arresting, prosecuting and incarcerating individuals on alleged Motor Vehicle Code violations in the absence of probable cause and without the right to counsel and to a fair trial. The named Plaintiff and the Plaintiff Class have been and continue to be deprived of rights guaranteed by the Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §1983. The named Plaintiff seeks compensatory and punitive damages as a result of the harms caused by Defendants' actions and the loss of fundamental constitutional rights. The Plaintiff Class seeks a declaratory judgment that the acts complained of herein are unconstitutional and injunctive relief to prevent further civil rights violations.

Jurisdiction

3. This action is brought pursuant to 42 U.S.C. §1983. Jurisdiction is based upon 28 U.S.C. §§1331 and 1343 (1), (3), (4) and the aforementioned statutory provision. Pursuant to 28 U.S.C. §§2201 and 2202, this Court has jurisdiction to declare the rights of the parties and to grant all further relief found necessary and proper.

Parties

4. Plaintiff Ebony Davis is a citizen of the Eastern District of Pennsylvania and at all times relevant to this action resided in Philadelphia, Pennsylvania.

5. Defendant City of Philadelphia is a municipality of the Commonwealth of Pennsylvania that operates and funds Philadelphia Traffic Court and the Philadelphia Police Department which employs the other named defendants, including Defendants Kelly, Perri, Doe(s) and Roe(s).

6. Defendant Philadelphia Traffic Court is a governmental agency funded by the City of Philadelphia which is responsible for the daily operation, direction and control of all proceedings conducted in Philadelphia Traffic Court.

7. Defendants, Honorable Francis E. Kelly and Honorable Fortunato Perri, were at all times relevant to this action President Judge and Administrative Judge, respectively, of Philadelphia Traffic Court and, in those capacities, exercised supervisory and administrative authority over the operation of Philadelphia Traffic Court and its officials and employees. They are being sued in their individual capacities as supervisors and administrators of Philadelphia Traffic Court. At all times relevant to this action, Defendant Kelly was and is a final policy and decision-maker for Defendants City of Philadelphia and Philadelphia Traffic Court. Defendant Perri was a final policy and decision-maker for Defendants City of Philadelphia and Philadelphia Traffic Court with respect to the claims raised herein until his removal as Administrative Judge on or about December 1, 2002.

8. Defendant Police Officers Roe(s) and Doe(s) are police officers for the Philadelphia Police Department who, at all times relevant to this action, acted under color of state law. They are being sued in their individual capacities as police officers.

9. At all relevant times, all Defendants were acting under color of state law and in concert and

agreement with each other to improperly deprive the named Plaintiff and the Plaintiff Class of their constitutional and statutory rights.

FACTUAL ALLEGATIONS OF THE PLAINTIFF CLASS

10. Plaintiff Davis seeks to maintain this action on behalf of himself and all others similarly situated pursuant to Rules 23(a) and (b) of the Federal Rules of Civil Procedure. Plaintiff Davis represents a class of persons who have been or will be detained, arrested, searched, prosecuted and incarcerated by Defendants without the right to counsel and to a fair trial. The class members have been, are and will be subjected to deprivations of their rights under the Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §1983. The Plaintiff Class therefore seeks declaratory and injunctive relief to eliminate Defendants' actions, policies and practices which caused, are causing, and will continue to cause constitutional violations.

11. The Plaintiff Class consists of individuals who have been and will be arrested for alleged Motor Vehicle Code violations and subjected to periods of incarceration as a result of Philadelphia Traffic Court proceedings conducted without the assistance of counsel, notice of the specific charges against them, the opportunity to prepare a defense, to confront and cross-examine the witnesses against them and to offer evidence on their own behalf.

12. The requirements of Rules 23(a) and (b) are satisfied by this class action. Upon information and belief, the Plaintiff Class consists of more than one hundred individuals and will include additional individuals in the future, thereby making joinder of all members impractical.

13. There are questions of law and fact common to the class, including the constitutionality of Defendants' practices, customs and policies. The claims of the named Plaintiff are typical of the claims of the class and he will fairly and adequately represent and protect the interests of the class.

14. Plaintiff Davis is an adequate representative of the Plaintiff Class as he was and is subject to Defendants' pattern, practice and policy of unlawfully arresting, prosecuting and incarcerating individuals on alleged Motor Vehicle Code violations without the right to counsel and a fair trial. It is the existence of this pattern, practice and policy that gives rise to questions of law and fact common to all members of the Plaintiff Class.

15. Upon information and belief, there is no pending litigation concerning these issues which would be disrupted by maintaining this matter as a class action. Moreover, this is the appropriate forum for this litigation. To the extent that management of this matter as a class action will pose difficulties, the fact that the Plaintiff Class is represented by experienced civil rights litigators and the law firm of Kairys, Rudovsky, Epstein and Messing will substantially reduce the burdens on the Court and litigants.

16. Defendants have acted or refused to act on grounds generally applicable to the Plaintiff Class, thereby making final injunctive and declaratory relief appropriate with respect to the class as a whole.

17. Over an extended period of time, including but not limited to the period from March 1, 2001 to the present, members of the Plaintiff Class were arrested by Defendants Roe(s), Philadelphia police officers, on the basis of allegations that they owed fines and costs in connection with Motor Vehicle Code violations.

18. Members of the Plaintiff Class were transported to Philadelphia Traffic Court where they were further detained and appeared before Traffic Court judges on violations of the Pennsylvania Motor Vehicle Code, summary offenses punishable under Pennsylvania law by a maximum period of ninety days incarceration and a \$300 fine. Upon information and belief, most if not all members of

the Plaintiff Class were charged with a number of outstanding Motor Vehicle Code violations which carried potential consecutive prison sentences in excess of six months.

19. At the Traffic Court proceedings, members of the Plaintiff Class who were indigent and unable to afford private counsel were not advised of their right to counsel nor provided with the assistance of counsel.

20. At the Traffic Court proceedings, members of the Plaintiff Class were not advised of the specific charges against them and were not afforded the opportunity to prepare a defense, to confront and cross-examine the witnesses against them and to present evidence on their own behalf.

21. Members of the Plaintiff Class were sentenced to periods of incarceration in the Philadelphia County Prison System.

22. The Traffic Court judges further ordered that members of the Plaintiff Class were to be held in the Philadelphia County Prison System until dates certain or until substantial amounts of money were paid to secure their release.

23. As members of the Plaintiff Class were financially unable to make the required payments, they were held in the Philadelphia County Prison System for extended periods of time.

24. It was the policy and practice of Defendants City of Philadelphia, Philadelphia Traffic Court, Kelly and Perri to release from custody individuals with the financial means to pay a portion of the outstanding fines and costs that accrued in connection with alleged Motor Vehicle Code violations. Individuals, such as members of the Plaintiff Class who are indigent and thus unable to make a substantial monetary payment, are required to serve prison sentences.

25. The practice of Defendants City of Philadelphia, Philadelphia Traffic Court, Kelly and Perri requiring indigent persons to post substantial amounts of money or remain incarcerated

impermissibly treats a class of persons – the indigent – differently than others similarly situated.

26. Defendants Kelly and Perri, in their respective capacities as President Judge and Administrative Judge of Philadelphia Traffic Court, and as final policy and decision makers for Defendants City of Philadelphia and Philadelphia Traffic Court, knew or should have known that the named Plaintiff and the Plaintiff Class were being subjected to the above-described treatment by officials and employees of the Philadelphia Traffic Court and failed to take steps to ensure that in cases where individuals were subject to periods of incarceration the accused were provided:

- a. the assistance of counsel;
- b. notice of the specific charges against them;
- c. the opportunity to prepare a defense;
- d. the opportunity to confront and cross-examine the witnesses against them;
- e. the opportunity to offer evidence on their own behalf; and
- f. equal protection of the law.

27. The arrests, prosecutions and incarcerations of the named Plaintiff and the Plaintiff Class were undertaken by all Defendants pursuant to a pattern, practice and policy of unlawfully arresting and prosecuting individuals on alleged Motor Vehicle Code violations without the rights to counsel, due process and equal protection of the law.

28. As a direct and proximate cause of all Defendants' illegal and unconstitutional actions, the named Plaintiff and the Plaintiff Class suffered and will suffer pain, fear, anxiety, embarrassment, loss of liberty, emotional trauma, financial losses, the loss of the enjoyment of life, and the deprivation of other liberty and property interests.

FACTUAL ALLEGATIONS OF PLAINTIFF EBONY DAVIS

29. On or about September 30, 2002, Plaintiff Davis was arrested by Defendant Doe(s) and charged with the failure to pay alleged Motor Vehicle Code violations which totaled in excess of \$7,500.00 in fines and costs. Defendant Doe(s) failed to consider available information which demonstrated that Plaintiff Davis was not the individual who had committed the alleged traffic violations.

30. Plaintiff Davis repeatedly told Defendant Doe(s) that he was not the individual who had committed the alleged Motor Vehicle Code violations and produced identification which confirmed that fact. Defendant Doe(s) knew or should have known that Plaintiff Davis' name, date of birth, social security number and other descriptive information differed from that of the person who was alleged to have committed the Motor Vehicle Code violations.

31. Defendant Doe(s) knew or should have known that there was no probable cause to arrest Plaintiff Davis for the alleged Motor Vehicle Code violations as there was no reasonable basis for the belief that Plaintiff Davis was the individual who had accrued the traffic tickets and the associated fines and costs.

32. Plaintiff Davis did not commit the alleged Motor Vehicle Code violations or commit any offenses against the laws of the United States, the Commonwealth of Pennsylvania and the County of Philadelphia that justified the actions of Defendant Doe(s).

33. Defendant Doe(s) detained Plaintiff Davis and, without cause or justification, placed him under arrest, searched him and secured him in handcuffs. Plaintiff Davis was transported to Philadelphia Traffic Court where he was further detained. Plaintiff Davis appeared before the Honorable Robert Shaffer on numerous violations of the Pennsylvania Motor Vehicle Code,

summary offenses punishable under Pennsylvania law by a maximum period of ninety days incarceration and a \$300 fine, as set forth in Offense Tracking Number 20561194.

34. Although each of the offenses with which Plaintiff Davis was charged carried a maximum period of ninety days incarceration, the total number of outstanding Motor Vehicle Code violations carried a potential consecutive prison sentence in excess of six months.

35. At the proceeding before Judge Shaffer, Plaintiff Davis, who was indigent and unable to afford private counsel, was not advised of his right to counsel nor provided with the assistance of counsel.

36. At the proceeding before Judge Shaffer, Plaintiff Davis was not afforded notice of the specific charges against him, the opportunity to prepare a defense, to confront and cross-examine the witnesses against him or to present evidence on his own behalf.

37. Despite Plaintiff Davis' protest that he was not the individual who had accrued fines and costs in connection with alleged Motor Vehicle Code violations, Judge Shaffer sentenced Plaintiff Davis to a period of twenty-six days incarceration.

38. Judge Shaffer further ordered Plaintiff Davis held in the custody of the Philadelphia County Prison System until October 25, 2002 or until the amount of \$1,748.00 was paid.

39. As Plaintiff Davis was financially unable to pay the \$1,748.00, he was held in the Philadelphia County Prison System until October 25, 2002.

40. It is the policy and practice of Defendants City of Philadelphia, Philadelphia Traffic Court, Kelly and Perri to release from custody individuals with the financial means to pay a portion of the outstanding fines and costs that accrued in connection with alleged Motor Vehicle Code violations. Individuals, such as Plaintiff Davis, who are indigent and thus unable to make substantial monetary payments, are required to serve prison sentences.

41. Upon information and belief, prior to October 25, 2002, employees and officials of the Philadelphia Traffic Court determined or should have determined that Plaintiff Davis was in fact not the individual who was alleged to have violated the Pennsylvania Motor Vehicle Code. No effort was made by Defendants to secure Plaintiff Davis' release from custody prior to October 25, 2002.

42. On October 25, 2002, Plaintiff Davis was transported from the Philadelphia County Prison to Philadelphia Traffic Court where a representative of the Philadelphia District Attorney's Office and court-appointed counsel were present. At that time, Plaintiff Davis, having been determined not to be the individual wanted for Motor Vehicle Code violations, was ordered released from custody. This order thus invalidated the judgment and sentence of Judge Shaffer dated September 30, 2002. Mr. Davis had served twenty-six days in prison.

**FIRST CAUSE OF ACTION
INJUNCTIVE AND DECLARATORY RELIEF FOR CIVIL RIGHTS VIOLATIONS
The Named Plaintiff and the Plaintiff Class v. Defendants**

43. Plaintiffs hereby reallege paragraphs 1-42 of this Complaint, as though fully set forth herein.

44. By adopting, permitting, encouraging, tolerating, ratifying or being deliberately indifferent to a pattern, practice and policy pursuant to which Philadelphia police officers arrest individuals on alleged Motor Vehicle Code violations without having probable cause to believe that those individuals had committed the alleged violations, Defendants City of Philadelphia, Doe(s) and Roe(s) have and will continue to deprive the named Plaintiff and the Plaintiff Class of rights guaranteed by the Fourth and Fourteenth Amendments of the Constitution of the United States and 42 U.S.C. §1983.

45. By adopting, permitting, encouraging, tolerating, ratifying or being deliberately indifferent to a pattern, practice and policy pursuant to which employees and officials of Philadelphia Traffic

Court deny the named Plaintiff and the Plaintiff Class the rights to counsel, due process and equal protection of the law, Defendants City of Philadelphia, Philadelphia Traffic Court, Kelly and Perri have and will continue to deprive the named Plaintiff and the Plaintiff Class of rights guaranteed by the Fourth, Fifth, Sixth and Fourteenth Amendments of the Constitution of the United States and 42 U.S.C. §1983.

46. By engaging in the practice of unlawfully arresting and prosecuting the named Plaintiff and the Plaintiff Class on alleged Motor Vehicle Code violations in the absence of probable cause, Defendants City of Philadelphia, Doe(s) and Roe(s) have and will continue to deprive the named Plaintiff and the Plaintiff Class of rights guaranteed by the Fourth and Fourteenth Amendments of the Constitution of the United States and 42 U.S.C. §1983.

47. By engaging in the practice of unlawfully denying members of the Plaintiff Class the rights to counsel, due process and equal protection of the law in connection with proceedings that result in periods of incarceration, Defendants City of Philadelphia, Philadelphia Traffic Court, Kelly and Perri have and will continue to deprive the named Plaintiff and the Plaintiff Class of rights guaranteed by the Fourth, Fifth, Sixth and Fourteenth Amendments of the Constitution of the United States and 42 U.S.C. §1983.

48. As a result of the conduct of all Defendants, the named Plaintiff and the Plaintiff Class have suffered and will continue to suffer irreparable harm. There is no adequate remedy at law and the requested declaratory and injunctive relief are necessary to prevent ongoing civil rights violations.

**SECOND CAUSE OF ACTION
DAMAGES FOR FEDERAL CIVIL RIGHTS VIOLATIONS
Plaintiff Davis v. Defendants City of Philadelphia,
Philadelphia Traffic Court, Kelly, Perri and Doe(s)**

49. Plaintiffs hereby reallege paragraphs 1-48 of this Complaint, as though fully set forth herein.

50. As a direct and proximate result of the above described conduct, committed under color of state law, and while acting in that capacity, Defendants City of Philadelphia, Philadelphia Traffic Court, Kelly, Perri and Doe(s) deprived the named Plaintiff of his rights to be free from unreasonable searches, seizures, false arrest, false imprisonment and malicious prosecution, and further denied the named Plaintiff the rights to counsel, due process and equal protection of the law. As a result, Plaintiff suffered harm in violation of his rights under the Fourth, Fifth, Sixth and Fourteenth Amendments of the Constitution of the United States and 42 U.S.C. §1983.

51. Defendants City of Philadelphia, Philadelphia Traffic Court, Kelly and Perri have encouraged, tolerated, adopted, ratified or have been deliberately indifferent to a policy, practice and custom in which officers of the Philadelphia Police Department unlawfully arrest individuals, including the named Plaintiff, in the absence of probable cause.

52. Defendants City of Philadelphia, Philadelphia Traffic Court, Kelly and Perri have encouraged, tolerated, adopted, ratified or have been deliberately indifferent to a policy, practice and custom in which employees and officials of the Philadelphia Traffic Court deny the right to counsel and to a fair trial to persons, including Plaintiff, in connection with proceedings that result in incarceration.

53. Defendants City of Philadelphia, Philadelphia Traffic Court, Kelly and Perri have encouraged, tolerated, ratified and/or have been deliberately indifferent to the following patterns, practices and customs and to the need for training, supervision or discipline to prevent these practices:

a. The abuse of police powers, including but not limited to unlawful detention, unlawful arrest,

improper searches and seizures, and malicious prosecution;

b. The failure of police officers to consider available information in determining whether an individual is the same person reported to have violated provisions of the Pennsylvania Motor Vehicle Code;

c. The failure of police officers to follow established policies and procedures regarding the arrests of persons sought in connection with outstanding fines and costs in Motor Vehicle Code violations and the failure to confirm the identity of persons sought in connection with such matters prior to making an arrest;

d. The failure to maintain complete and accurate records regarding the identity of individuals who are alleged to have violated the Motor Vehicle Code thus preventing:

i) employees of Defendants City of Philadelphia and Philadelphia Traffic Court, including the individual defendants in this case, from accurately identifying persons who are wanted for alleged violations of the Motor Vehicle Code;

ii) erroneously identifying Plaintiffs as persons who have outstanding fines and costs in connection with alleged Motor Vehicle Code violations; and

iii) Defendants City of Philadelphia and Philadelphia Traffic Court from properly monitoring the conduct and performance of their employees to assure compliance with the laws and Constitutions of the United States and the Commonwealth of Pennsylvania and applicable Court Orders and Consent Decrees;

e. The failure of Philadelphia Traffic Court to provide counsel to persons who are facing incarceration for violations of the Motor Vehicle Code, including the named Plaintiff and the Plaintiff Class, who were indigent and unable to afford private counsel;

f. The failure of Philadelphia Traffic Court to afford persons who are facing incarceration for violations of the Motor Vehicle Code, including the named Plaintiff, with notice of the specific charges against them, the opportunity to prepare a defense, to confront and cross-examine the

witnesses against them, to present evidence on their own behalf and to equal protection of the law in connection with the alleged violations of the Pennsylvania Motor Vehicle Code; and

g. The failure of Philadelphia Traffic Court to prevent the policy, practice and procedure of incarcerating indigent alleged offenders.

54. By these actions, Defendants City of Philadelphia and Philadelphia Traffic Court have deprived the named Plaintiff of rights secured by the Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §1983.

WHEREFORE, the named Plaintiff and the Plaintiff Class respectfully request the following relief:

(a) Certify the Plaintiff Class pursuant to Rule 23 of the Federal Rules of Civil Procedure;

(b) Issue a declaratory judgment that the actions, policies and practices described above of the Defendants City of Philadelphia, Philadelphia Traffic Court, Kelly, Perri, Doe(s) and Roe(s) cause the deprivation of rights guaranteed to the named Plaintiff and the Plaintiff Class under the Fourth, Fifth, Sixth and Fourteenth Amendments of the Constitution of the United States and 42 U.S.C. §1983;

(c) Permanently enjoin Defendants City of Philadelphia, Doe(s) and Roe(s) and all officers of the Philadelphia Police Department from unlawfully arresting and prosecuting the named Plaintiff and the Plaintiff Class on alleged Motor Vehicle Code violations in the absence of probable cause;

(d) Permanently enjoin Defendants City of Philadelphia, Philadelphia Traffic Court, Kelly and Perri from unlawfully denying the named Plaintiff and the Plaintiff Class the rights to counsel, due process and equal protection of the law in Traffic Court proceedings that result in periods of

incarceration;

(e) Enjoin and require Defendant City of Philadelphia to establish effective policies, procedures and programs with respect to the training, supervision and discipline of Philadelphia police officers that are specifically designed to remedy the conduct complained of herein;

(f) Enjoin and require the Defendants City of Philadelphia, Philadelphia Traffic Court and Kelly to establish effective policies, procedures and programs that are specifically designed to remedy the conduct complained of herein, including, but not limited to, provisions for the right to counsel and to a fair trial for all persons brought before Philadelphia Traffic Court who are subject to incarceration for alleged Motor Vehicle Code violations;

(g) Award the named Plaintiff compensatory and punitive damages;

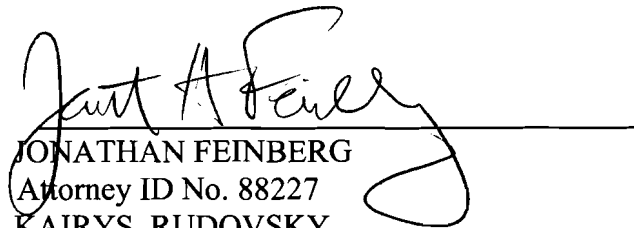
(h) Award the named Plaintiff reasonable counsel fees and costs; and

(i) Such other and further relief as appears reasonable and just.

(j) Plaintiffs demand a jury trial.



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Counsel for Plaintiffs

03-1400

JS 44 (Rev. 3/01)



CIVIL COVER SHEET

APPENDIX B

The JS-44 civil cover sheet contains information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Ebony Davis, et al

(b) County of Residence of First Listed Plaintiff Phila. (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS City of Phila., Phila Traffic Court, Honorable Kelly, Honorable Perri, Officer John Doe and Officer Richard Roe

County of Residence of First Listed Phila. (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number) Kairys Rudovsky Epstein & Messing 924 Cherry St., Ste 500 Philadelphia, PA 19107 (215) 925 4400

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State 1 DEF 1
Incorporated or Principal Place of Business in This State 4 DEF 4
Citizen of Another State 2 DEF 2
Incorporated and Principal Place of Business in Another State 5 DEF 5
Citizen or Subject of a Foreign Country 3 DEF 3
Foreign Nation 6 DEF 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 main categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes sub-categories like PERSONAL INJURY, PERSONAL PROPERTY, and LABOR.

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge or Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

42 USC 1983

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

MAR 04 2003

03-1400



UNITED STATES DISTRICT COURT

APPENDIX A

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 810 N. 63rd Street, Philadelphia, PA 19151

Address of Defendant: 1515 Arch Street, Law Dept. Philadelphia, PA 19102

Place of Accident, Incident or Transaction: Philadelphia, PA (Use Reverse Side For Additional Space)

Does this case involve multidistrict litigation possibilities?

Yes No

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes No
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes No

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Patent
6. Labor-Management Relations
7. Civil Rights
8. Habeas Corpus
9. Securities Act(s) Cases
10. Social Security Review Cases
11. All other Federal Question Cases (Please specify)

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify)
7. Products Liability
8. Products Liability — Asbestos
9. All other Diversity Cases (Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Paul Messing, counsel of record do hereby certify:

- Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
 Relief other than monetary damages is sought.

DATE: 3/4/03

[Signature] Attorney-at-Law

17749 Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within cases not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 3/4/03

[Signature] Attorney-at-Law

Attorney I.D.#

MAR 04 2003

IN THE UNITED STATES DISTRICT COURT APPENDIX C
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Ebony Davis, et al. : CIVIL ACTION

v. :

City of Philadelphia, et al. :

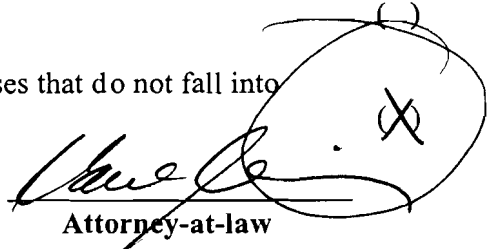
NO. 03-1400

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus -- Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security -- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos -- Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management -- Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management -- Cases that do not fall into any one of the other tracks. (X)

3.4.03
Date


Attorney-at-law

Plaintiffs
Attorney for

2/16/03