THOMAS HARDIMAN AND CORPORATE INTERESTS

Highlights:

- Thomas Hardiman supported policies favoring corporate and wealthy interests.

Hardiman Supported Policies Favoring Corporate And Wealthy Interests

HARDIMAN SUPPORTED RESTRICTING DISCOVERY TO COURT CASES INVOLVING WEALTHY INTERESTS

2018: Hardiman Reportedly Voiced Support For Trying Cases Worth Less Than $500,000 Without Discovery

2018: New Jersey Law Journal Editorial Board: Hardiman Reportedly Said If He Were Able, He Would "Probably Institute A New Federal Rule That Said All Cases With Less Than $500,000 Will Be Tried Without Any Discovery." In an editorial New Jersey Law Journal wrote, "It is reported that at last month's Federalist Society convention, Judge Thomas Hardiman of the Third Circuit gave his views on how to deal with the cost and delay of discovery. 'If I were able to do something unilaterally,' he is quoted, 'I would probably institute a new federal rule that said all cases worth less than $500,000 will be tried without any discovery.'" [New Jersey Law Journal Editorial, 12/10/18]

The New Jersey Law Journal Editorial Board Slammed Hardiman's Position On Discovery, Warning It Would Favor Wealthy Interests And Impair Cases Of Incalculable Value

New Jersey Law Journal's Editorial Board Called Hardiman's Position On Discovery "Outrageous," Pointing To Cases Involving Unclear Wealth Value And Cases That Could Not Be Tried Without Discovery. In an editorial New Jersey Law Journal wrote, "If true, the statement is outrageous. No one will dispute that discovery can be expensive and burdensome. Nor can anyone dispute that it is fundamental to modern litigation. Not only does it eliminate what used to be called 'trial by ambush.' As a practical matter, it significantly reduces the number of civil cases that have to be tried at all, by eliminating issues of fact, preparing for summary judgment, and, in those cases where issues of fact remain, facilitating settlement by giving the parties a realistic sense of each other's position. Eliminating it in all cases involving less than $500,000 would force to trial many federal question cases, for which there is no jurisdictional amount, involving rights that cannot be valued, or employment law cases where the value is less. Or, more likely, it would deter those cases from being brought at all by plaintiffs who need discovery—particularly document discovery—to prove their claims at trial." [New Jersey Law Journal Editorial, 12/10/18]

The New Jersey Law Journal Editorial Board Argued Hardiman's Position on Discovery Would "Confine Federal Civil Litigation To Disputes Between Wealthy Interests"

The New Jersey Law Journal Editorial Board Argued Hardiman's Position on Discovery Would "Confine Federal Civil Litigation To Disputes Between Wealthy Interests." In an editorial New Jersey Law Journal wrote, "In the light of experience, Fed. R. Civ. P. 26(b) was amended in 2015 to restrict discovery to relevant matter 'proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweigh its likely benefit.' Courts have the authority to keep discovery costs in proportion to the interests at stake while still obtaining a just result. Using a high per se dollar threshold to deny discovery outright blatantly favors corporate, government, and other institutional defendants who would just as soon not have their internal workings made visible, and it would tend to confine federal civil litigation to disputes between wealthy interests." [New Jersey Law Journal Editorial, 12/10/18]

New Jersey Law Journal Warned Hardiman's Position Was Part Of A Judicial Movement To Protect Large Property Interests

New Jersey Law Journal Warned Hardiman's Position Was Part Of A Judicial Movement To Protect Large Property Interests From "Distressing, Costly, And Sometimes Embarrassing Civil Litigation." In an editorial New Jersey Law Journal wrote, "We would like to think Judge Hardiman's proposal is a non-starter, but we cannot be sure. As things now stand, what the Federalist Society says today, the federal judiciary may well think tomorrow. Judge Hardiman's wish is just one more example, alongside the use of the Federal Arbitration Act to enforce one-sided arbitration clauses in consumer contracts, of a judicial zeitgeist that large property interests should be protected from distressing, costly and sometimes embarrassing civil litigation. It is remarkable only for its bluntness and blatancy." [New Jersey Law Journal Editorial, 12/10/18]