

Mr. Mark Lynch
122 Maryland Ave., NE
Washington, D.C. 20002

9/30/84

Dear Mark,

Whittaker's letter to Hitchcock would not have been written, I believe, if she had not received calls from Les Whitten about her "closely observed" lie. As of my last knowledge she had not returned Whitten's calls, but she may have. There was an item in Anderson's column on it, delayed to provide time for response. None is referred to in the column. The column comes from their brief. Les, who is a very careful and decent man, checked all the dictionary meanings of observed and finally decided, as I think most honest people would, that if she did not mean the lie she would not have used that formulation.

If as I think is reasonable her letter states the position they will take it is important knowledge and whether or not they repeat it in court it is still another libel, still another indecency, still another effort to prejudice the courts against me, ought not be ignored and, not having heard from you, I am asking you not to ignore it. Moreover, it is not only false but it focuses on the case record and can and I think should be addressed from the case record. This is not only because it is not some of the drier legal issues but because they've been able to stay away from the case record, except for corrupting it. I'll return to this.

If it were not that it might compromise you I would have written her long before this asking for an apology and telling her that absent one after the case has run its course I'd see if redress is available.

Now it also happens that those terrible people, I think but I am not sure in this case, took the exact opposite stand, also fictitious, that Jim was using me for his own purposes. If it was not in this case it was in the King case and Jim ought be able to find it. The same DeJ took this exact opposite position. While it happens that neither is true, it is obvious that both cannot be.

You can't possibly have had the time to go over the entire case record, but it is clear and explicit in my affidavits that based on much previous experience and the fact that Dan Metcalfe had disclosed before any status call that they were not going to search to respond to my requests I decided that it would be necessary to expose each and every untruthful representation they made. I wanted to do this under oath and subject to the penalties of perjury because I believe that is both necessary and proper. I've had long experience with their sneezing on one of their lies and influencing the courts that way. and generally defaming me at the same time.

This is what I have done in the case record and under oath. I am unrefuted. On the few occasions on which they could not avoid saying something I proved,

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under oath, that their statements were false. Usually also incompetent and in all instances they had first-person knowledge available.

The only exceptions, and they are not many, may be where Jim didn't file the affidavits. He was extraordinarily busy. He had some filed by a friend when he was out of town, he was that busy.

I wanted them to have to confront my attestations, of course, and we planned to try to force that but between his having no time and the direction of the case turning, it wasn't possible for him. We planned for him to draw it all together and that was made impossible. It was my desire that they have ample opportunity to prepare any responses they might make and that is why I wanted him to file the affidavits as I addressed their endless lies.

The plain and simple truths in the case record are important and they have made a mistake, I think, in focusing on the case record. For example, it is unrefuted that they did not intend to make the required searches from the outset and to this day have never made them. The New Orleans search slips are dated almost a year prior to my requests, are not the searches required for compliance with my requests, and yet include records that are responsive and remain withheld, all documented and unrefuted in the case record. Dallas made no searches - ever - to respond to my request. ~~The~~ first search was long after compliance was claimed and was made in response to a directive from the appeals office. It even ~~then~~ is a phony search because under those names there are withheld records not listed on the search slips. (i.e., *Marguerite Oswald*)

I could not have expanded on these requests if I'd wanted to because they are inclusive. But I didn't. Moreover, they include earlier and ignored requests going back about a decade and a half. This is their stock lie and they often get away with it, as they did before the appeals court in the spectro case.

If you know how much time you'll have I don't. But I do believe it is important for you to have and present a succinct representation of the actual case record and not let them get away with any formulation of any lie that is defamatory in any way, whether the phrasing of the brief or of the Whittaker letter.

I don't want to take more of your time at this moment because I know you've been busy. But I'd like to know that you agree with this kind of response, which will keep the focus on their neverending mendacity that is not just vigorous adversarial effort, and give me an idea of what kind of information you'd want and in what form.

I do not underestimate the importance of case law and cogent legal arguments, but there are times when that is not enough. They'd made what can be a very serious political error because they've always gotten away with it. This can be of great

importance to me personally, in undoing some of the evil they've done and in possibly reducing the evil of this sort they'll attempt in the future. It also can, in time, be quite important to besieged FOIA.

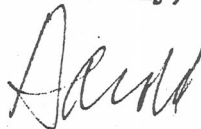
And there are limits to what people can accept or be made to appear to accept without making all others credit the libels and lies. If a man does not protest such abuse with all the vigor he can he makes people wonder about him and tend to credit the defamations. I do not want even by direction to give any appearance of this for the present or for the future.

I think that on its face there is another fatal flaw in what Whittaker gives as their position - the unhidden effort to cause retaliation against Jim by their open incitation for sanctions.

Moreover she refers to but one of ~~them~~ their/her uses of this lie. They used it twice in the one brief. I am not sure that both can be stretched into the context she fabricates.*

I'd like to hear from you as soon as possible about this in general and, if you want anything from me, about that in specifics. I think that perhaps a half dozen illustrations ought require little time and work and would be easy for you to grasp. There are, of course, dozens. And I do mean in the case record only.

Sincerely,



Of course if she/they meant what they now say in her letter, why did they not put it that way in their brief? Why formulate what can be taken as a lie, why formulate what can be taken as a defamation, and why suggest sanctions based on it?