

Dear Jim,

12/19/84

After you phoned last night I thought about it and have some recollection of other than my absolute refusal to engage in the demanded discovery, for the reasons I stated in my affidavit. I recall something not in my affidavit and what you may have been driving at so I write this while it is in mind in the event this independent recollection may be of use to you. If it is correct, you also should be able to dig up a written authentication because I have a clear recollection of your asking me questions and writing the answers, I think as you read. If what I recall is correct, as I'm sure it is, you'll also find a sort of short-hand reference to it in my affidavit.

I had refused to engage in the discovery and you came up to discuss it with me, as I said, to try to talk me into it, and you took some time. Then you made a proposal that I promised to think over, which I referred to in the affidavit as some kind of pro forma compliance. After thinking it over I again refused. As I now recall, I had two reasons in particular, one that it would not comply and I would neither make a ~~fix~~ false pretense nor make myself liable in any way for seeming to, and in principle I regarded it as wrong, as harassment and as potentially precedental and hurtful to others and the Act and would not run the risk.

You sat on my left, in Lil's chair, with a copy of their interrogatories and probably a yellow pad. You asked me the questions and asked me to give you short answers, and I'm pretty sure that ⁺ said in all or just about all cases, whether or not I said anything else, that I had already provided the information.

I have an indistinct picture in my mind of your leaving some spaces on the pad and of using numbers to represent the interrogatories. Blue felt-tipped pen. Your small brief case and a larger one, I think top-opening.

You used Lil's workbox-footstore as a sort of desk, keeping things stacked on it that you used, besides taking them out of the brief cases, and probably xeroxes of their interrogatories were there and you picked them up for each question.

I am absolutely clear and certain on your going over the interrogatories and asking me for the short answers you wanted to file, on my uncertainty over whether or not I would, and of your writing down what ⁺ said in response to each. No question at all. On the other details, less certainty but belief.

If Hitchcocks desires, I am quite willing to attest to this and there is not only no conflict with my affidavit but as I indicate above, reflection of this in it. You or he can prepare it and send it up.

I do not recall whether I wrote you that I would not or told you by phone but I suggest a check of correspondence of that approximate date.

Because I did attest to your effort I was surprised that even a ^Smith would do as he did.

This reminds me, did he make a finding of fact with regard to either one of us and if he did not, was he not required to? I'd like to know this soon for my own thinking.

I hope you did not forget to mail me the rules controlling en banc petitions because I want to get to the writing as soon as possible. Keeping it down to 15 pages is going to be a major business and I want not to make rule-violating mistakes to begin with. I've collected all I think I'll need and have the unread drafts ⁺ mentioned and probably will for the most part not be able to use with that space limitation.

Best,