

COPY

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BALTIMORE, MARYLAND 21201

February 1, 1972

Ransom J. Davis, Esq.
Assistant U. S. Attorney
409 Post Office Building
Baltimore, Maryland 21202

Dear Randy:

I spent all day yesterday with Mr. Weisberg reviewing his records. It appears that he has a much more substantial case than I originally thought. There also appears to be more history to the case than I realized, including a conference with Judge Thomsen at which you agreed to negotiate with Mr. Weisberg about his economic loss. Before we start compiling answers to interrogatories, etc. I would like to dispense with as much of the problem of proof as possible. I'm sure that the government is no more anxious to dig out all the data they have relevant to this case than I am to call the numerous witnesses to these events.

The case seems to be fairly simple. We allege the following:

1. Constant tortious invasions of air rights between April 1961 and January 1964.
2. These were wilfull and malicious.
3. Direct economic losses to meat chickens and egg-laying potential in excess of \$35,000.
4. Destruction of a business which, if the flights had not continued, would have earned \$25,000 a year after taxes and after taking out a \$15,000 a year salary for Mr. Weisberg.

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5. Items 3 and 4 caused by 1.
6. The real property in 1964 was worth approximately \$75,000.
7. Assuming a multiple of 6, this results in a net economic loss of \$75,000 (6 x \$25,000 - \$75,000).
8. The flights, as well as the effects of them on the chickens and the business, caused severe stress and mental anxiety to Mr. and Mrs. Weisberg.
9. The severity of these damages are unknown to me as of this date since I have not seen the medical records.

It would be helpful to both of us at this stage of the case, if you would let us know which of these allegations you deny. A blanket denial would indicate that perhaps Mr. Weisberg is correct in his assertion that you have no intention of following Judge Thomsen's mandate to look at the evidence and try to settle the case. On the other hand, I could certainly appreciate why you would deny that the invasions were wilfull.

After seeing Mr. Weisberg's detailed day-to-day logs, his book of interviews, his list of every time he complained to the Army, his tapes of eye-witness interviews, and his logs re egg production, you should have little doubt that he can prove that the low flights occurred and the effects on his chickens. His direct loss of \$35,000 was documented on the one sheet he showed you. The value of the going business he was forced to abandon obviously is more a "judgment call." However, you also must realize the time and effort involved in proving and documenting a series of torts for almost three years. Hopefully, we can eliminate some of the time and expense, not only to ourselves, but for the Government, by agreeing to certain facts.

If you would call me, we could set up a time to discuss this further.

Very truly yours,

Harvey R. Clapp, III

HRC,III:bjw

cc: Mr. Harold Weisberg