

Posner

Posner worked for
Crowth, Swain & Moore
lawfirm & supposedly
defended IBM in an
anti-trust case doing
"exhaustive discovery" on
the case

Levi's searches under
Posner — no cases

Levi's search under
Crowth — see attached

(Note: I'm sure not all
lawyers on the case are shown
on the case file)

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September 27, 1993

SECTION: Pg. 42

LENGTH: 2797 words

HEADLINE: 'Case Closed' Excerpts: Author Attempts to Dismantle Conspiracies

BODY:

The following passages are adapted from the book "Case Closed: Lee Harvey Oswald and the Assassination of JFK," by Gerald Posner, published this month by Random House Inc.

The author, a graduate of the University of California, Hastings College of Law, was an associate at New York's Cravath, Swaine & Moore from 1978 to 1980. In 1983, he opened Manhattan's Posner & Ferrara, which specializes in real estate and commercial litigation.

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The National Law Journal, September 27, 1993

Mr. Posner says that his experience at Cravath, where he did exhaustive discovery for the landmark U.S. v. IBM, was excellent training for the research necessary to produce "Case Closed." In this book, he claims to have demolished the major conspiracy theories that have clouded the Nov. 22, 1963, assassination. This is the first of a two-part excerpt. The second part, which will examine what the author describes as the eventual success of the Warren Commission despite a flawed investigation, will appear in the NLJ's Oct. 4 issue.

THE CURIOUS phenomenon that became Jim Garrison's assassination probe can only be comprehended by trying to understand the man who was single-handedly responsible for the investigation. At 6 feet 7 inches, with a bass voice and sharp tongue, Jim Garrison was an impressive figure.

Born Earling Carothers Garrison in 1921 in Iowa and reared in New Orleans by his divorced mother, he served in the National Guard during World War II. After his discharge in March 1946, he attended Tulane Law School, graduated in 1949, and then moved to Seattle and Tacoma, where he was an FBI agent for two years. Bored with the Bureau, he returned to New Orleans and in July 1951 asked to be placed again on active service with the National Guard. He was relieved from duty 15 months later. Doctors at Brooke Army Hospital in Texas found he suffered from a "severe and disabling psychoneurosis."

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LEVEL 1 - 4 OF 5 CASES

*Issues on IBM case
Power not tested*

LEVEL 1 - 2 OF 12 CASES

IN RE: INTERNATIONAL BUSINESS MACHINES CORPORATION,
Petitioner, UNITED STATES OF AMERICA, Plaintiff, v.
INTERNATIONAL BUSINESS MACHINES CORPORATION, Defendant.

No. 471, Docket 79-3070

UNITED STATES COURT OF APPEALS, SECOND CIRCUIT

618 F.2d 923; 1980-1 Trade Cas. (CCH) P63,202

October 16, 1979, Argued
February 25, 1980, Decided

PRIOR HISTORY:

Petition for a writ of mandamus under <=1> 28 U.S.C. @ 1651 and Fed.R.App.Pr
21, compelling the Hon. David N. Edelstein, Chief Judge of the United States
District Court for the Southern District of New York, to recuse himself from
further proceedings in the trial of United States v. International Business
Machines Corporation, 69 Civ. 200, on the ground that he harbors a personal bias
against petitioner.

Press Alt-H for Help or Alt-Q to Quit.

618 F.2d 923, *; 1980-1 Trade Cas. (CCH) P63,202

Petition denied.

COUNSEL: Thomas D. Barr, New York City (Cravath, Swaine & Moore, New York
City, of counsel), for petitioner-defendant.

John J. Powers, III, Washington, D. C. (Dept. of Justice, John H. Shenefield
Asst. Atty. Gen., Bruce E. Fein, Washington, D. C., and Robert J. Staal, Don A.
Resnikoff, Mark W. Gaffney, John P. Hannigan, Dept. of Justice, New York City,
of counsel), for respondent-plaintiff.

JUDGES: Before MULLIGAN, VAN GRAAFEILAND and MESKILL, Circuit Judges.

OPINIONBY: MULLIGAN

OPINION: [+924]

More than a decade ago, on January 17, 1969, the United States of America, b
its attorneys, acting under the direction of the Attorney General, filed a
complaint in the United States District Court for the Southern District of New
York which alleged that International Business Machines Corporation (IBM) ,
commencing in or about 1961, had monopolized and attempted to monopolize the
market for general purpose [+925] electronic digital computers in
Press Alt-H for Help or Alt-Q to Quit.

INTERNATIONAL BUSINESS MACHINES CORPORATION, Appellant, v. UNITED STATES of America, Appellee. INTERNATIONAL BUSINESS MACHINES CORPORATION, and Cravath, Swaine & Moore, Appellants, v. UNITED STATES of America, Appellee. INTERNATIONAL BUSINESS MACHINES CORPORATION, Appellant, v. David N. EDELSTEIN, Chief Judge, United States District Court for the Southern District of New York, and United States of America, Appellees.

Nos. 1133 to 1136, Dockets 73-2126-7, 73-2145-6.

United States Court of Appeals, Second Circuit.

493 F.2d 112; 18 Fed. R. Serv. 2d (Callaghan) 130; 1973-2 Trade Cas. (CCH) P74,833

Argued Aug. 8, 1973.
Dec. 17, 1973, Decided.

OPINION BY: OAKES

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493 F.2d 112, *; 18 Fed. R. Serv. 2d (Callaghan) 130;
1973-2 Trade Cas. (CCH) P74,833

OPINION: [*113]

OAKES, Circuit Judge:

These appeals are by International Business Machines Corporation (IBM) and Cravath, Swaine & Moore (Cravath), a law firm which has represented IBM throughout the proceedings involved in this Government civil antitrust suit. No. 73-2126 IBM seeks review of an adjudication of civil contempt against it for failure to comply with the [*114] very pretrial discovery order which IBM unsuccessfully sought to appeal or have vacated through a petition for a extraordinary writ in <=1> International Business Machines Corp. v. United States, 480 F.2d 293 (2d Cir. 1973) (en banc), petition for cert. filed, 42 U.S.L.W. 3033 (U.S. June 11, 1973) (No. 72-1662). In that case the appeal and petition for mandamus were dismissed on the basis of a lack of jurisdiction under the Expediting Act <=3> (15 U.S.C. @ 29) and it was held that in no event was there any basis to review the trial court's interlocutory order either by appeal or mandamus. <=4> 480 F.2d at 299. On petition of the Government filed June 25, 1973, Chief Judge Edelstein, after a hearing, entered an opinion findings and order imposing a contingent, coercive fine of \$150,000 per day until IBM complies with his discovery order, Pretrial Order No. 5. This order directed IBM to produce for the Government certain documents which IBM had previously delivered to a third party, Control Data Corporation, in the course

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LEVEL 1 - 7 OF 12 CASES

Manuel M. KOUFMAN, Plaintiff, v. INTERNATIONAL BUSINESS MACHINES CORPORATION, Benderson Development Company, Inc. and Jack Chesbro, Defendant.

No. 66 Civ. 907.

United States District Court S.D. New York.

295 F. Supp. 784

Feb. 4, 1969.

COUNSEL: Gilbert, Segal & Young, New York City, for plaintiff; Robert Layton, Elihu Inselbuch, New York City, of counsel.

Cravath, Swaine & Moore, New York City, for defendant International Business Machines Corporation; Alan J. Hruska, Richard M. Sharfman, New York City, of counsel.

OPINIONBY: WYATT

Press Alt-H for Help or Alt-Q to Quit.

LEVEL 1 - 10 OF 12 CASES

INTERNATIONAL BUSINESS MACHINES CORPORATION, a New York corporation and IBM CREDIT CORPORATION, a Delaware corporation, Plaintiffs, v. COMDISCO, INC., a Delaware corporation, Defendant

Civil Action No. 11922

Court of Chancery of Delaware, New Castle

602 A.2d 74; 1991 Del. Ch. LEXIS 123

May 31, 1991, Submitted

July 2, 1991, Decided

COUNSEL: [**1]

R. Franklin Balotti, Esquire, and Anne C. Foster, Esquire, of RICHARDS, LAYTON & FINGER, Wilmington, Delaware; Paul C. Saunders, Esquire, and Evan R. Chester, Esquire, of CRAVATH, SWAINE & MOORE, New York, New York; and Howard Weber, Esquire, and Morris Waisbrot, Esquire, of DAVIS, MARKEL & EDWARDS, New York, New York, Attorneys for Plaintiffs.

Press Alt-H for Help or Alt-Q to Quit.

LEVEL 1 - 2 OF 5 CASES

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. BISHOP
REED, RILEY REED and EARL REED, Defendants-Appellants.

No. 83-1132

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

721 F.2d 1059

Argued 10-6-83

November 28, 1983; Petition for Rehearing En Banc Denied
January 19, 1984

PRIOR HISTORY:

ON APPEAL from the United States District Court for the Eastern District of
Michigan.

COUNSEL: Samuel Posner, 712 City National Bank Building, Detroit, Michigan
48226, Gerald Posner, for Appellant

?

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721 F.2d 1059, *

Leonard R. Gilman, United States Attorney, 817 Federal Building, Detroit,
Michigan 48226, Blondell L. Morey, 905 Federal Building, Detroit, Michigan
48226, for Appellee

OPINIONBY: MERRITT

OPINION: [*1060]

Before: MERRITT and KENNEDY, Circuit Judges; BERTELSMAN, * District Judge.

* The Honorable William O. Bertelsman, Judge of the United States District
Court for the Eastern District of Kentucky, sitting by designation.

MERRITT, Circuit Judge. In this direct criminal appeal the three defendants
were convicted of conspiracy <=1> (18 U.S.C. @ 317) to commit the substantive
offense of mail fraud <=2> (18 U.S.C. @ 1341) in connection with the filing
of accident insurance claims, but acquitted on the substantive counts.
Conceding the fraud, their primary claim on appeal is that the evidence is
insufficient to prove what they assert is an element of the mail fraud
conspiracy offense under our decision in <=3> Blue v. United States, 138 F.2d
351 (6th Cir. 1943), cert. denied, <=4> 322 U.S. 736, 88 L. Ed. 1570, 64 S.
 Ct. 1046 (1944), namely: the government must prove specific intent to use the
Press Alt-H for Help or Alt-Q to Quit.

LEVEL 1 - 1 OF 4 CASES

THE TELEX CORPORATION, and TELEX COMPUTER PRODUCTS, INC.,
Plaintiffs-Appellees-Appellants (and Appellants on
Counterclaim), v. INTERNATIONAL BUSINESS MACHINES
CORPORATION, Defendant-Appellant-Appellee (and
Cross-Appellant on Counter-claim)

Nos. 73-1874, 73-1875, 73-1876, 73-1877, 73-1878, 73-1961
and 73-1962.

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

510 F.2d 894; 1975-1 Trade Cas. (CCH) P60,127; 184 U.S.P.Q.
(BNA) 521

January 28, 1975

SUBSEQUENT HISTORY: March 27, 1975, Rehearing Denied.

PRIOR HISTORY:

Appeal From The United States District Court For The Northern District of
Oklahoma (D.C. ## 72-C-18, 72-C-89)
Press Alt-H for Help or Alt-Q to Quit.

510 F.2d 894, *; 1975-1 Trade Cas. (CCH) P60,127;
184 U.S.P.Q. (BNA) 521

COUNSEL: Thomas D. Barr, New York, New York, and Nicholas DeB. Katzenbach,
Armonk, New York (Frederick A. O. Schwarz, Jr., Robert F. Mullen, and George
Vradenburg III, New York, New York; Truman B. Rucker, of Rucker, Tabor, McBride
& Hopkins, Tulsa, Oklahoma; Robert H. Harry, of Davis, Graham & Stubbs, Denver
Colorado; and Cravath, Swaine & Moore, New York, New York, of Counsel, with
them on the Brief), for Appellant, International Business Machines Corporation

Floyd L. Walker, of Walker, Jackman & Associates, Inc., Tulsa, Oklahoma, and
Richard B. McDermott, of Boesche, McDermott & Eskridge, Tulsa, Oklahoma (Serge
Novovich, Tulsa, Oklahoma, with them on the Brief), for Appellees, The Telex
Corporation, and Telex Computer Products, Inc.

JUDGES: Seth, McWilliams and Doyle, Circuit Judges.

OPINIONBY: PER CURIAM

OPINION: [+397]

I.

COMPLAINT AND DISCOVERY PROCEEDINGS.

Press Alt-H for Help or Alt-Q to Quit.

LEVEL 1 - 2 OF 4 CASES

UNITED STATES OF AMERICA, Plaintiff, against INTERNATIONAL
BUSINESS MACHINES CORPORATION, Defendant.

69 Civ. 200 (DNE)

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

73 F.R.D. 702

March 17, 1977

COUNSEL: U.S. Dept. of Justice, Antitrust Division, Washington, D.C. For
Plaintiff

Cravath Swaine & Moore, New York, N.Y. For Deft.

Eaton, Van Winkle, Greenspoon & Grutman, New York, N. Y. For Respondent

OPINIONBY: EDELSTEIN

Press Alt-H for Help or Alt-Q to Quit.

LEVEL 1 - 3 OF 4 CASES

United States v. International Business Machines Corp.

69 Civ. 200 (DNE).

U.S. District Court, Southern District of New York.

62 F.R.D. 530; 18 Fed. R. Serv. 2d (Callaghan) 537; 1974
Trade Cas. (CCH) P74,988; 1974-1 Trade Cas. (CCH) P74,988

March 6, 1974.

OPINION BY: EDELSTEIN, C.J.

OPINION: [*532]

Opinion

EDELSTEIN, C.J.: Cravath, Swaine & Moore (Cravath), attorneys representing defendant, International Business Machines Corporation (IBM), moves "to intervene as a matter of right, nunc pro tunc, in this proceeding, n1 and, upon intervention, to vacate this Court's Adjudication of Contempt against... IBM
Press Alt-H for Help or Alt-Q to Quit.

62 F.R.D. 530, *532; 18 Fed. R. Serv. 2d (Callaghan) 537;
1974 Trade Cas. (CCH) P74,988; 1974-1 Trade Cas. (CCH) P74,988
dated August 1, 1973...." n2 Additionally, IBM moves for the vacation of the
Court's contempt adjudication on due process and equal protection grounds.

n1 By this proceeding the applicant obviously refers to the contempt proceeding and not the main action. It is a firmly established general principle that a private party will not be permitted to intervene in government antitrust litigation. See, e.g., <=1> Sam Fox Publishing Co. v. United States, 366 U.S. 683, 6 L. Ed. 2d 604, 81 S. Ct. 1309 (1961); <=2> Allen Calculators, Inc. v. National Cash Register Co., 322 U.S. 137, 88 L. Ed. 1188, 64 S. Ct. 905 (1944); 7A C. Wright & A. Miller, Federal Practice and Procedure Civil @ 1908, at 499 & n. 17 (1972); Shapiro, Some Thoughts on Intervention Before Courts, Agencies, and Arbitrators, 81 Harv. L. Rev. 721, 743 & n. 103 (1968).

It should be noted that in all these cases the proposed intervenor attempted to intervene as a party plaintiff. In this context it is assumed that the United States adequately represents the public interest. See, e.g., <=4> Sam Fox Publishing Co. v. United States, 366 U.S. 683, 6 L. Ed. 2d 604, 81 S. Ct. 1309 (1961); <=5> United States v. National Bank & Trust Co., 319 F. Supp. 9 (E.D. Pa. 1970); <=6> United States v. CIBA Corp., 50 F.R.D. 507 (S.D.N.Y. 1970), 7A C. Wright & A. Miller @ 1909, at 528 & n. 84. There are, however, certain limited circumstances in which private parties have been allowed to
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LEVEL 1 - 4 OF 4 CASES

Control Data Corp. v. International Business Machines Corp.
and Commercial Credit Co.

3-66 Civ. 312.

U.S. District Court, District of Minnesota, Third Division.

1973 Trade Cas. (CCH) P74,988

February 9, 1973.

OPINIONBY: NEVILLE

OPINION: Order Denying Telex' Motion

NEVILLE, D.J.: The above matter was before the court on January 26, 1973 at Minneapolis, Minnesota, on the motion of Telex Corporation and Telex Computer Products, Inc., not parties in the above Control Data case but plaintiffs in the companion cases pending in the Northern District of Oklahoma which were originally assigned to this court under 28 U.S.C. @ 1407 for consolidated and joint pretrial proceedings in conjunction with the Control Data case. The motion requests an order vacating this court's order of January 13, 1973.
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1973 Trade Cas. (CCH) P74,363

dismissing with prejudice the Control Data case including the counterclaim, which order was based on a written stipulation by and between the parties. The motion further seeks an order compelling compliance on behalf of Control Data with what is asserted to be the requirements of this court's Pretrial Order No. 12 entered July 5, 1972.

Oppenheimer, Wolff, Foster, Shepard and Donnelly, St. Paul, Minnesota, by Richard G. Lareau, Steven J. Olson, and Michael A. Berens, Esq., together with McBride, Baker, Wienke & Schlosser, Chicago, Illinois, by John P. Ryan, Jr., Esq., appeared for Control Data Corp.; Faegre & Benson, Minneapolis, Minnesota, by John D. French and Norman R. Carpenter, Esqs., together with Cravath, Swaine & Moore, New York, N.Y., by Thomas D. Barr and Frederick A. O. Schwarz Jr., Esqs., appeared for IBM; Henson & Tully, Minneapolis, Minnesota, by Robert F. Henson, Esq., together with Royce H. Savage, Esq., Tulsa, Oklahoma & J. B. Bailey, Esq., General Counsel, Telex Corp. and Telex Computer Products, Inc., appeared for Telex.

After hearing the arguments of counsel, examining the briefs and affidavits submitted by the parties, and based on all the files, records and proceedings herein,
