

1/16/71

Dear Bud,

In today's mail I have the 1/13 motion to dismiss belatedly filed by Werdig. I haven't time to go over it now, for I am preparing to leave town for several days, but the first page includes the claim that the Archives is not a suiable entity. Of course, my recollection can be faulty in this, but I think ~~ix~~ this is something new they cooked up (it is as far as at this minute I have time to go), to try and get away with on me, a non-lawyer. But if I am not mistaken the La. vs Shaw action was with the Archives recognized as a suiable entity, certainly Rhoads was the respondent, and they ~~did~~ did not raise that point - and the decision was against them. In Nichols I believe the same is true; he filed against both (and if they made this same claim there I am unaware of it). Rhoads has filed affidavits that he is the custodian, having had the function delegated to him. And I have several letters from Marshall saying that he leaves it all up to Rhoads.

My initial disposition was to write and ask him how he wanted me to formulate it so that I would not waive or lose any rights, if he really wanted the Archives removed as a defendant. But the more I think of this and how up tight they seem to be about it, the more I think that, unless I could cause the whole thing to fail in court over it, I ought not delete them.

If they have not sent you a copy, I hope that Jim can find time to read it right away so we can go over it Tuesday when I am in. I should be in your office by 11.

This claims there is nothing on which relief can be granted, which makes my belated addition of the fact that they have done more for CBS more important and points up the spuriousness of the claim. First we have this, then Marshall's saying it is okay with him but he leaves it up to the Archivist, and then we have the provision of the contract which specifies this may be done (and here, perhaps, we may find a reason for that crap about them not knowing that I am a writer, etc).

If I can get time later today, for I have to leave in the a.m., I may get into this this further, as I may also if I return early enough Monday. If this is possible, I'll have some notes by the time I get there. My offhand opinion is that this spurious thing presents me/us with certain very good opportunities, but that careful editing of what I'd be inclined to say, such as their intent to deceive and misrepresent to the court, ought be done by others besides me after I draft anything, for I do not want to turn Giseñl off.

Hastily