

JAMES H. LESAR
ATTORNEY AT LAW
1231 FOURTH STREET, S. W.
WASHINGTON, D. C. 20024
TELEPHONE (202) 484-6023

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Dear Harold,

Enclosed is the proposed affidavit. With the very strong material you have provided, I decided to limit it to just what is undeniably relevant to the present case. I may work some of the other material in your draft of the affidavit into a motion to strike Rhoads' affidavit or a motion to compel answers to certain interrogatories, or the opposition to the defendant's summary judgment motion. I intend to educate Gesell little by little rather than attempt it at one fell swoop.

I think your affidavit and the attachments to it may by themselves be enough to win the case. In fact, I expect that they will be. If they aren't, I'll add more.

I think the most important task is to get the exemption 1 objection out of the way, then, if necessary, concentrate on the others later. That explains the principal focus of both your affidavit and the second set of interrogatories.

I have erred on the date the spectro brief by the government is due. My book on Supreme Court Practice is not recent enough--in late 1971 the rules were changed to give the government an extra 20 days to respond to a petition for cert. This gives the government a total of 50 days and means that their brief isn't due until March 14.

Received the Russell article. Thanks. Will write Mailer.

Best regards,


Jim