

Dear Jim,

4/6/81

Have no regrets about what happened in 75-1996 this morning - whatever it turns out happened. My regrets are that I could not be there and that this didn't happen much earlier.

I am not by any means certain that the judge will hold it against you. If I were not convinced that she is a bit flakey I'd be certain that on reflection she wouldn't. The fact remains, however, that she has clerks who were there, who know her, who have by now learned how to approach and inform her, and it certainly was correct to say with some vigor that we want to end all this wrapping around and get before the appeals court. Now if the clerks give a damn about her they'll not want this record to go up on appeal.

(I am inclined to think that basically the case on appeal will be quite simple compared with the complexity of the record.)

You might also now lose sight of the fact that there may be some human beings in Civil, as you seem to think etcalfe is, and they may begin to wonder about the consequences of such incredible abuse of the act and requesters. They've earned some decisions they'd rather be without and they might worry about more. If I were you, I'd have this in mind and speak this way if and when the subject comes up with etcalfe, Shea, etc.

If they do it just might be that Cole might want to stipulate. If that ever happens, I won't even think of discussing it without a tape recording of every word.

Right now it may look to him that he pulled off a good one. But sober people over there might very easily see it the opposite way, as it very well can be.

On terms of Green it is now important not to back off a bit on anything. She will or she will not do something. Let that be as it is and don't try to do anything for the month we talked about.

However, I think it would be a very good idea, as fast as you can possibly get to it, to do what I asked yesterday, file for the recovery of the costs of taking the ~~stip~~ depositions and for your fee in the copyright part of this case. I think it was important to do this long ago, that it was important enough yesterday, without any sign that she'd do as she did, to take it up, and I now think that it provides a safe way of telling her in a polite way that we are not backing off a bit. Not the teensiest bit. (This is not the same as not apologizing if there is something to apologize for. If there is, you should.) I also had depositions expenses, besides the bills that I'm sure Ldl paid, but I doubt I can find any records now. Each day was a rental car and Rae's expenses besides mine; xeroxing, etc. I might estimate. The rental car we'd have from the dates. Ldl would have those records.

You should feel better after unloading. I know we'd both have felt better if you'd unloaded on Cole, and maybe you will yet. There really is a limit to the amount of abuse anyone should or can be expected to take in silence and we were well past that, including from the judge. And we have every reason for real anger. Don't back off on that under any circumstances. Be as scory as you want over raising your voice or anything else but not over whether anger was justified, even required by self-respect and manly behavior. (Not the same as manliness or machismo.) You were right and don't even think otherwise.

One of the reasons those dirty government lawyers have been able to string this case out is because you were too tolerant. If you are less tolerant they'll get less inclined to try their dirty tricks, even though they are immune.

Be interesting to see if you get any reflection, like from etcalfe or Shea. I think that at least Cole will talk. Maybe not after he thinks for a while or others speak to him. If he does you may hear, directly or indirectly.

In any event, don't fret. You did the right thing, it should have been done long ago, and there isn't anything that Green is likely to even try to do about it that won't be crazy, so maybe she'll do nothing or even something good. Time enough to learn.

Sincerely,