

9/29/97

Dear Jim,

As I indicated briefly yesterday, without taking time for details when they then made no difference, I think you missed much yesterday that you missed only because of the lack of preparation. Then you said you'll be deposing Donahue. I think you or <sup>Mark</sup> should come up and have the time for us to go over what I think you should be prepared to do with him, what you should know to be able to do it, and I think it may well have a considerable influence on what they are willing to settle for or on if there is no settlement on how the case ends.

When I answered your one question on what Donahue said of me you went on to other things, left that. You can't recapture that ~~but~~ <sup>but</sup> there is an enormous amount you can do in deposing him that I believe is important in the case and will not take all that much time but will ~~take~~ <sup>take</sup> a little time for you to know what it is and think of what to do about it. I'll have suggestions on that. You did make the case of no checking. This adds greatly to that.

You can make out a case of his making it up as he goes, too, without regard to the available fact, and of making it up wrong, to be consistent with his beginning and baseless theory, and saying what he knows nothing about for his own purposes and being prejudicial on that.

It was good to just sit and chat for a while. ~~It~~ <sup>It</sup> has been a long time since we did ~~any~~ <sup>any</sup> of that.

I do think this can be really important and can help bring the case to an end sooner and thus save time for you and Mark <sup>time</sup> if you take a little time now. I do think it is important or I'd not be taking any time now when there is so much I want to do and won't be able to. And I think it may help persuade St. Martins that settlement before trial can save them money. It will take less time than your travel time.

Best,