Dear Jim, 2/20/80

I'm sorry that in your 2/20 you refer to my purposes in writing you several times recently as attacking you. You should know better.

I regard you as a dear friend and a very fine person and one of my purposes, made explcit often enough in the past, is to try to help you get over what I believe is a hangup that is crippling you in confrontation only. Until you address this you will have the probelsm you've had and they will magnify.

I had written you earlier about this and you promised that in court there were some things you would do. You didn't do them, didn't even start, and until you do or accomplish what they could this will go on and on and on. One of these things is that you would take Cole on when he lied. You didn't and he lied and it is his lying that almost succeeded.

My recollection of how you stopped it is not in accord with yours. We were talking and when I heard him offer his Order I asked you what was going on. The transcript shows that she did not read ours but read the one he said he didn't have.

Before you wrote me we had spoken and I'd offered to go iver the transcript of the last status call with you. I think there is now no point in this because you are unwilling to face what I'm talking about and refer to what I'm not talking about. However, I recommend that you do it on your own and ask yourself how much you missed that you should not have.

This is not new and I fear the judges will ho,d it against you in awarding fees.

You lack courtroom experience not from not being in the courtroom but from not using your time there to learn. You need no help in contending on paper - you do it magnificently. But face-to-face you tuck tail and cower and you are paying for it, have paid for it and will pay heavily for it until you change. Ours is an adversary system in which one who will not be an adversary can't hold his end up. You haven't stopped letting them try cases on us, you haven't stopped them from lying our cases into perpetuity and you haven't learned that this is really what has kept you do overworked, dangling on their yardarms unnecessarily.

Your miscasting of all of this merely says that you won't face what at some point you are going to have to. My longer experience suggests it will be easier if done before the habits get more fixed and inflexible and when you are on solid legal and factual ground, as you are in all my cases.

Your opponents have you size up fully and accurately. Cole would never dream of trying on other lawyers what he regularly pulls off on you. Read the last transcript on just this and on one point compare your silence over what he said about my thousands of pages of letters and what I said about it in response: they were required by the Stipulation to consider them beginning 11/1/77. Now, have you made any effort to get them to, or made an issue of this in Court? Did you ever make an issue of their nullification of the Stipulation in which you set it all out for the judge? You did not, so for more than two years they have been dangling you on that alone. Meanwhile, from time to time you make mention of their not having lived up to the Stipulation.

I don't know why you haven't responded to their Motion for Partial Summary Judgement on the Memphis index. I prepared you and covered us in your absence by writing Shea. And I even got that in the case record when you didn't by attaching it to an affidavit and addressing it in that affiavit.

Why did I have to fight with you to get you to use what I had for you on Beckwith? When you sued it you downplayed it too much, but the judge did kick him out with some indignation. But did you then ever try to get them to do what he was supposed to have done and faked? No. What I gave you on Somersett/Hiltter and those records Dan Christensen got - you have not followed that up. (Or still returned those records.)

I am not suggesting that these are the most important things I can think of. They come to mind when I'm tired and I believe are illustrative.

If you go over your file you'll find enough things you just let drop dead. One is in an enclosure which I intended for a different purpose. We still don't know what exemptions are claimed for withholdings and I pointed this out to you in 1976.

Part of it is timidity, which does not mean cowardice. I don't know why, but this is factual. It goes back, from my recollection, to when you were silent when Henry Haile called you a forger. You were totally silent. The judge merely said tut tut.

You don't have anything to be afraid of or timid about but that makes no difference. This is one of the reasons I believe there is some kind of hangup.

It makes you visibly nervous and that is taken advantage of, as you fail to take advantage of the signals the Cole gives you. I referred to your closing the FBI book I took up to you when you forgot it. I had the passages marked, I showed them to you, you read one and closed the book and I had to go up two or three more times and get the damned thing and open it for you only to have you close it up again and not be able to continue with an important line of questioning. That is nervousness, and there was nothing external for you to be nervous about. You had a sitting duck in Wood. Even Cole was cared and try to stop it. You were so nervous that when Wood testified that he didn't know anything you didn't ask him what he knew for the affidavits he executed. When he said he'd check with Atlanta you didn't ask him if he had executed an affidavit without making any check at all to overcome his lack of personal knowledge. You had my affidavit which with its attachments proved him a liar and you were too nervous to think of using it.

You got a bit carried away and perhaps reflected much in it, as with the crack that maybe I regard being polite to the judge a vice. I do not and as you will have seen in the affidavit I just sent you I described your opposition to what she was up to as vigorous.

You miss the point in my saying something a little bit different than you put in quotes, for I said that Cole almost lied himself into a motion for partial summary judgement and you omit the almost. If he had not been able to get away with non-stop lying and Lynne and Betsy before him he would not have been in a position to dare and we would not be in the position in which we are.

I'm not, as you should know, looking for a scapegoat to beat on and as you aslo know anything good that happens or has happened in this case is of no personal benefit to me. (You underscored this.)

If you examine the overall record as well as this specific one you should have no trouble recognizing the inaccuracy of your statment that I flail you are every opportunity. You refer to my criticisms as obscene. You should know better on both scores.

On your emphasis of benefit to me, have you forgotten that a year or so ago when I asked you to force some of these issues I told you I'd rather lose than continue as I have, and I explained why, not that I should have had to. Have you any doubt as to which way I'd have been better off?

If you have talked yourself into believing some of the things you said rather than face what I've been trying to raise, why don't you ask yourself some of the things I've not complained about.

As you will have seen from my affidavit, I'll be at the coming status call to give Cole a chance to call me on my attribution of further misrepresentation and to give the judge a chance to do the same thing. I won't get too old or too tired for that. But I'll have no further suggestions and unless required I'll not be at any more calendar calls in that case. As you will see, I've told the judge that when a judge has no problems with being lied to no purpose is served. Sincerely,

JAMES H. LESAR
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TELEPHONE (202) 223-5587

February 20, 1980

Dear Harold,

I have read your letter of February 9th, in which you state your "present disposition" not to attend the next status call in C.A. 75-1996 and level a variety of criticisms of my performance as a lawyer in that case. In the past I have not taken the time to respond in writing to your criticisms, even when I considered them to be unjustified or unfair. This time I do, even though it takes away from time that I would rather spend working on your cases and other pressing work I have to do.

I do find your attack on me unfair and distorted. It seems obvious to me that you have chosen to vent your frustration with the result of the February 9 status call and your general dissatisfaction with the way C.A. 75-1996 has been handled on me because I am the handiest target. The bias, inaccuracy, and tendentiousness of your commentary is nowhere more evident than in your accusation that Judge Green "did some of your work for you, citing issues you failed to cite." This totally ignores and distorts what actually happened. What happened was that as I was leading in to my presentation of the issues, she interrupted me with a series of questions that went to the heart of the matter. The points she made during that brief exchange are the same ones which I had listed in the notes I made for the oral argument--notes which you read and agreed with in the lawyers' lounge before the hearing. To level the accusation that I failed to cite these issues is a falsification of what happened. I can hardly be denigrated for having selected, under very difficult circumstances which included my staying up to 2:00 a.m. to read your affidavit, the exact same points that Judge Green was impressed enough with to make herself before I had the opportunity to do so.

You also state: "You almost let Cole lie himself into partial summary judgment. You did let him lie us all into another stalling of this wretchedly long case." This again is an inaccurate and tendentious representation of what actually occurred. The government's motion for partial summary judgment had been argued at two previous hearings. In addition, the issue was briefed exhaustively and our position was supported by a lengthy affidavit from you. Judge Green should, therefore, have been quite familiar with it. While listening to Cole's brief comments on it, she gave no indica- that I could discern that she was taking it seriously. In fact, immediately after he concluded, she asked for copies of our orders so she could sign them. Cole then offered her a copy of an order.

I sensed that something was amiss. You, by your own admission after the hearing did not. I had the presence of mind to ask her to read the order. After she read it, I gave her several good reasons why she could not grant it. Normally an issue which has been argued at two previous hearings would not be re-argued at a third. Speaking off the top of my head, I repeated the main obstacles to the motion for partial summary judgment. I may have done so politely, perhaps a vice in your eyes, but I note that I was effective in preventing her from signing an order that, but for my intervention, she probably would have signed. She has not signed it since.

What happened at the end of the status call was a fluke event which neither you nor I can adequately explain and for which there is no way I could have been prepared. The best explanation probably is that she simply got confused. But to attribute her confusion (or whatever) to my "allowing Cole to lie us into another stonewalling" is to absurdly misrepresent what actually happened. The evidence suggests that I prevented her from signing an order that you would have sat there and let her sign in the belief that it was an order granting partial summary judgment in your favor. If you want to find a scapegoat to beat on, look somewhere else. I was not responsible for this weird happening. I was responsible for keeping it from becoming even weirder and doing irreparable damage on the scope issue.

All lawyers make mistakes. Even the most highly-paid and experienced lawyers make serious mistakes. This is particularly true of lawyers involved in courtroom litigation. To properly judge their performance requires some sense of balance. Your letter of February 9th lacks this sense of balance and fairness.

That I lack courtroom experience is no secret. In part this is due to the fact that I have devoted so much time to your cases, which require relatively little courtroom experience but demand so much time that they deprive me of the opportunity to obtain it elsewhere. In addition, I have no secretarial or other assistance, a fact that makes it more difficult for me to spend the time preparing for your cases that I would like to invest. I have also worked the better part of the past five years without getting paid. This also has deleterious consequences. I know of no other attorney who would have attempted to do what I have done under even remotely similar circumstances. Under these circumstances it is at best disheartening, and perhpas a little obscene, for a client to be flailing away at his lawyer every chance he gets.

It is not good for a client to lack confidence in his lawyer. If you wish me to withdraw from any of the cases in which I represent you, I will. If you are as confident of your Monday-morning quarterbacking as you seem to be, you would doubtless be better

off representing yourself pro se. Or, if it is possible, you may wish to find an attorney who can measure up to your virtually limitless expectations.

Sincerely yours,

James H. Lesar