

3/25/63

Dear Allan,

Re; Weisberg v. A & A Distributors

Your letter of the 22nd says what I'd feared, that the statute had run.

I agree with your estimate of what his lawyer will do. I presume that would be the course taken by any lawyer. My point in commenting about Babinowitz' liberal posture was, I think, in the event you spoke to him and he visualized being sued for a relatively small sum by a small man he has just cheated.

Nor do I suppose that the prospects with the trucker, Seannell, would be much better if the statute covers them. To me what they did is fraud, giving A & A the wrong receipt and misrepresenting it. I suppose their answer would be it was a simple office error. The fact is, however, that when they represented there had been no damage to the shipment and a receipt proving this was in their possession^{ion} it was exactly the opposite. A & A sent this to me and you have it. If you think trying to get the \$960.00 for the damages from the trucker might work.

We do appreciate your interest and willingness very much. In our recent lives it is rare. If I hear nothing further from you on this I will presume it is because nothing was possible.

There are further developments in my suit vs. Justice. They have asked for an en banc hearing before the court of appeals. This is the first time they have done this under the law I used. L. Patrick the Very Gray has given this new point and had provided irrefutable evidence that the sole alleged proof provided by Justice in the court below was perjurious. Gray appeared on counsel in the appeal's brief. I am satisfied that the panel majority recognized this affidavit by an FBI agent was perjurious, hence their really unnecessary footnote 5. There appears to be no limit to official arrogance. In their motion for the rehearing they assume as fact the very things in question and not proven, those things included in the order to remand. To make this more interesting, the conservative majority of the Supreme Court recently reversed a decision (Mink) of the same court. In the majority decision White said that an affidavit alone is not sufficient to meet the requirements of the law. Wonder what they'll do when they have only an affidavit before them and it is perjurious? I have asked my lawyer to see if he can dope out a way of answering their motion that would include this arrogance. Meanwhile, Justice announced, as soon as McCord told the same judge who sat in my case that there had been Watergate perjury, that if there were perjury it would take "appropriate" action. There have been three separate cases of perjury in FOI suits I've brought. I have written both Mitchell and Kleindienst in the past about two of these, without even pro forma denial. (The third Justice suborned. It was by the Archivist of the United States and I complained about it to the judge, who was also silent.) So, if a means can be conceived to put Justice on the spot with these things, perhaps there may be some entertaining developments. It is past time for something to be done about all this official criminality. What a thing it would be to go farther than the Miami judge just went in reversing a conviction because of Department of Justice high-level lying. Imagine a case in which an FBI agent and a Justice lawyer are both charged with perjury and top lawyers with suborning it! But, of course, who prosecutes the prosecutor?

Y
ur best,

P.S. Levin has written that he is unable to arrange other counsel for me in New York, so I have to see what I can do there. He was prompt in writing. It was kind of him to take the time. Don't know why his name seems familiar.

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March 22, 1973

Mr. Harold Weisberg
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Re: Weisberg v. A & A Distributors, Inc.

Dear Harold:

The Statute of Limitations governing the A & A Distributors matter is four years from May, 1967. On the merit, the law is that the risk of loss and the expenses of return ~~are~~ on the buyer.

I spoke to Irwin Miller in Holbrook about the matter and he indicated that he would turn it over to his attorney. I do not believe that, however liberal a man you may think Rabinowitz is, that his lawyer would forego a complete defense under the Statute of Limitations. I will make one more try but I do not believe that I should institute a suit for either \$1,314.00 or the \$960.00 damage to the books on return. I really regret this as I would have been happy to recover this amount for you and kept up with you.

I read with interest the decision in Weisberg v. United States Department of Justice of February 28, 1973 and congratulate you on winning it. If I hear anything on the A & A matter, I will be in touch with you.

Best regards.

Sincerely,



Allan R. Rosenberg

ARR:anb