

The File
Ross v. Eckles

March 16, 1968

169-74-4

Owen M. Fiss, Acting Director
Office of Planning and Coordination

#42-201-17

Plaintiffs' Rule 34 Motion

On Wednesday, March 13, Mr. Top called to inform me that he had a telephone conversation with the attorney for the plaintiffs, Mr. Joe Reynolds. Part of that telephone conversation related to the plaintiffs Rule 34 motion, which we had not previously taken a position on. Mr. Reynolds stated that sometime last week Judge Connally telephoned him and asked if he was prepared to come over to his office immediately for a hearing on that motion. Mr. Reynolds said that he was. However, Judge Connally then called him back and said he was unable to reach Mr. Berry and therefore the hearing could not be held that day. Mr. Reynolds asked Mr. Top whether we would like to be advised of such a hearing. Mr. Top said that we would. Then Mr. Reynolds asked if it would be sufficient for an Assistant U. S. Attorney to be advised of the hearing, and advise ~~the United States of it.~~ *us of the outcome.* Mr. Top said such an arrangement would not be satisfactory.

Several hours later, I received a telephone call from an Assistant U. S. Attorney in Houston, Texas, Mr. James Gough. Mr. Gough said that he had just represented the United States in a hearing on plaintiffs' Rule 34 motion. The other attorneys present at the hearing were Mr. Reynolds and Mr. Berry. Apparently a few minutes before the hearing was to be held Judge Connally telephoned Mr. Susman, the U. S. Attorney, and asked him to send a representative to the hearing if he wished. Mr. Gough said that the Judge did not call upon him to take any position and he did not take any such position.

cc: Mr. Rosenberg
Mr. Top

At the outset of the hearing, Mr. Reynolds stated that he would gladly give the plaintiffs access to the records that they sought; the only problem was one of cost. Mr. Berry said that that would be no problem because he would be prepared to photograph and copy all the records. Judge Connally stated that he doubted whether Mr. Berry really meant this since the cost ran into five figures, and if it was agreeable perhaps something could be worked out without an order from the court. Mr. Reynolds then said to Mr. Berry that they should immediately go over to the Administration Building and look at the records. The Judge then said that was good, and they should come back to him if differences arose that could not be otherwise resolved.