

May 9, 1968

OMF:daw  
170-57-3  
#34-035-13

Honorable Ben C. Green  
United States District Judge  
United States District Court  
for the Northern District of Ohio  
Old Federal Building  
Cleveland, Ohio 44114

Re: United States v. International  
Brotherhood of Electrical Workers,  
Local No. 38; Electrical Joint  
Apprenticeship and Training Committee  
(C.A. No. C 67-575)

Dear Judge Green:

I am writing you to request that a trial date be set in the above-captioned case.

In making this request I thought it would be useful to review the pertinent chronology in this case. The complaint was filed on August 3, 1967. In the end of August the defendants moved for a more definite statement and, when that motion was denied, they filed their answer on September 23, 1967. In the interim, on September 20, 1967, the Chief Judge designated you to hear and determine this case pursuant to the expediting provision of Title VII of the Civil Rights Act of 1964.

cc: Thurlow Smeot, Esq.

|             |                        |
|-------------|------------------------|
| cc: Records | Turner                 |
| Chrono      | <del>Piss</del>        |
| Pollak      | Wolf                   |
| Owen        | Invest. File (Central) |

OMF notebook

At a pre-trial conference on October 11, 1967, the United States indicated its desire to complete discovery within six weeks. The United States commenced its discovery by filing a Rule 34 motion on October 3, 1967, and by serving interrogatories on October 17, 1967. In response, the defendants filed memoranda opposing our Rule 34 motion and interposing objections to the interrogatories. On October 23, 1967, the defendants also moved to restrain the Department of Justice from privately interviewing members of Local 38. While the motions and the objections were pending before this Court, we were unable to engage in discovery. On January 12, 1968, this Court denied the defendants' motion and ordered them to answer the interrogatories and to produce certain records for inspection and copying.

Since that date, we have photographed records and conducted interviews. We served a second set of interrogatories on February 21, 1968, and defendants interposed objections to them. These objections were overruled on March 26, 1968, and answers were filed in April. A deposition was taken on April 17, 1968, which, we understand, has now been filed with the Court and that completes our formal pre-trial discovery.

As this Court also knows, prior to the commencement of the lawsuit, the parties engaged in negotiations with a view toward avoiding litigation by the adoption of a voluntary corrective program. Even after the commencement of this suit, settlement discussions continued. We met in Cleveland for that purpose on October 11, 1967, January 12, 1968, April 16, 1968, April 17, 1968, and April 25, 1968. While the area of disagreement has narrowed as a result of these conferences, certain basic differences remain. We remain willing to engage in settlement discussions

at any time, and will do so if defendants indicate they are willing to accept certain basic principles set forth in our letter of October 13, 1967, such as a procedure for the selection of apprentices that provides for an allocation of points. However, in light of the settlement discussions that have already taken place, our inability to agree on the basic principles of an appropriate correctional program, and the Attorney General's responsibility under Title VII of the Civil Rights Act of 1964 to proceed with these cases expeditiously, we believe we have a responsibility to move forward and ask that a trial date be set.

Section 707(b) of the Civil Rights Act of 1964 requires that cases of this type be assigned "for hearing at the earliest practicable date." In determining what is "the earliest practicable date" due consideration must, of course, be given to both the convenience of the Court and the need of defendants to engage in pre-trial discovery. We are uncertain of the nature of the discovery, if any, the defendants might wish to engage in. However, we invited them to commence this discovery by announcing at the conclusion of our last conference in the end of April that our discovery is complete. In addition, I am today sending a letter to counsel for defendants assuring him that we will take all appropriate steps to expedite defendants' discovery and that we will provide him immediately with discoverable material that he indicates he wants. Under these circumstances, and in light of the expediting provision of Title VII of the Civil Rights Act of 1964, we would hope that a trial could be had within six weeks.

We believe that the presentation of the United States case would take no more than two or three days. We also hope to narrow some of the factual issues through the use of stipulations, although we assume that it would be more appropriate to discuss such

stipulations with counsel for defendants only after he has completed whatever discovery might be appropriate.

I appreciate your kind consideration in this matter.

Sincerely,

OWEN M. FLISS  
Attorney  
Department of Justice

May 9, 1968

OMF:Gaw  
170-57-3  
934-035-18

Thurlow Smoot, Esquire  
59 Public Square  
Cleveland, Ohio 44113

Re: United States v. International  
Brotherhood of Electrical Workers,  
Local No. 38; Electrical Joint  
Apprenticeship and Training Committee  
(C.A. No. C 67-575)

Dear Mr. Smoot:

I am enclosing a copy of a letter I have this day written to Judge Green requesting that a trial date be set for the above-captioned case.

As I announced at our meeting on April 25, 1968, the United States has completed its formal pre-trial discovery and is prepared to expedite the discovery of information you may desire. Please advise me of any discoverable material you may wish to have and I will provide it to you immediately.

I have made arrangements to send you a set of the documents which we photographed pursuant to the Rule 34 motion and they should arrive shortly.

Sincerely,

OWEN M. FISS  
Attorney  
Department of Justice

cc: Hon. Ben C. Green

|             |                 |
|-------------|-----------------|
| cc: Records | Turner          |
| Chrono      | <del>Fiss</del> |
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