

THURLOW SMOOT

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FEB 27 1968

CIVIL RIGHTS

#34-035-18A

February 26, 1968

Mr. Robert J. Rotatori
District Attorney's Office
Old Federal Building
Public Square
Cleveland, Ohio 44113

Re: United States of America vs. International
Brotherhood of Electrical Workers, Local No.
33, et al.
Case No. C 67-575

Dear Mr. Rotatori:

Enclosed please find copy of Objections to
Interrogatories of Plaintiff which we are filing today
in the above-captioned case.

Very truly yours,

Thurlow Smoot
Thurlow Smoot
Attorney for Defendants

TS:ko

Enc.

cc: Mr. Owen Fiss ✓

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA, by
Ramsey Clark, Attorney General,

Plaintiff,

vs.

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL NO. 38;
ELECTRICAL JOINT APPRENTICESHIP
AND TRAINING COMMITTEE,

Defendant.

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067-575
OBJECTIONS TO INTERROGATORIES
OF PLAINTIFF

Defendants object to the interrogatories for the reason
that they submit them to annoyance, expense and oppression for
the following reasons:

This is the second set of interrogatories filed by
plaintiff. The first required a 20-page, single-spaced typed
answer, and there has been no allegation that the answer to the
interrogatories was not complete, full and sufficient.

These new interrogatories are a sweeping followup to
plaintiff's motion on Rule 34, which was granted on January 12,
1968 and modified on January 25, 1968. The Rule 34 motion of
plaintiff requested matters in 10 broad categories. For instance,
their first request was:

"(1) All documents, correspondence, memoranda, papers
and records concerning applications for admission to
the apprenticeship programs since January 1, 1957
and the action taken on those applications."

The Court ruled that (1) should cover only "applications for admission to the apprenticeship program since January 1, 1957." Then on supplemental motion of plaintiff's, the Court expanded its ruling to encompass "the file folders pertaining to applications for admission." Defendants, of course, complied with the Court's ruling, but now in the Attorney General's interrogatories, he is asking in this category as follows:

"(1) Do the defendants have any documents, correspondence, memoranda, papers or records other than the applications for admission, dues cards, applications for referral and the minute books made available pursuant to the Rule 34 motion granted on January 12, 1968, which would indicate the procedure or method by which some or all of the current members of Local 38 obtained admission? If so, identify such documents, correspondence, memoranda, papers, or records."

Thus, the plaintiff Attorney General is trying to circumvent the Court's ruling and reinstate the portions of its Rule 34 motion which were not granted by the Court.

This is true of each other request in these interrogatories, every single one being a repetition of what was requested in the same categories in plaintiff's Rule 34 motion.

For these reasons the defendants believe these objections should be sustained.

The Court has wide discretion in determining whether the plaintiff is entitled to have interrogatories answered, Simonin's Sons vs. American Can Company, 30 F. Supp. 901, and heed must be given to the particular nature of the action and the rule must be applied with discretion, U. S. vs. Matles, 19 F.R.D. 319. Therefore, since it is obvious that plaintiff's requests are simply to put them in a position to file another Rule 34 motion, it is important to look to cases under Rule 34.

In Flickinger vs. Aetna Casualty & Assurance, 37 F.R.D. 533, (D.C. Pa., 1965), the Court refused production of "documents and things for inspection, copying and photographing" when the Court determined they were "merely to serve the convenience of counsel or as reassurance that counsel has overlooked nothing."

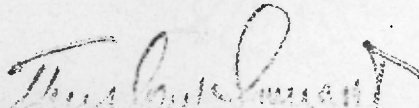
In Carpenter-Trant Drilling Company vs. Magnolia Petroleum Corp., 23 F.R.D. 257 (1959), the Court ruled that production of documents will not be ordered merely to help counsel to interrogate witnesses and make sure he has overlooked nothing.

In Stonybrook Tenant Association, Inc. vs. Albert, 29 F.R.D. 165 (D.C. Conn. 1961), the Court held that the matters of discovery are complementary rather than alternative or exclusive; a party may take both depositions and interrogatories, as long as he is not attempting to circumvent a Court ruling or to harass or oppress an adverse party.

It is clear that this set of plaintiff's interrogatories is just a coverall to accomplish two objectives: (1) To circumvent the Court's ruling on the Rule 34 motion, and (2) to make sure counsel has overlooked nothing.

Therefore, defendants request that these objections be sustained.

Respectfully submitted,



THURLOW SMOOT
Attorney For Defendants
2141 - 55 Public Square
Cleveland, Ohio 44113
781-1930

S E R V I C E

The within Objections to Interrogatories of Plaintiff
was served upon Robert Rotatori, Federal District Attorney,
Federal Post Office Building, Cleveland, Ohio, by mail on this
5th day of February, 1968.

Kathryn M. Druska

Law Offices
of
Thurlow Smoot