

K = Kaplan, Δ  
counsel in  
Bernstein

Δ - Tom Lawler  
π - Jeff [Beff] Gitner  
Wadden  
Bourdette

Synanon

8/15 hrg.

∫ first matter: Δ's motion to produce  
3 summary args

π & summarized: Δ's trying to reopen discovery

∫ ought to hear Δ first; its motion  
later from Brennan; don't know what Sup. Ct. matter  
is about

Δ after 5/5 filing, tried to find wits for tr.  
then found 3 affiants w/ "extraord." story  
needed to get immunity; went to Robinson since CRR  
was away

seeking docs hidden, concealed, +/or destroyed

∫ what docs

Δ proposed order: "real" minutes

think table topic summaries (p. 16)

(eg, Morante attack - CD & Marines memo)

(Vol. II of exhibits - want more) <sup>if still in</sup> existence

Synanon started to transport docs, <sup>tapes</sup> out of Ca. after  
raid by state auth's

violence, \$ siphoning, harassing "enemies", etc.

Simon - Syn. archivist - in charge of getting rid of  
tapes in St. of Time, ABC, & other lit. Went  
to Fleishman to get help destroying/hiding sensitive  
areas.

docs, <sup>tapes</sup> destroyed because they were being sought in  
other lit.

New Releg. Posture speech; make own rules for lit. / hrs  
listen to tape

Fleishman's involvement: partic. in destruc. + admissions  
from Simon

∫ accusing Bourdette of perjury

Δ Bourdette conferred w/ Simon re testimony

K = Kaplan, Δ | A - Tom Lawler

declarations show evid. hidden & destroyed  
show activities inconsistent w/ tax-exempt status  
affirm. evid. of Syn's wrongdoing now; these litigants  
shouldn't be prejudiced as others have been  
believe Δ's doc. stands before ct. unopposed: destruction  
of evid. should lead to dismissal of π's suit

Phil Ritter incident revealed for 1<sup>st</sup> time; opposition  
to Syn. partially based on forced vasectomies;  
child custody dispute. Put on "hit list."

Syn. hit-men confessed to affiant's

phone calls re hits from Europe - Ø tapped. Decided  
Ø to pursue attack in that manner (\$10K).

CD came back & complained @ nothing being  
done; wanted action

2d game - another attack on Morantz ordered  
Ø a ~~tax~~ tax-exempt org; subsidized since '60.

g FY's before ct: '76 & '77

Δ activities above occurred in those yrs.

π's response doesn't address alleg's of ~~the~~ declarations -  
knows they're true

g what's Sup. Ct. action about?

Δ CD ~~came~~ came to DC when he fled Ca; bought  
Boston House from Bernstein + others

CD + lyp. assaulted a Post reporter; arrest warrant out  
fled to Europe

Syn. members left Boston house & sued Bernstein  
over alleged misreps re sale

Kaplan, Δ's counsel in that case, is here for  
convenience

Braman ordered Boardette's deposition, Boardette's wife,  
Jorkin, Benjamin - 5<sup>th</sup> A taken

[order tendered]

J 7/31 letter + another: representation in Bernstein case

Δ w/ Fleishman's declaration & unresponsive reply:

Δ out to Δ opposition to Δ's motion

J respond to 3 arguments in Syn. memo

Conclusion + fallback

Δ OK, orally or written

π plus arg. re motion to reopen discovery

Δ ① reopen formal discovery

Tried & failed by other litigants - it doesn't work w/ Syn.

J why do you need doc's now that you've got declarations - unopposed as you say?

Δ if it. arg. re unopposed - dismiss interests of justice / its supervisory powers: info. ought to be disclosed in any case

J didn't Syn. win other cases

Δ settled

J favorably to Syn?

Δ Δ; settled

Time got subst. atty's fees

J cross-feet. w/ crim. invest?

Δ Δ; alleg.'s frivolous

[all 3 at lecture - Th, JG<sup>itner</sup>, + Walden]

#

JG DC bar; Δ Syn. member but rep'ing them for some time

J any doc's you know about <sup>in your possession/custody/control</sup> which he has referred to this morning?

JG no, except Think Table topic summaries already provided; Th never responded to ① what do you want? & ② why do you want it

W same answer

believe govt has minutes

Δ ∅; nothing produced in this list.

got copies of what was produced in ABC list.

∫ anything w/in scope of Δ's request in your  
possession/custody/control.

[located order; read through]

#1

∫ produced all minutes (#1)

#2 hard to answer - already produced

#3 - "yes"

tapes taken out of state - ~~to make~~ copies first, ∅  
hidden. Protecting from distortion.

∫ #4?

π ∅ in p/c/c @ this time

∫ know where?

π in '79 ABC list.

logs developed for ABC purposes

Syn. tapes almost everything; logs for responding to  
ABC production requests

"game", in '58: opp. encounter

tapes recycled; chance something great would come  
out of game; if ∅, tape would be reused

→ ∅ tapes in response to #4; destruction part  
of normal course of bus.

∅ "Great Conversation" - inquired + can ~~the~~ rep. to  
it.

∫ #5?

π assured truth of BF's affidavit; have nothing  
that was destroyed

do have sensitive subject lists + logs (interpreting)

∫ if you have them, why ∅ give them?

π don't use that name - & Syn. label  
believe priv'd as atty work product

∫ lists as well as logs

π could make avail., but assert priv. stemming  
from ABC lit.  
[Gibson + Bourdette confer]

W on scope - OK

JG unable to respond - & sure what's being requested  
& & search yet

∫ #6?

JG being placed @ disadvantage - requests & particular  
enough

∫ "p/c/c" & so hard to answer  
your clients p/c/c

π don't understand #6 - "all ... similar"  
don't know

∫ #7 - specific enough

π as far as we know, doesn't exist  
can't tell, w/o search

B over 3,000 in archives

only can rep. to it. after search

∫ imp. alleg.; pertains to previous lit.

B tape never req'd before

#8: same answer & & relevant to this lawsuit -  
beyond FY

Δ consp. to attack Morantz & PR began during FY,  
though attack later

∫ & "consp" charge here

Δ Bob Jones

believe tape would be w/in FY

~~π attack in 10~~

JG & response to whether Syn. involved in attacks on

PR & Krantz

what's going to happen - Brauman's going to allow  
Fleishman's deposition

[to W:] mand. sanctions for discovery abuses  
if you've got these things - produce

sure they're relevant  
expect you to find out whether/where they exist  
ought to be an "open file" <sup>policy</sup> on both sides  
cross-s/5 motions pending; nice to resolve that  
way, but lots of disputed facts

going to have huge parade of wits re what  
"religion" is

Abington ant. re FRE 609 <sup>[Id.]</sup> its power to control  
examine of wits - eg, written direct ~~examination~~ <sup>testimony</sup>

5-10 wits on each side; decision on merits; proposed  
f & c's

maybe w/tension here, stip's less likely to work

[necess]

W got into case on night of 7/11, just after Δ's ~~motion~~  
motion to produce/dismiss

serious alleg's re Sup. & member of bar

1<sup>st</sup> p. - serious alleg's; "subpoenaed"

p. 4 - destruc. of evd. subpoenaed ~~to~~ for this case?

everything BF testifies to was allegedly destroyed before  
this case was filed ('80)

USO produced discovery plan - 12/82

p. 3 - req. discovery stay (Aug 31<sup>st</sup>/76 - Aug 31<sup>st</sup>/78)

nothing req'd in this case, ever

1/19 - protective order, @ gov't's request: stay on discovery

3/83 memo opin. on limiting FY's - govt's position prevailed

J give them what you've got, relevant to yrs. in Q may be relev., per hauler, if part of consp. even if things happened later

haven't been able to go through boxes of exhibits yet; if controverted, let's forget S/J's + get on w/it

W w/o saying govt has it. to anything, will go through doc's/tapes to see if there's responsive material

will do my best; lots of info. doesn't exist, for good reasons

afraid Th will come back w/req's for doc's that don't exist, relying on BF

& explanation nec. for doc's destroyed prior to this case

J w/in dt discretion to treat A's motion as <sup>request for</sup> exception to discovery stay

destruc. may bear on Q of legit. "religion"

W hard to understand govt's "cross-fertilization" arg. Goodwin of oin. division participated in interviews;

g.j. subpoena to BF - info. + belief

A & cross-fert. ; can't speak to what else DOJ is doing. Discovery sought is for proper civil tax purposes.

J so you're going to coop. on order + its 7 pointed attack on Goodwin ~~is~~ inappropriate

let them have Sept. '78 item in #8 - bench tr.; obviously relevant so give voluntarily

π 30 days?

J 15 days involved in prior lit.

J anything to add - put in writing  
A prob. since certain doc's were destroyed  
suggest "mini-tr," as it mentioned earlier

J worried about extended tr.  
X US could show in 75 hrs. <sup>that</sup> during IRS audit  
doc's were destroyed which were relevant to  
audit

relying on Bob Jones, § R. 12(b) - against public  
policy

want to go ahead w/ evidentiary hrg. to show  
destruction + violence

possible to dispose of case on merits in 5 hrs.

J talk to T's

know Bob Jones decision

A similar issue in Bernstein

5<sup>th</sup> A taken in Bernstein deposition

most expeditious: 1-day hrg.

W don't ag w/a ~~word~~ word T said  
destruction before this case, so this d. can't sanction

J § - he's saying destruction invokes Bob Jones rule

Kaplan - A counsel in Bernstein

R countercl. for fraud by Bern. v. Syn.

Mr. Seigel, then pres. of Syn., told Bern. that  
Syn. was non-vident. Bern. relied + sold

bdg., allowing Syn. to move in before settlement.

Neighbors got upset; got zoning changed, etc.

Syn. alleged fraud: insuff. floor support.

2 principle issues ID in both cases:

① Syn. non-vident?

② Syn. non-profit, as req'd by zoning?

spring '80: discovery req. for tapes  
response: tiny % of tapes avail.

Simon denied all charges of hiding, destroying, etc.

Now, first evid. Simon lied in BF's affidavit.

Period of Bernstein, ABC, & Morantz discovery -  
all concerned w/ violence.

Q what happened to abstracts?

K BF doesn't say

one of the things ~~is~~ govt, & J, am seeking  
sometimes, switch to innocuous label

have motion to dismiss before judge Braman

auth'd to take <sup>5</sup> depositions of people named in

BF's aff. Scheduled in Ca. last Wed.,

but 2 days before, JG telephoned that

all would take the 5<sup>th</sup> A.

Braman ordered Beurdette to file an aff. responding

to BF's aff. - 5<sup>th</sup> A. + a substantive response

left w/ only BF's aff.; Braman admits ~~there~~

seriousness of alleg's but reluctant to proceed

to dismissal w/o ① cross, + ② knowledge

of this ct's action

can't depose: ① can't find BF

② reluct. to testify in Bern. w/o

immunity (use imm. in our case)

∴ respectfully req. early evidentiary hrg., so

testimony could be used in Bern.

Q writer interrog's?

K immunity prob. remains

Q better document 5<sup>th</sup> A assertions, & rely on

w/ its lgs representation

K severe time limits - Sept. to date

JG want to take BF's deposition

∅ adverse inference from 5<sup>th</sup> A; belief in current g.j. proceedings. Their counsel's advice; ∅ w/ Syn's interests in expediting lit.

W Syn + Kaplan asked for BF's deposition in Bernstein

TK BF a Syn. member + is afraid

JG BF ∅ in protective custody know she's in Tucson

TK BF's testimony taken in an Ariz. crim. action " lives w/ guard dogs; late night phone calls, etc. Since cred. is likely to be an issue, rather have BF come here for deposition or appearance @ extraordinary hrg.

W BF is living an ord. life in Tucson

∅ why ∅ let someone else bring BF here @ their expense?

order -  
deposi

① dep. here in Jan. 11

② video/audio tape

③ rest ok? - Thurs. 25<sup>th</sup> its. Fleishman shall be prepared

Wright

①  
modify  
per  
hrg.

Upon consid., of motion to vacate & by  
virtue of counsel's ~~ag.~~ in response to  
to  
It's oral order, produce by Aug. 30

& will this day of  
order that It's abide by its repres. &  
promises to It to provide docs specified,  
& items subject of this It's order dated  
& make them avail to quit. by Aug. 30.

~~and it is further ordered if delay  
results in delay in completion of Fleishman  
dep. scheduled to begin in this Ct. on Aug  
25 then & in that event dep. will be con-  
tinued at commencement of Ct. so as to  
interfere w/ its commitments to other litigants.~~

②

It is further ordered that the ~~deposition of~~ deposition of Botte  
Fleishman ~~is~~ go forward <sup>as scheduled on Thurs, Aug 25, 1985,</sup> if it can't be  
completed on that date due to lack of docs

③

should further delay or give rise to need of  
further deposition of Ms. Fleishman, same shall  
be continued to day consistent w/ its oblig.  
to p's herein, Ms. Fleishman, & other litigants  
before this Ct.

④

Motion to vacate becomes moot