

*Binder
central states
pension fund*

Office of the Assistant Attorney General

Washington, D.C. 20530

July 6, 1982

MEMORANDUM

TO: William French Smith
Attorney General

FROM: J. Paul McGrath
Assistant Attorney General
Civil Division

SUBJECT: Raymond J. Donovan v. The Estate of Frank
Fitzsimmons, USDC, ND Illinois, Civil Action
No. 78-C-342 ("Central States" Case)

After your telephone call of Friday morning on the subject of a possible settlement of this case, I spoke on the telephone with Labor General Counsel, Tim Ryan. Earlier last week he had met with counsel for the pension fund to discuss the possibilities of settlement. Ryan had told them that no settlement of the case would be possible without a very substantial payment by the individual defendants (*i.e.*, the former trustees). Counsel for the pension fund indicated that, under those circumstances, no settlement would be possible. Thus, a settlement of the damage claims in the case appears to be a closed subject for the foreseeable future.

In the course of my discussion about this case with Ryan and some of his people, it became clear that they are puzzled about what trial strategies they should follow. In particular, they face very difficult questions about what claims to present at trial and about how to structure a proposal to the court that would enhance their chances of an early trial date. They are beginning to recognize that unless they can push the case to trial in the relatively near future, it will become more difficult to prove their case and to obtain recovery from the defendants. Labor's problem is compounded by the fact that, as is all too common in protracted government litigation, they are now on their third set of trial counsel.

Ryan has asked me to consult with him on possible trial strategies, and I told him that I would. I think that such consultation is important, because Labor will never get effective relief against the defendants unless the case is effectively packaged for trial.

I will keep you informed on this, as you requested.