

# CUNNINGHAM DARLOW LLP

ATTORNEYS AT LAW

October 5, 2009

Douglas L. Keene, PhD  
Keene Trial Consulting  
3930 Balcones Drive  
Austin, Texas 78731

Dear Doug:

Almost ten years ago, I wrote to thank you for your support in our engagement as lead trial counsel for Anna Nicole Smith in the case involving the Marshall Estate. The Marshall case was unique from many perspectives, including its complexity, the extraordinary length of the trial, the celebrity and constant press coverage and the intense emotions expressed every day by the parties. Your boundless efforts during the jury selection process, the preparation and evaluation of the questionnaires, and the development and execution of voir dire strategies all were immensely helpful in that most challenging case.

Since then, of course, we have worked together on a number of interesting cases. One for Duke Energy concerned a chain of contracts pursuant to which Duke purchased and imported liquefied natural gas from Algeria and distributed it to electric generating plants in Florida. The amazing complexity of the contract issues and the long and intricate factual history made it, I thought, very likely impossible for a jury to sit through and comprehend. Your terrific insightfulness and perceptions of what makes sense were indispensable ingredients in a very successful outing for us. In that and many other cases, your efforts have, time and again, contributed significantly to successful results. It is a part of our trial process that we cannot do without. And our clients are unanimously pleased with your work and grateful that you are part of the team.

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Your cooperative, contributory approach and your truly outstanding interpersonal skills give our jury research an important extra dimension I have not experienced with other consultants. There are many jury research practitioners around, and I have worked with several who are very good. I always think of you first because you have always put us first and because I can count on an excellent effort and a very good result.

Thanks for your many years of collaboration and friendship.

Very truly yours,

A handwritten signature in cursive script that reads "Jim Alan Cunningham". The signature is written in black ink and is centered below the typed name.