

February 5, 1974

Mr. David Swank
Professor of Law
The University of Oklahoma
630 Parrington Oval
Norman, Oklahoma 73069

Dear Mr. Swank:

I am remiss in not having answered previously your letter of June 21, concerning the Noerr vs. Sitkin Company case, involving the poisoning of cattle by lead. The facts in this case were investigated fairly thoroughly in establishing the following facts:

1. That cattle belonging to Mr. and Mrs. Noerr had been poisoned by lead.
2. That the source of the lead resided in the heavy contamination of forage on the Noerr farm from a nearby smelter (improperly designed and equipped to protect against the escape into the air of stack effluents from the smelter).

A considerable amount of investigation established these facts beyond any reasonable doubt and eventually (after a wholly unnecessary lapse of time) a verdict was rendered in favor of the Noerr's and damages were assessed against the Sitkin Company.

I can cite the legal man who handled the case. He was Mr. Albert Hauck whose address is 5 W. Market Street, Lewistown, Pennsylvania 17044. The evidence in this instance was not as comprehensive in certain respects as it might have been, but it was, in my opinion, sufficient to substantiate the facts in this suit. Much more comprehensive data might have been, but it was, in my opinion, sufficient to substantiate the facts in this suit. Much more comprehensive data might have been obtained by earlier and more extensive investigation, and in a more skeptical situation in a different court might well have been required to secure a positive verdict and more elaborate costs, but in this instance, I believe, that the verdict was just and the costs were reasonably assessed.

It so happens that I cannot travel at present because of an illness (a cerebral hemorrhage some months ago), and I simply cannot accept the responsibility for the collection of evidence and the demonstration of the facts obtaining in your case. It might be that one of the other members of the staff of this Laboratory would carry out the necessary investigation. It is very doubtful, I think, as to whether Mr. Houck would undertake the legal work.

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I wish to apologize for this long delay in my reply, but my recovery from my episode of illness has been somewhat delayed, and I'm afraid that I've been less than enthusiastic in returning to the activities that characterized my previous behavior in matters of this type. I trust that in so doing, I have not been responsible for too long a delay in your efforts to represent your client or clients. Another investigator could have attended to this problem.

Cordially yours,

Robert A. Kehoe, M.D.
Professor Emeritus of
Occupational Medicine

RAK:wb