

ETHYL GASOLINE CORPORATION

25 BROADWAY

NEW YORK June 3, 1929.

INTER-OFFICE
CORRESPONDENCE

[REDACTED] vs. Standard Oil Co.
[REDACTED] vs. Standard Oil Co.
[REDACTED] vs. Standard Oil Co.

Dr. Robert A. Kehoe,

Dear Dr. Kehoe:

Mr. Stryker sent a letter on May 22 to Mr. Johnson of the Legal Department of the Standard of New Jersey outlining the points at issue--bearing upon alleged negligence--in above cases, so that he might send a copy to Mr. Kettering and Mr. Midgley.

Thought you might be interested, and accordingly send a copy herewith.

Very truly yours,

Crowell

A:H

KE 0017051

May 22, 1929.

JENKINS V. STANDARD OIL CO.
FLORIO V. STANDARD OIL CO.
RETTINO V. STANDARD OIL CO.

Edward F. Johnson, Esq.,
Counsel, Standard Oil Co.,
26 Broadway,
New York City.

Dear Mr. Johnson:

I have your letter of the 21st instant and have read the letters addressed to Mr. Webb by Mr. Kettering and Mr. Midgley.

The Plaintiffs in the above cases claim that they were injured by exposure to tetra ethyl lead, the exposure being as follows:

1. They were engaged in installing an air drill and connecting it with the pump at the tank car loading rack at the Bayway plant of the Standard Oil Co. This loading rack consists of a cement platform which is roofed over with planking. On one side of the platform was the outer wall of a brick building, the other three sides were surrounded with a woven wire fence. The gates were kept locked at all times except when the mixing apparatus was in use. It was necessary for two of the plaintiffs to go inside the enclosure for the work of fastening the air drill to the planking and for the work of connecting it with the pump. Before they went inside the platform and all of the equipment was carefully washed with water. There was no tetra ethyl lead at the tank car loading rack while this operation was going on except in sealed drums. The pump had, however, previously been used to pump tetraethyl lead, the pumping having been done by hand. The men were not required to touch any material that had any connection with the pump other than the pump handle, which was replaced by a steel one. The total time spent inside the enclosure did not exceed from 12 to 14 hours, probably much less. It is possible that one of the

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plaintiffs may have made adjustments of the connection between the air drill and the pump on four or five different occasions, but if so, he was not admitted to the enclosure until all of the equipment had been washed with water and he was not required to touch the pump.

2. Two of the plaintiffs installed a recirculating pump at the tank wagon loading rack. This was a new pump and, as I understand it, none of the equipment had been used in connection with tetra ethyl lead at the time it was installed. No connection was made with any gasoline pipe line at the time this pump was installed. After the pump had been in operation about a week it was necessary to make an adjustment on the flexible coupling and this was done by one of the plaintiffs. This adjustment was necessary because the pump was out of line with the motor and it was necessary to realign it. The part of the machine in need of adjustment did not come in contact with gasoline when the pump was in operation. It is also probable that two rings of packing were taken out of the pump after it had been in operation, as it was packed too tight. This recirculating pump pumps gasoline containing from .2 to 1.6 cc. cm. tetra ethyl lead per gallon.

3. The plaintiffs took an old shaft, gears and clutches from the reclamation department, which was an open yard, cleaned the rust off of them and installed them in the fuel oil treating department. The shaft, gears and clutches had formerly been used in the tetra ethyl lead plant before the plant was dismantled. However, the building and all of the equipment had been chlorinated, the building being first substantially sealed. After the chlorine treatment which lasted for over 24 hours the building and equipment was thoroughly washed down with water. After the lapse of another period of 24 hours any dust or dirt about the plant was sprinkled with chloride of lime. The shaft, gears and clutches were taken from the tetra ethyl lead plant and removed

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to the reclamation department, where they remained for nearly a year exposed to rain and snow before the plaintiffs came in contact with them.

We wish to show

(a) that the plaintiffs could not possibly have been poisoned with tetra ethyl lead as a result of the alleged exposure above mentioned, and

(b) that the defendant did not know and could not have known that the work which the plaintiffs did, as above stated, involved any hazard of tetra ethyl lead poisoning.

This defense is based upon the principle of law that where an employee sues an employer in a common law action for injuries sustained by the employee, the employer is not liable unless the injuries were occasioned by its negligence.

The gist of the plaintiffs' action is that the Standard Oil Company knew that tetra ethyl lead was a dangerous poison and that it did not warn the plaintiffs or take means to protect them from poisoning. While we concede that the Company knew that tetra ethyl lead was a dangerous poison, we deny that the Company knew, or should have known, that the work done by the plaintiffs, as above stated, involved any hazard. We wish to show that it is generally recognized by persons familiar with tetra ethyl lead that such work involved no hazard, and that this view is based on experience in its use as well as upon a scientific knowledge of its character.

In view of the experience with tetra ethyl lead which Mr. Kettering and Mr. Midgley have had and their knowledge of its characteristics, it is my opinion that they can help us on both of these points and this is the reason why I asked Mr. Webb to arrange for their attendance at the trial.

Edw. F. Johnson, Esq.

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I am sending you two extra copies of this letter so that if you wish you can send them to Mr. Kettering and Mr. Midgley, or else ask Mr. Webb to do so. I, of course, do not wish to take their time unless they can assist us.

In view of the fact that the trial has been fixed for the 17th of June, it will not interfere with Mr. Midgley's attendance at the Indianapolis races.

Very truly yours,

JS/JH

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