

Birmingham, Ala.

3/14/38

MCH

C&E

MCH

Mr. R. E. Smith, Louisville, Ky.

JJH

Claim - [REDACTED]

Warrior, Alabama

Following Mr. Middleton's letter 9th. I have contacted attorney Geo. Rogers in this matter and much to my surprise he has completely reversed himself, stating that he had talked with attorney J. K. Taylor, Birmingham, (Mr. Taylor is one of our high pressure plaintiff attorneys here) and that he thinks this claim is worth \$15,000.00, but he believed he could get his client to accept \$6,000.00. I informed attorney Rogers we were not interested at any such figure. I don't believe he will now take less than \$5,000.00 and that he will associate attorney Taylor with him, first, for his high pressure ability and, second, to keep on the good side of agent W. C. Barnett, Warrior, whom Mr. Rogers represents on retainers fee.

On the surface this case looks dangerous, but when we consider the facts this dont look so bad.

First - This man is suffering from paralysis. Both Dr. Martin, Warrior, and Drs. Lineberry and Ward, Birmingham, concur this was caused by chronic lead poisoning and base their conclusions on the history as given them by Mr. [REDACTED] that he drank water which contained Ethyl Gasoline or gasoline which contained Tetra Ethyl Lead. Dr. Kehoe in his letter to Mr. Smith, says lead could not be the responsible agent for Mr. [REDACTED] illness. He also doubts very much that Mr. Florence's illness was due to the ingestion of gasoline.

Second - This leaky tank was replaced May 4th, 1937, and the leak was a small one at the return line on the top of the tank. Even though this contaminated the well, Mr. [REDACTED] was not taken ill until July, more than two months later. Dr. Martin says he had a gastric ulcer and his condition become worse, developed pains in the shoulder resulting in partial paralysis. Dr. Lineberry says, on September 6th when he saw Mr. Florence he complained that for three or four years he had been troubled with his stomach and about August 1, 1937 (three months after the leak in the tank) he vomited blood etc. Then he x-rayed on September 7, 1937 and Dr. Lineberry has stated to the writer the blood tract and urine showed no signs of lead. Then when Mr. [REDACTED] returned November 29, 1937 (probably after he had conferred with attorney Rogers) he gave the Doctors the tale of drinking water with Ethyl Gasoline in it, and he discontinued drinking the water from the well after the hemorrhage.

This man [REDACTED] has been a heavy drinker and a lot of stomach trouble can be caused by excess, and I think the time element, May until July or August, certainly would have some weight

with a jury and on the other hand a jury certainly is going to doubt that a man of average intelligence would drink enough water contaminated with gasoline to cause this trouble.

I have consulted our attorneys (Mr. Shellburne) in connection with this case and they do not recommend settling at anything like the figure mentioned by attorney Rogers and we concur with them.

Attorney Rogers is still agreeable to our having Mr. [REDACTED] examined and I believe if you would let Dr. Kehoe come to Birmingham and associate a local Doctor of his selection with him, also talk to Drs. Lineberry, Ward and Martin about this case we can get this in shape to defend and win or settle at a nominal sum. Our attorneys (Shellburne) has done a lot of work on poison food cases in our local courts and has handled these cases with much success and certainly this case is very similar.

We do not recommend settling on the basis of Mr. Rogers figure and since he has talked with Attorney Taylor he is very unreasonable, therefore, we will be sued and we might as well start building our case for defense and I do not think we should delay this. I can make an appointment to suit Dr. Kehoe's convenience if you will have him advise us when he would be available.

After reviewing the above please advise your wishes.

cc: Mr. Chas. G. Middleton, General Counsel.

Birmingham, Ala.

5/14/38

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Mr. W. E. Smith, Louisville, Ky.

JFH

Claim -  Warrior

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