

April 25, 1936

Mr. Otto M. Hamer
Attorney at Law
Suite 1503
60 West Washington Street
Chicago, Illinois

Dear Mr. Hamer:

Having received your letter of April 17th and the record of the illness of one [REDACTED] I spent some time going over the case in an attempt to arrive at definite conclusions. The general opinion I have arrived at is as follows: The claimant has had a rather serious illness involving his central nervous system and of a type which does not lend itself to a ready diagnosis. From the record one may conclude that the men who examined him and studied his case were competent in their field and yet their conclusions were arrived at without certainty on their part. (There was apparently some disagreement among them as to the nature of the illness and as to the cause of it.) This would appear to be entirely justifiable in as much as this rather unusual type of nervous system illness was of unknown origin. (There are at least five or six possible diagnoses. Any one of the five or six is but poorly understood and with the exception of polio-myelitis which is a virus disease, the causative agent is a matter of doubt. I do not believe from the clinical picture that lead or any other chemical factor was responsible for the man's illness. It is much more likely that his disease was of infectious origin. On the other hand it would be difficult, if not impossible, to prove or disprove this point of view. However we must conclude, in the face of an unusual case, that if it were to be attributed to lead absorption, positive proof of significant lead exposure would have to be obtained. Otherwise lead intoxication could not be regarded as a sound diagnosis.

In relation to the question of exposure, the defendant will be required to present evidence that there was no significant exposure. There is a considerable bulk of evidence to indicate that lead intoxication of this severity would be practically impossible under the conditions described. As a matter of fact, we have no record of any case of lead poisoning in association with contact with leaded gasoline, and there is also good evidence that no lead absorption occurs in the case of persons who have daily and regular contact both with the gasoline and with the exhaust gases of motors which

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burn such gasoline. It would then be up to the claimant to establish adequate proof that his was an unusual case, that he had an unusual exposure and that he did actually absorb significant quantities of lead. On the basis of the record itself, this can not be proven, since lead analyses fail to show any evidence of abnormal lead absorption.

Despite the above facts this case is apt to be a difficult one. The claimant will appear in court with a diagnosis of lead intoxication substantiated apparently by reputable physicians. It will be difficult, if not impossible, to prove the exact nature of his illness and therefore it will be difficult to disprove the possibility of lead as a factor. Moreover it is necessary for me to point out that if the character of this claim is as general as such claims frequently are, then the claimant might hold that he had been exposed to both gasoline fumes and to exhaust gases, (containing carbon monoxide) as well as to lead, and that the combined effect of these or the effect of any one of them was responsible for his illness. Therefore it would seem to be necessary for the Packard people to be able to show by suitable evidence that there was no fault in the car which permitted an unusual exposure to these materials. Otherwise I feel quite certain that in the failure of expert medical testimony to prove that this man's illness was not due to something in his exposure, it may be assumed by a jury that his exposure had something to do with it. The mere fact that the man was apparently well before the exposure and that he was ill afterward, might be regarded by the man on the street as evidence of injury from the exposure. Under these circumstances I feel that it would be necessary to set up the strongest possible case against the claim in order to make any impression upon it. I suggest, therefore, that it would be greatly to your advantage to come to Cincinnati and to discuss the details of this case with me in such a way that I can perhaps be of some assistance to you in developing the type of further information which is necessary and in presenting for your consideration the information which we have of an experimental and clinical type on the subject of lead exposure in connection with leaded gasoline. There is such an amount of data that I could not present it to you in any other form than in a series of published technical articles which it would take you some days or perhaps weeks to study. I am sure I can shorten the period of study which you would have to spend by discussing with you the essential points which have a bearing on this case. I trust you will find it possible to carry out this suggestion, and if you can, I suggest that you let me know twenty-four hours or forty-eight hours in advance of your intended visit so that I shall not

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engaged elsewhere.

At your request I am returning the
copy of the hospital record.

Very truly yours,

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Robert A. Kehoe, M.D.

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