

*new Business  
By Mayor*

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October 15, 1987



Hon. Hubert Brodell  
CITY HALL  
314 West Washington  
Jonesboro, AR 72401

Re: City of Jonesboro,  
et al. v. Crane Company

Dear Mayor Brodell:

Our firm has now completed preparation for the institution of civil litigation against Crane Company for the cleanup of the industrial property on Airport Road. We can review the specifics of the Complaint with you and answer any questions at your convenience.

We plan to file the case in Craighead County Circuit Court and can do so now if you are ready to proceed. It occurs to me that you will want to consider whether to hold a press conference when suit is filed since the case will gain considerable public notoriety. Also since the suit will disclose expenditure of substantial amounts of public funds on the cleanup, a prepared explanation or news release might be appropriate.

The suit, as prepared, will seek damages of roughly a half million dollars which we believe to be adequate to cover all out of pocket costs and the investment of city money and labor, equipment and services necessary to complete the work. We are not including a punitive damage claim at this time since discovery in the legal proceeding will be necessary in order to evaluate whether this would be appropriate. We will reserve the right to amend the Complaint and ask for such excess damages if we can sustain that position.

As you know, we have already expended considerable time and effort on establishing the claim with Crane, handling negotiations and in preparing for the litigation. Our firm is agreeable to representing the City and JIDC in this matter on a contingent fee basis and, since the plaintiffs

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are public bodies, we are agreeable to doing so at a reduced rate from that customarily charged in handling damage cases. Specifically, we propose a graduated fee based on the ultimate recovery which we are able to achieve either by settlement or court judgment. We suggest the following schedule:

<u>Amount</u>	<u>Fee Percentage</u>
Up to \$250,000	20%
\$250,000 to \$350,000	15%
\$350,000 +	10%

In this type of litigation there will certainly be direct costs which have to be sustained in paying the expenses of discovery depositions, travel, filing fees and so forth, and we will ask reimbursement from the City for these documented expenses.

Even though we believe a fair minded jury should return a favorable verdict, there obviously can be no guarantee of any result and these expenses will be a necessary reimbursement without regard to the outcome.

As you know we have been offered \$200,000 to settle and Crane's lawyers merely suggest they are unwilling to discuss more payments unless we first reduce our \$380,000 demand. Once suit is filed, there can be no assurance that Crane will want to negotiate further or otherwise hold their previous offer open and we mention this only because formal litigation does carry inherent risks. Obviously, our preference and hope is that once suit is filed and pretrial preparations proceed, Crane will take a more forthcoming settlement attitude. Yet, suit should only be commenced with the knowledge that the case will, and likely must, proceed to trial and verdict on the merits.

We look forward to commencing the case and to bringing it to a successful result. Please advise if you need any further information from me at this point and give us specific authorization to file the suit.

Very truly yours,

BARRETT, WHEATLEY, SMITH & DEACON

*Tommy Wornack*

Tommy Wornack

TW/bc