



DuPont Legal

6-21

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FACSIMILE TRANSMISSION

DATE: 6/22/2000

TO: John Tinney

FIRM: Spilman Thomas

LOCATION:

FAX No. 304/340-3801

No. of Pages: 6 (including cover)

FROM: JOHN R. BOWMAN
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MESSAGE: TENNANT

Attached is a rough draft of some of my thoughts as to what we need to tell our clients about this case. I welcome your input and suggestions.

cc: B. Reilly
P. Gillis



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EIE012654

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DRAFT

Tennant v. DuPont

The following is a summary of what has recently transpired, our evaluation of where we are, and what we anticipate will happen over the next several months, along with our analysis of the potential pitfalls.

EIE012655

REDACTED

TENNANTS DEPOSITIONS: the depositions of the plaintiffs went well, and we believe we obtained additional evidence that we can use to discredit the Tennants at trial. This information, along with the cattle study and the absence of any real evidence of medical problems, leaves them with a claim for damages from trespass and nuisance (the deprivation of the use and enjoyment of the land).

As we expected, the videos, the DEP draft complaint, the letter to the neighbors about "non-hazardous waste," the exceedances, particularly the chemicals in the creek, all negatively impact this case.

EIE012656

REDACTED

However, the cattle study, Tennant's farming practices and the absence of any reliable medical evidence to support his personal injury claims undermine his credibility with the jury.

EIE012657

REDACTED

Another Achilles heel for us is the issue of water contamination from C-8.

We

learned in the depositions that Earl Tennant uses Lubeck drinking water, and we know that Bilott has requested information from the Lubeck Water Company. If he seeks to exploit this item, he may decide to amend his complaint or file a separate class action complaint in which the Tennants will be the class representatives.

The real danger is what steps Bilott might take to expand the number of plaintiffs and introduce new environmental allegations into this lawsuit and if he does, what will the court allow him to do.

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REDACTED

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REDACT