



The true tale
of a fight
for justice
after an oil
refinery
emission
sickens a
Bay Area
community.

Facing GIANTS

A First-Person Story by Scott Cole

Illustration by Gordon Studer



A CAREER-DEFINING CASE WAS ABOUT TO FALL INTO MY LAP.

It was September of 1994 and I was a young lawyer at 28 years of age. I had graduated from law school just two years earlier and, up to this point, had only handled workplace discrimination cases. That was all about to change. The case was heavily reported by local news channels, and it put the small Contra Costa town of Crockett on the map, forever transformed my role as a lawyer, and opened my eyes to how far big business will sometimes go in the name of profits.

At the beginning of my career I'd represented a man, Ralph, in an employment discrimination suit. We settled it for a nice sum of money, after which he began phoning me over the next year about all sorts of possible lawsuits that I wanted nothing to do with: he wanted to sue the federal government to roll back gun control laws; he had various conspiracy theories worthy of Hollywood films.

That September Ralph called again. I knew him better by now. I knew he lived on a hilltop between Vallejo and Richmond in Crockett, about 30 miles from where I ran my practice. I also knew he lived near refineries, lots of them. I grew up not far from where he lived, an area people then referred to as "Cancer Alley" due to all the disease you'd find there.

When he announced himself on the call, I was reluctant, but his story soon grabbed my attention. One of the refineries Ralph's house overlooked was

operated by the Union Oil Company of California (aka Unocal), a major petroleum refiner in those days. Ralph said Unocal had released a substance at the refinery and it had made his family sick. He and his wife were having trouble breathing, were suffering from nosebleeds and had badly irritated skin. Ralph's dog was sick too and had been scratching so much that fur was coming off in clumps. Apparently, local kids were also having symptoms, itching, becoming nauseated and feeling sick after swimming at the local pool. A neighbor's herd of goats had fallen ill and died. Everyone in Crockett and the nearby town of Rodeo seemed to be affected. But by what?

What prompted Ralph's call was that a town hall meeting had been called a couple of days earlier. But it wasn't about the growing illness in Crockett, it was about Unocal's desire to expand its operations; environmental regulations required such a public hearing. Ralph went on to explain that at this meeting, some managers, scientists and public relations staff from the refinery were in attendance, but their answers to questions about the townspeople's maladies were given little attention.

Ralph told me that it was during this meeting that these families first learned why they might be sick. The leak was no accident. Unocal had permitted a 16-day airborne chemical release despite knowing the risks, and the residue had fallen all over the quaint little towns of Crockett and Rodeo. Ralph explained that it settled into a toxic molasses-like gunk that over those two weeks had blanketed homes, seeped into lawns, even layered a film over the pool at a local high school. During those weeks, neither Unocal nor the county had done anything to stop it. Managers decided to continue operations to meet production schedules rather than shutting down the plant immediately. Six months before the

leak, the company had delayed a routine overhaul of the 180-foot hydrogen processing tower. The overhaul would have turned up evidence of developing problems if it had been done on time. This was a classic story I knew all too well, and I knew I had to do something.

Ralph wanted to sue Unocal, he wanted me to be his lawyer for it, and he knew a lot of people who were interested in suing Unocal too. I started making calls. I called everyone who I thought might know about the release and investigated it thoroughly and, after several twists and turns in that investigation, it became obvious to me we had to sue. This would be a class action, and it would be on behalf of the entire community. The idea was daunting since I had no experience with anything this enormous. I was a second-year lawyer with no money, no safety net and no other resources. But none of that mattered. No one was stepping up to fix this and Ralph was begging me to take on this fight. I told him I would.

Within days of that first conversation, there I was, filing my first class-action at the courthouse. The next day the case, and I, made front page news. I had no support staff but within months I had well over 1,000 clients. Then the politics started: the entrance of dozens of additional lawyers, litigation with other lawyers claiming I was stealing their clients, and having to deal with aggressive competing lawyers. I was in the middle of it all and it was intense — something I could never have imagined just two years earlier.

Over the next four years, I racked up numerous sleepless nights and 18-hour days, but in the end it was worth it. We changed things in Crockett. Unocal left town — forever. Our case taught people they can stand up for themselves and make a huge difference. Some clients lost children. One woman lost her middle-aged husband due to the chemicals he ingested — he fell ill and died from respiratory complications. The stories

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of hardship are everywhere. Back then, I was ill-equipped to handle hearing them. I had no experience dealing with such trauma. I wanted to comfort people but didn't know how.

When the case was over, we saw 12 criminal indictments. Unocal was forced to sell the refinery because it couldn't handle the new rules imposed. A communication policy requiring public transparency about health, environmental, safety and operational issues was established. And Unocal, no matter where it moved, was ordered to use a state-of-the-art chemical monitoring system that flags the chemicals the facility emits. The suit also prompted general safety protocols now used nationwide.

The financial settlement itself was less than what we had hoped for, but the case brought many positive aftereffects: roads and parks were improved and some victims even donated their compensation to local schools and charities. Those who made it through the incident and stayed in the area felt closer to their neighbors.

People ask me why I finally decided to write about this experience. I tell them that after my now 25 years of litigating class actions, I know the importance of calling out bad actors. Things wouldn't have changed without that case. **M**

*This story is chronicled in *Fallout: The Shocking True Story of Suffering, Corporate Greed, and a Young Lawyer's Fight for Justice* (2605 Media LLC, 2018).*