

July 3, 1916.

Hon. B. D. Warfield,  
Dist. Atty., L & N R R Co.,  
Louisville, Kentucky.

Dear Sir:

Receipt is acknowledged of your favor of the 28th ult., in reference to suit in Perry Circuit Court of Arthur Black v. L & N, your file No. 85559. The peculiarities of the plaintiff's petition had been noted in correspondence between Messrs Wootton & Morgan and myself prior to the arrival of your letter. There may be some question, from the standpoint of tactics, whether we want to have the petition revised or not. I do not anticipate that this suit will give us a great deal of trouble. A letter from Mr. Donohue, citing the case of Dana v. Blackburn, 121 Ky. 706, and a letter from Mr. Warren, citing the case of Kaufman v. Peter Burghard Stone Company, 186 S.W. 125, lends strength to the view that plaintiff's claim may be defeated on the plea that plaintiff and the coal hoist engineer, Rowland, were fellow servants. This, of course, upon the idea that the plaintiff will not attempt to proceed under the Federal Employers Liability Act.

Very truly yours,

ELW/a

Counsel.