The Power of One

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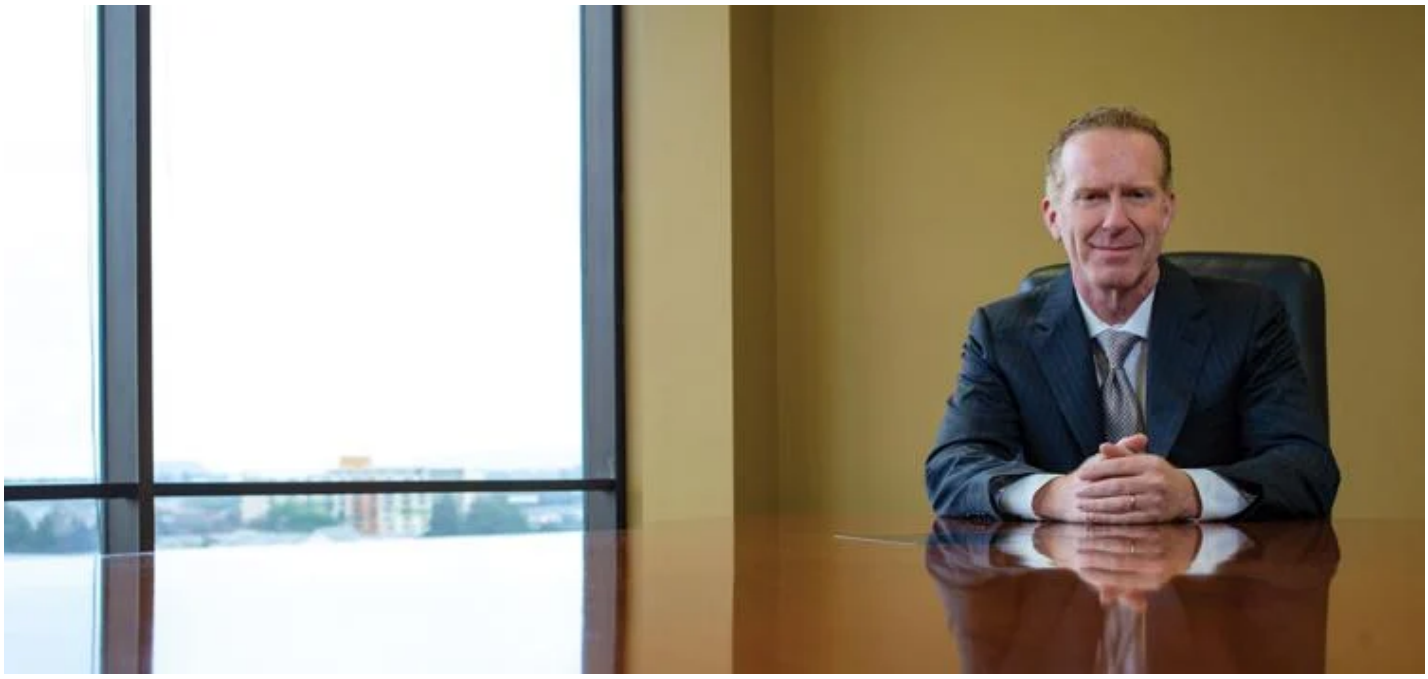

BY PAUL FISHER

Scott Edward Cole knows about working-class towns. He grew up in Richmond, where his father worked for Chevron's local refinery. "I wasn't born poor, but we definitely didn't have much to work with," he says today as the founder and principal attorney of Scott Cole & Associates, based in Oakland, and a father of three with wife, Diana. He is a civil rights, workers' rights, and consumers' rights class action attorney, having filed some 300 class actions both in California and across the country over the course of his career.

Nearly 25 years ago, he was a more or less newly minted attorney who got a phone call that changed everything—for Cole as well as thousands of people living in nearby Rodeo and Crockett in West Contra Costa County, across San Pablo Bay from Marin County. Some 10 miles from his Richmond roots, Cole felt an immediate connection to these communities and their close proximity to another major oil refinery: Unocal. What shocked him was what he heard they had been exposed to over a 16-day period in late August and early September of 1994.

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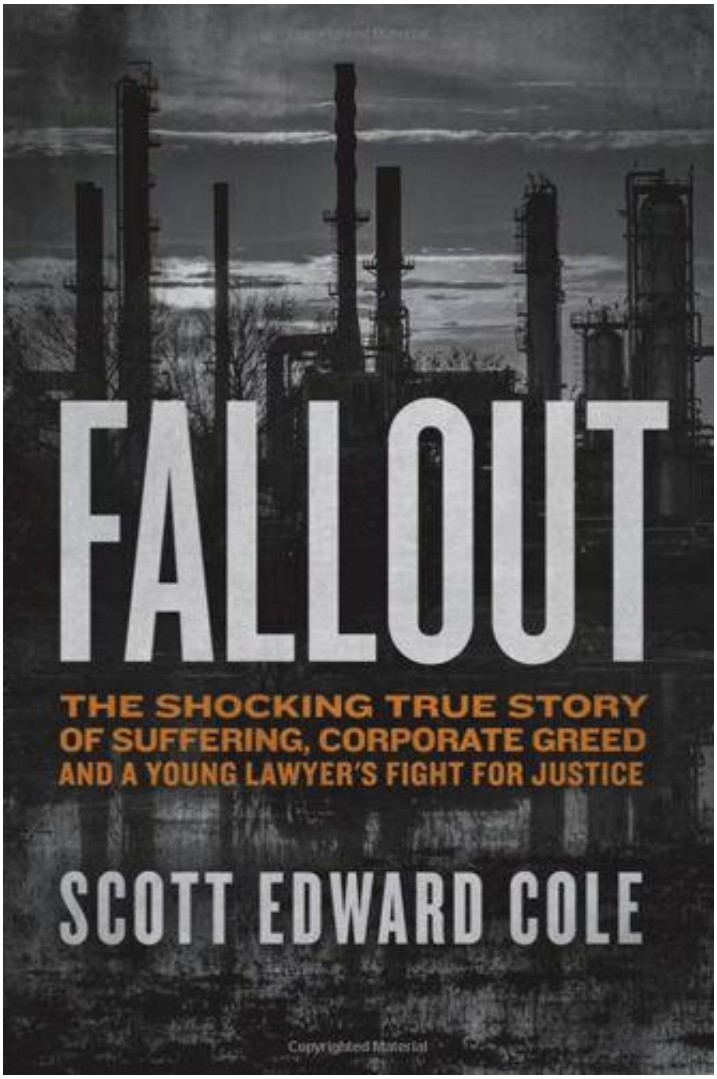
The story, therefore, begins with Ralph, a Crockett resident who phoned with some alarming stories. Many of Ralph's neighbors were sick with a range of symptoms, including sore throats, nausea, headaches, and, as exposure persisted, itchy skin and eyes, vomiting, nosebleeds and debilitating malaise and respiratory ailments. (As time would march on, symptoms would worsen still and in some cases become chronic, even lethal.)



Unbeknownst to these residents, a "toxic soup" had rained down on them for over two weeks straight. The mixture had leant a metallic taste to the air and solidified into "a sticky molasses-looking substance," Cole writes in *Fallout*, his new book about the case, that held fast to homes, cars, and bikes left in yards. It even became an "oily substance" on the clothing, hair, and skin of anyone who spent time outdoors over those days. What's more, Ralph informed Cole, Unocal was offering to wash down their homes and cars—for free. What was really going on here, Cole wondered, and was it intentional? Was it, in fact, criminal?

"I knew in law school that I wanted to get into an area of practice that had wide-reaching implications," Cole recalls. "When Unocal came along, even when I got the first call from Ralph back in September of '94, something about it smelled like it might be big." It would prove to be very big, as that "toxic soup" was actually a Catacarb, hydrogen-purifying solution that contains "such things as vanadium (a heavy metal), borate (also nasty stuff) and diethanolamine (DEA), all commonly known by those in the refining industry to have a distinct profile making them extremely toxic to people," Cole, as a young lawyer diving deeper into Ralph's claims, tells his readers. In the open air, DEA in particular, breaks down into N-DEA, a known carcinogen. Unocal, how-ever, was claiming the substance—which had leaked from a hole near the roof of one of its unicracking towers, "sending an estimated 12 to 43 tons of its source compound (DEA) downwind"—was little more than "soapy water," Cole writes.

Soapy water, however, this was not.

“The theme in Fallout is really about the metamorphosis of this town and people who really didn’t have the power initially to speak out because they didn’t have political clout or the attention of the local industry. They were forced, because their health depended on it, to stand up for themselves. And I was sort of the microphone for that.”

Within the month, Cole had filed his first class action case, eventually representing nearly 1,100 people. This April, he published his first book, which takes readers on an informative, if harrowing, ride through the intricacies of the four-year case (and class actions in general) as well as personal stories of those impacted by the release. “I’ve been told over the years by a lot of people that I should write this book. It’s one of these David and Goliath stories that sells well at cocktail parties,” says Cole, who credits Diana with encouraging him to head out to the coast for a few days to finally start making the book a reality. “I walked around the beaches and went for jogs and talked into my iPhone and started recording what then became the outline for the book,” he explains of his creative process. He also did his research, logging countless hours reviewing thousands upon thousands of pages of material pertaining to the case he once lived and breathed.

“I wanted the book to be centrally about this corporate greed and the effects it has on people,” says Cole, who considers his role in the legal system as one of advocate. “The theme in *Fallout* is really about the metamorphosis of this town and people who really didn’t have the power initially to speak out because they didn’t have political clout or the attention of the local industry. They were forced, because their health depended on it, to stand up for themselves. And I was sort of the microphone for that.”

Cole, a proponent of demystifying class actions, explains that most class actions start with one person, just like Ralph. “One individual can make a huge difference,” Cole says. “I have case after case where one worker, one consumer, one person defrauded came forward and changed the way some huge corporation did business.” And with Unocal, there were changes. The case eventually settled, Unocal was acquired, and in addition to the plaintiff settlement, Unocal also paid the County. Because what Unocal did—and failed to

do in protecting its neighbors—was “absolutely criminal,” Cole says. “There were 12 indictments that came out of it, but I think they got off easy. They had to have known that what they were doing was releasing a chemical that had carcinogenic qualities. They had to have known this could kill people—but did it anyway.” In advocating for and helping to give voice to the collective harmed and united, Cole encountered a benefit he hadn’t expected when he first filed the case. “I realized this was more than just about a lawsuit or about these particular people,” he says. “It was about this relationship between them and the company and them and their community and within their families. There’s a broader social element sometimes to big cases like this.” From those relationships, a Good Neighbor Agreement was put in place, including an early warning system, a health clinic, and emergency response training programs. Residents also commissioned the development of an air sampling system to detect chemical levels. Today, that ‘bucket brigade’ is “currently used by fence-line communities around the world,” Cole writes, with other California and EPA protections and regulations having gone into place as recently as 2015. The implications, in other words, have been wide reaching, indeed.

As for Cole’s next book, it will also involve a lawsuit, but it will be a work of fiction.