

## Hearing In Case Denied

INDIANAPOLIS (UPI) —The Indiana Appellate Court Tuesday denied a rehearing sought by the Indiana Gas & Water Co. in a case involving odorization of natural gas.

In denying rehearing of its July 28 decision, the court sent the case back to Daviess Circuit Court for the new trial which the Appellate Court had ordered.

The court held Tuesday that distributors of natural gas should be bound to odorize the produce in order to give warning of its presence.

John D. Roberts, a roofer who sued Indiana Gas — Water for \$215,000, claimed in the suit that the utility was negligent because it failed to odorize its gas to warn of its presence.

He said he was injured during an explosion of a building near Mitchell in 1961 while working on gutters of the Lehigh Portland Cement Co. plant at the same time two plumbing company employees were working on a gas line.

Roberts maintained that the plumbers had counted on gas odor to warn of escaping gas.

The utility raised the point in a petition for a rehearing that no law requires such odorization. The Appellate Court's divided opinion held that even though such odorization may not be required by law, "the appellee may still be liable under the principles of affirmative conduct."

Judge Donald H. Hunter compared the situation to a railroad which had been in the habit of maintaining a flagman or warning signal, then suddenly dropped the practice.

## 1966-12-08 Gas odorization court case

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