

# **Bond Case Briefs**

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## **JURISDICTION - KANSAS**

### **City of Neodesha v. BP Corporation North America Inc**

**United States District Court, D. Kansas - March 31, 2016 - F.Supp.3d - 2016 WL 1298087**

City filed 821 state court complaints against oil and gas corporation, alleging that corporation violated city's waste ordinance. Corporation filed notices of removal. Complaints were consolidated, and City moved to remand.

The District Court held that:

- Complaints constituted "civil actions" under general diversity jurisdiction statute, not criminal or quasi-criminal actions, and, thus, were subject to removal under federal removal statute, and
- Municipal waste ordinance scheme expressly created civil penalties, not quasi-criminal or criminal penalties, for purposes of general diversity jurisdiction under federal removal statute.

Complaints filed by city against oil and gas corporation, alleging that corporation violated city's waste ordinance, constituted "civil actions" under general diversity jurisdiction statute, not criminal or quasi-criminal actions, and, thus, were subject to removal under federal removal statute. Complaints almost entirely tracked exact language of ordinance, city intended to apply new ordinance's civil penalty provision to violations of ordinance, monetary penalty set out in municipal code rendered complaints civil rather than criminal, and city did not clearly provide evidence to outweigh its express intent to create a civil penalty, as it enacted ordinances to generate alternative sources of revenue to clean up contamination, not to punish crimes corporation was committing in city.

Municipal waste ordinance scheme expressly created civil penalties, not quasi-criminal or criminal penalties, for purposes of general diversity jurisdiction under federal removal statute. Although behavior to which penalty applied was a crime, penalty provision of ordinance explicitly provided "civil penalties," monetary assessments did not constitute an affirmative disability or restraint, monetary penalties were not exclusively criminal, ordinance did not require scienter, deterrence could serve civil goals, ordinance could have purpose of creating resources to clean up waste and protect public health, and civil penalties were not so disproportionate to purposes of ordinance so as to be viewed as penal in nature.