

THE AMERICAN LAWYER

MARCH 2008

ALM

BIG

SUITS

STEVEN LAMB
(SQUIRE SANDERS)



BP v. NEODESHA, KANSAS

After 69 days of testimony and three days of deliberation, a Kansas state court jury found BP p.l.c. not liable for hundreds of millions of dollars in cleanup costs stemming from an oil refinery that a predecessor company owned. The January 7 verdict was a rare bit of good news for the company: Last October it agreed to pay \$373 million to settle charges related to an explosion at a Texas refinery, two pipeline leaks in Alaska, and attempts to corner the U.S. propane market.

In March 2004 BP America Inc. and four BP business units were sued in a class action filed by the city of Neodesha, Kansas, other local municipal bodies, and some local property owners. The plaintiffs alleged that the toxic waste and failed cleanup efforts at the refinery site had deflated property values in the vicinity. (Amoco Corporation operated the refinery from 1897 until 1970 and subsequently donated the property to Neodesha. BP merged with Amoco in 1998 and took over cleanup efforts at the site.)

The plaintiffs also claimed that BP fraudulently concealed the extent of the pollution and lied to residents about the risks the contamination presented. The class sought \$279 million in cleanup costs, \$52 million in property claims, and \$92 million in lost property values.

The judge certified a class of all Neodesha property owners in September 2006—roughly 2,700 people, according to court documents.

Trial began in August 2007 in Erie, Kansas. According to press accounts, experts hired by the city found groundwater pollution under 350 acres of land, double the area that BP had indicated was affected.

In public statements, BP admitted that the refinery had incidental, nonnegligent leaks, but denied all of the plaintiffs'

claims. (Neither party's lawyers would comment, and trial transcripts were unavailable at press time.)

After hearing from 46 witnesses during the four-month trial—one of the longest in state history—jurors voted to acquit BP on all counts. At press time no appeal had been filed.

In a statement, BP said it would continue ongoing cleanup and remediation efforts at the site.

FOR NAME PLAINTIFFS CITY OF NEODESHA ET AL. (NEODESHA, KANSAS)

EDGAR LAW FIRM: David Edgar, John F. Edgar, John M. Edgar, Daniel Young, and associates William Henderson and Brad Wilson. (All are in Kansas City, Missouri.) The firm was class counsel.

FOR DEFENDANTS BP AMERICA INC. ET AL. (HOUSTON)

IN-HOUSE: At BP America Inc.: senior litigation attorney **Vilia Drazdys**.
SQUIRE, SANDERS & DEMPSEY: Laura Hong, Steven Lamb, and associates Nancy Canter, Stephen Fazio, Meghan Hill, Greta Kearns, Bruce Khula, Chaundra King, Jeffrey Lorek, Christopher Panek, Elizabeth Shively, Heather Volosin, and Greg Wehrer. (Lamb is in Los Angeles, Wehrer and Kearns are in Columbus, and the rest are in Cleveland.) Lamb served as lead trial counsel. He joined Squire Sanders from Zelle, Hofmann, Voelbel, Mason & Gette last April, where he had previously represented BP in litigation and trial matters. The firm, which has a long-standing relationship with BP, got involved in the case after class certification.

HINES, AHLQUIST & CREITZ: Richard Hines. (He is in Erie, Kansas.) The firm was local counsel.

SIDLEY AUSTIN: Susan Harris and Evan Westerfield. (Both are in Chicago.) The firm represented BP through class certification and pretrial proceedings but was not present at trial. The firm declined to comment on its involvement.

SHERMAN TAFF BANGERT THOMAS & CORONADO: Steven Coronado, E. Wayne Taff, and associate Christopher Heigle. (All are in Kansas City, Missouri.) The firm represented BP through class certification, but was not present at trial. The firm also declined to comment on its involvement. —F.H.

E-mail: BigSuits@alm.com.

Reprinted with permission from the March 2008 edition of THE AMERICAN LAWYER. © 2008 ALM Properties, Inc. All rights reserved. Further duplication without permission is prohibited. For information, contact 212.545.6111 or cms@alm.com. #001-04-08-0011

Steven A. Lamb
Squire, Sanders & Dempsey L.L.P.
555 South Flower Street, 31st Floor
Los Angeles, California 90071-2300
Telephone +1.213.624.2500
Facsimile +1.213.623.4581
Toll Free +1.800.689.6547
slamb@ssd.com

www.ssd.com