

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-50952

WASTE CONTROL SPECIALISTS, LLC,

Plaintiff-Appellant,

versus

ENVIROCARE OF TEXAS, INC.; ET AL.,

Defendants,

ENVIROCARE OF TEXAS, INC.;
ENVIROCARE OF UTAH, INC.;
KHOSROW B. SEMNANI;
CHARLES A. JUDD; FRANK C. THORLEY,

Defendants-Appellees.

Appeal from the United States District Court for the
Western District of Texas, Midland

March 15, 2000
(Opinion January 18, 2000, 5th Cir., 2000 _____F.3d_____)

Before REYNALDO G. GARZA, JOLLY, and WIENER, Circuit Judges.

E. GRADY JOLLY, Circuit Judge:

ON PETITION FOR PANEL REHEARING AND REHEARING EN BANC

The appellees' ("Envirocare") Petition for Panel Rehearing is GRANTED. Part IV of the Opinion is withdrawn and the following section is substituted therefore. In all other respects, the Petition for Panel Rehearing is Denied. Furthermore, no member of this panel nor judge in regular active service on the court having requested that the court be polled on Rehearing En Banc, (FED. R. APP. P. and 5TH CIR. R. 35) the Petition for Rehearing En Banc is DENIED.

IV

Finally, we note that WCS has asked for the imposition of attorney's fees pursuant to 28 U.S.C. § 1447(c), which states in relevant part: "An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal." In this connection, the district court on remand shall decide, in the light of this opinion and other facts and evidence as may be relevant, whether the removal of this case was or was not objectively reasonable, and, thus, whether to enter an appropriate award of attorney's fees as provided in § 1447(c). See Valdes v. Wal-Mart Stores, Inc., 199 F.3d 290 (5th Cir. 2000).