

Foulston & Siefkin, L.L.P.  
700 NationsBank Financial Center  
Wichita, Kansas 67202-2295  
(316) 267-6371

IN THE TWENTY-SIXTH JUDICIAL DISTRICT  
DISTRICT COURT, STEVENS COUNTY, KANSAS  
CIVIL DEPARTMENT

GILBERT H. COULTER and  
ELIZABETH S. LEIGNOR,  
individually and as representative  
plaintiffs on behalf of persons or  
companies similarly situated,

*Plaintiffs,*

v.

Case No. 98-CV-40

ANADARKO PETROLEUM CORPORATION,

*Defendant.*

**NOTICE OF FILING OF NOTICE OF REMOVAL**

To: Rebecca L. Alquist, District Court Clerk

Thomas D. Kitch  
Fleeson, Gooing, Coulson & Kitch, L.L.C.  
P.O. Box 997  
Wichita, Kansas 67201  
Attorneys for Plaintiffs

Bernard E. Nordling  
Kramer, Nordling & Nordling  
209 East Sixth Street  
Hugoton, Kansas 67951  
Attorneys for Plaintiffs

11-12-98

PLEASE TAKE NOTICE that on this 12th day of November, 1998, defendant Anadarko Petroleum Corporation filed its Notice of Removal, a copy of which is attached hereto, in the United States District Court for the District of Kansas, and said matter shall proceed hereafter in the United States District Court for the District of Kansas.

Respectfully submitted,

Jim H. Goering #11806  
Foulston & Siefkin, L.L.P.  
700 NationsBank Financial Center  
Wichita, Kansas 67202  
Telephone: (316) 267-6371

*Attorneys for Defendant*

By   
Jim H. Goering #11806

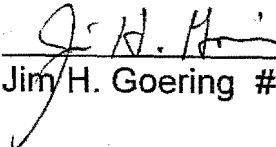
### **Certificate of Service**

I certify copies of this Notice of Filing of Notice of Removal were sent via U.S. First Class Mail, to counsel for plaintiffs, addressed to:

Thomas D. Kitch  
Gregory J. Stucky  
Charles E. Milsap  
David G. Seely  
Fleeson, Gooing, Coulson & Kitch, L.L.C.  
P.O. Box 997  
Wichita, Kansas 67201

Bernard E. Nordling  
Erick E. Nordling  
Kramer, Nordling & Nordling  
209 East Sixth Street  
Hugoton, Kansas 67951

on this 12th day of November, 1998.

  
\_\_\_\_\_  
Jim H. Goering #11806

Nov 12 12 55 PM '98

TRICIA J. JOHNSON  
CLERK

BY \_\_\_\_\_ DEPUTY  
ATTORNEY GENERAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

GILBERT H. COULTER and  
ELIZABETH S. LEIGHNOR,  
individually and as representative  
plaintiffs on behalf of persons or  
companies similarly situated,

*Plaintiffs,*

v.

ANADARKO PETROLEUM CORPORATION,

*Defendant.*

Case No. 98-1413-WEB

**NOTICE OF REMOVAL**

Defendant Anadarko Petroleum Corporation hereby gives notice pursuant to 28 U.S.C. §§ 1441 and 1446 that it is removing to this Court the above-captioned action, which was filed against defendant, as Case No. 98-CV-40, in the Twenty-Sixth Judicial District District Court, Stevens County, Kansas. Attached hereto are copies of all process, pleadings, and orders served upon defendant in that state court action. Defendant first received a copy of plaintiffs' initial petition in that state court action on October 13, 1998, the date that the petition was received by defendant's statutory agent by certified mail. Defendant is filing this Notice of Removal within thirty days of that date, as required by 28 U.S.C. § 1446(b).

As grounds for removal, defendant asserts:

1. Defendant is a Delaware Corporation with its principal place of business in Texas. Both named plaintiffs are citizens of Kansas. This action is grounded in state law. Pursuant to 28 U.S.C. § 1332(c)(1), this is an action between citizens of different states within the meaning of 28 U.S.C. § 1332(a)(1). *See Supreme Tribe of Ben Hur v. Cauble*, 255 U.S. 356 (1921).

2. Plaintiffs have pleaded this action as a class action under K.S.A. 60-223, which is essentially identical to Fed. R. Civ. Proc. 23. As pleaded by plaintiffs, this action is stated to be a class action under Rule 23, subsections (b)(1), (b)(2), and (b)(3).

3. Assuming that plaintiffs and/or the putative class have valid claims for relief as now pleaded, which defendant disputes, the matter in controversy exceeds the sum or value of \$5,000,000 as to the claims of the putative class as a whole, exclusive of interest and costs, and exceeds the sum or value of \$75,000 as to the claims of each of the two named plaintiffs, exclusive of interest and costs.

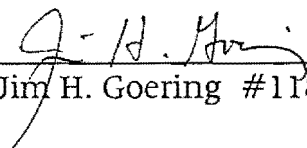
4. In class actions under Rule 23(b)(1), the sum or value of the matter in controversy is determined by aggregation of the claims of the entire putative class, *see Gallagher v. Continental Insurance Co.*, 502 F.2d 827 (10th Cir. 1974). This Court has subject matter jurisdiction under 28 U.S.C. § 1332(a)(1) and 28 U.S.C. §§ 1441(a) and (b), over the individual claims of the named plaintiffs, over the Rule 23(b)(1) class claims pleaded by plaintiffs, and over any and all other claims

the plaintiffs and the putative class may have which are aggregable for amount in controversy purposes, because such claims are between citizens of different states, because defendant is not a citizen of Kansas, the state in which the state court action being removed was brought, and because the matter in controversy exceeds \$75,000 as to such claims.

5. This Court has supplemental jurisdiction, under 28 U.S.C. § 1367, over any non-aggregable claims of the members of the putative class other than the named plaintiffs, irrespective of the amount in controversy as to those other members of the putative class. See *In re Abbott Laboratories*, 51 F.3d 524 (5th Cir. 1995) and *Stromberg Metal Works, Inc. v. Press Mechanical, Inc.*, 77 F.3d 128 (7th Cir. 1996).

Respectfully submitted,  
Jim H. Goering #11806  
Timothy B. Mustaine #10758  
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100 North Broadway, Suite 700  
Wichita, Kansas 67202  
(316) 267-6371

*Attorneys for Defendant  
Anadarko Petroleum Corporation*

By   
\_\_\_\_\_  
Jim H. Goering #11806

## Certificate of Service

I certify that copies of this Notice of Removal, with all attachments, were sent via U.S. First Class Mail to all counsel for plaintiffs, addressed to:

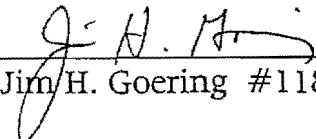
Thomas D. Kitch  
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Wichita, Kansas 67201

Bernard E. Nordling  
Erick E. Nordling  
Kramer, Nordling & Nordling  
209 East Sixth Street  
Hugoton, Kansas 67951

and that copies of this Notice of Removal, with all attachments, were also sent via U.S. Express Mail to:

Rebecca L. Alquist, District Court Clerk  
District Court of Stevens County, Kansas  
Stevens County Courthouse  
200 East Sixth Street  
Hugoton, Kansas 67951  
Facsimile: (316) 544-2528

on this 12th day of November, 1998.

  
\_\_\_\_\_  
Jim H. Goering #11806