

## Texas Civil Enforcement Primer TCAA – Summer 2015

DANIEL W. RAY  
SCOTT & RAY, PLLC

[www.ScottRayLaw.com](http://www.ScottRayLaw.com)

---

---

---

---

---

---

---

## Overview

### Answers to Four Questions:

1. What is "civil enforcement," and who can file a case?
2. Process: What are the steps, what agencies are involved, and how do they work together?
3. Criminal Comparison: Why is civil enforcement "better" than criminal or administrative enforcement?
4. Money: Who pays for it, who gets the fine money, and how much money is available?

---

---

---

---

---

---

---

## Process

### Process: What are the steps?

- (1) Writing a report on a new case
  - (2) Obtaining approval of the Council, Board or Commissioners Court for civil case
  - (3) Suit filed, and defendants served along with TCEQ
  - (4) Discovery completed
  - (5) Trial
- OR**  
Signing an Agreed Final Judgment – Always with a fine and costs, usually with a permanent injunction

---

---

---

---

---

---

---

## What Is It?

- District Court civil suit against violators
- Filed in either: (1) County of violation; (2) County of Defendant's residence; or (3) Travis County
- Allowed under the Texas Water Code, Administrative Code, Health & Safety Code, and Local Government Code.)
- Who can file? Cities and Counties only.

---

---

---

---

---

---

---

## Criminal v. Civil

Why is civil enforcement "better" than criminal or administrative enforcement?

Costs less (usually so)

Allows for much more local control

Brings revenue to support the agencies protecting public health

---

---

---

---

---

---

---

## Criminal vs. Civil Enforcement

Criminal	Civil
Statute of Limitations	No Statute of Limitations
Case Filed by DA or CA	Case filed by private attorney or in-house City Attorney or County Attorney
Beyond a Reasonable Doubt	Preponderance of the Evidence (51%)
Multiple Violators Pass Blame	Multiple Violators Share Blame
Limited Discovery	Expansive Discovery
\$500-\$10,000 per violation	\$50-\$25,000 per violation
75% stays local	50% stays local
Criminalization stigma	All about the money

---

---

---

---

---

---

---

## Money

Who pays for it?

- The defendants –required to pay all costs and attorney fees.

Who gets the fine money?

- Split 50/50 between the local government and the State.

What amount of civil fines are available?

- Fines are **\$50-\$25,000** per person, per violation, per day.
- For instance: **two employees** from a company illegally dump buckets of lead paint on a riverbank to avoid disposal fees. The buckets remain there for **10 days until discovered** and cleaned by the County. There are about **10 different violations** in that type of case, so there would be **200 "Violation Days."** The minimum fine for that is \$10,000, and the maximum is \$5,000,000. Attorney's fees and costs are assessed separately.

---

---

---

---

---

---

---

---

## Grayson County v. Trident




---

---

---

---

---

---

---

---

## Hunt County & St. Paul vs. Fischer Scientific




---

---

---

---

---

---

---

---

# Hunt County & St. Paul vs. Fischer Scientific




---

---

---

---

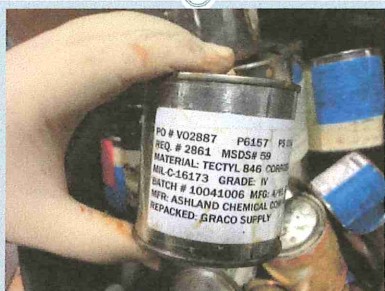
---

---

---

---

# Hunt County & St. Paul vs. Fischer Scientific




---

---

---

---

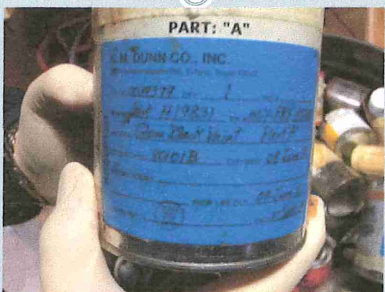
---

---

---

---

# Hunt County & St. Paul vs. Fischer Scientific




---

---

---

---

---

---

---

---



Hunt County & St. Paul vs. Fischer Scientific



---

---

---

---

---

---

---

Hunt County & St. Paul vs. Fischer Scientific



---

---

---

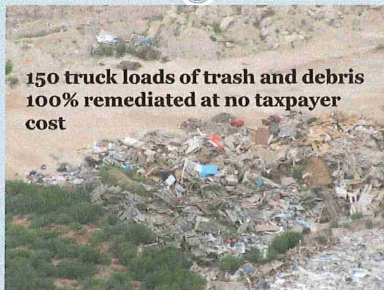
---

---

---

---

Ector County v. Basin Disposal



**150 truck loads of trash and debris  
100% remediated at no taxpayer  
cost**

---

---

---

---

---

---

---

Ector County v. Basin Disposal



---

---

---

---

---

---

---

Ector County v. Basin Disposal



---

---

---

---

---

---

---

Ector County v. Basin Disposal



---

---

---

---

---

---

---

### Ector County v. SIW Pipe

**200 truckloads of waste - \$100,000+ in landfill fees  
- \$0 cost to taxpayers**



---

---

---

---

---

---

---

---

### Ector County v. Javelinas



All the filters appeared to be soaked with an oily substance, with all the filters appearing to be recklessly placed in the yard and left with no intention to conduct proper disposal.



---

---

---

---

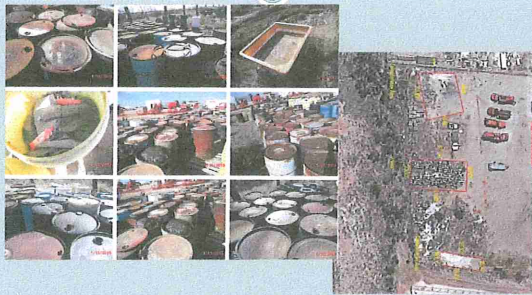
---

---

---

---

### Ector County v. Plant Maintenance Services



---

---

---

---

---

---

---

---

Questions?

Daniel@ScottRayLaw.com  
Office - 903.454.0044  
Cell - 903.217.2828

---

---

---

---

---

---

---