

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

GEORGE P. SHULTZ, Secretary of Labor )  
United States Department of Labor )  
 )  
Plaintiff )

v. )

R. G. MALCHI, W. A. MALCHI, SR., )  
and W. A. MALCHI, JR., as )  
individuals and as partners, )  
in MALCHI AUTOMOTIVE SUPPLY, a )  
partnership )  
Defendants )

Civil Action File  
No. 5637

**FILED**

DEC - 1 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

ORDER OF DISMISSAL

This action was instituted by plaintiff-petitioner's petition for prosecution for civil contempt. After the defendants-respondents were served with an order to show cause why they should not be held in civil contempt of this court's injunction of October 24, 1963, defendants-respondents served a responsive pleading and the matter came duly on for trial before the court. After the completion of the trial, the parties hereto, through their attorneys, agreed that the matter should be dismissed.

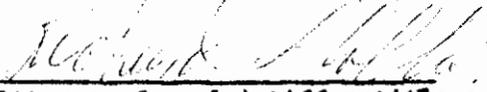
It is, therefore, upon motion of plaintiff-petitioner, George P. Shultz, Secretary of Labor, United States Department of Labor, and by agreement of the parties, hereby ORDERED that this action should be, and it is, hereby dismissed with prejudice.

Entered this \_\_\_\_\_ day of \_\_\_\_\_,  
1969.

\_\_\_\_\_  
United States District Judge

Approved:

  
\_\_\_\_\_  
Attorney for defendants-respondents

  
\_\_\_\_\_  
Attorney for plaintiff-petitioner

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF OKLAHOMA

United States of America,

Plaintiff,

vs.

Louis Hillard and  
Betty Lou Hillard,  
husband and wife,

Defendants.

Civil No. 69-C-226

FILED

DEC 11 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 1 day of December  
1969. The defendants, Louis Hillard and Betty Lou Hillard, husband and wife,  
appearing not.

The Court being fully advised and having examined the file herein  
finds that legal service by publication was made upon the defendant, Louis  
Hillard, as appears by Proof of Publication filed herein on November 21, 1969,  
and personal service was made on the defendant, Betty Lou Hillard, in this  
state, on October 6, 1969, requiring her to answer the complaint filed herein  
not more than (20) twenty days after service of summons, and it appearing that  
said defendants have failed to file an answer herein and their default has been  
entered by the Clerk of this Court; and

The Court further finds that this is a suit based upon a mortgage  
note and foreclosure on a real property mortgage securing said mortgage note  
on the following described real property located in Tulsa, Tulsa County,  
Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Two (2), Block Two(2), Chandler-Grates  
Third Addition to the City of Tulsa, Tulsa  
County, Oklahoma, according to the recorded  
plat thereof;

The Court further finds that the material allegations of Plaintiff's  
Complaint are true and correct;

That the defendants, Louis Hillard and Betty Lou Hillard, husband and  
wife, did on October 11, 1967, execute and deliver to the Administrator of  
Veterans Affairs, their mortgage and mortgage note for the sum of \$9,500.00,  
with interest thereon at the rate of 6% per annum and further providing for  
the payment of monthly installments of principal and interest; and

It further appears that the defendants, Louis Hillard and Betty Lou Hillard, husband and wife, made default under the terms of the aforesaid mortgage note and mortgage by reason of their failure to make monthly installments due thereon on April 1, 1969, which default has continued and that by reason thereof the defendants are now indebted to the Plaintiff in the sum of \$9,332.60, as unpaid principal, with interest thereon at the rate of 6% per annum from April 1, 1969, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that the Plaintiff, United States of America, have and recover judgment against the defendants, Louis Hillard and Betty Lou Hillard, husband and wife, for the sum of \$9,332.60, with interest thereon at the rate of 6% per annum from April 1, 1969, until paid, plus the cost of this action accrued and accruing.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that upon failure of the defendants to satisfy Plaintiff's money judgment herein, an Order of Sale shall issue to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisement, the above-described real property and apply the proceeds thereof in satisfaction of Plaintiff's judgment. The residus, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.

  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

RETAIL CLERKS UNION LOCAL NO. 73,  
chartered by Retail Clerks Inter-  
National Association, AFL-CIO,

Plaintiff,

Vs.

HUMPTY DUMPTY SUPERMARKETS,  
Oklahoma City, a division of  
Allied Supermarkets, Inc., of  
Detroit, Michigan,

Defendant.

NO. 67-C-163

FILED  
IN OPEN COURT

DEC 2 - 1969

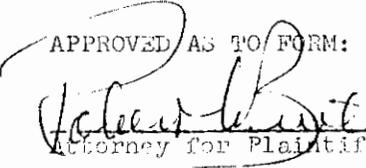
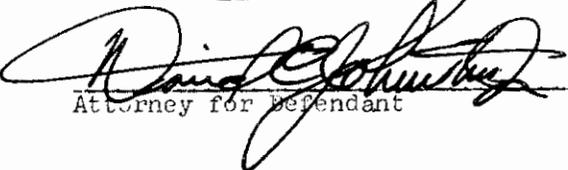
M. M. EWING  
CLERK, U. S. DISTRICT COURT

ORDER OF DISMISSAL

Upon the application being filed by plaintiff herein  
for the above styled and numbered case to be dismissed upon the  
payment of costs by the defendant, the Order of this Court having  
been complied with,

IT IS HEREBY DIRECTED that said cause of action in the  
above styled and numbered case is hereby dismissed and the costs  
are to be paid by defendant herein.

  
Judge

APPROVED AS TO FORM:  
  
Attorney for Plaintiff  
  
Attorney for Defendant

FILED  
IN OPEN COURT  
DEC 2 - 1969  
M. M. EWING  
CLERK, U. S. DISTRICT COURT

IEU:sib  
10/16/69

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

CORD CUSTOM CAR SALES, INC., )  
a corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CORD INTERNATIONAL DISTRIBUTING )  
COMPANY, a corporation, and )  
HOWARD WILLIAMS, )  
 )  
Defendants. )

NO. 69-C-168

FILED

DEC - 1969

ORDER FOR DISMISSAL

M. M. EWING, CLERK  
U. S. DISTRICT COURT

THERE having been presented to the undersigned United States District Judge a Stipulation for Dismissal executed by counsel for Plaintiff and counsel for Defendants, and the court having considered the same and being well and sufficiently advised in the premises finds that the <sup>cause of</sup> action filed herein by the Plaintiff as against the Defendants, and each of them, be, and the same is, hereby dismissed with prejudice.

DATED this <sup>December</sup> 1st day of October, 1969, at Tulsa, Oklahoma.

*Walter L. Brown*  
United States District Judge

APPROVED:

UNGERMAN, GRABEL, UNGERMAN & LEITER

By *E. P. Litchfield*  
Attorneys for Plaintiff

HOWARD, LARKIN & RAPP

By *Walter L. Brown*  
Attorneys for Defendants

LAW OFFICES  
UNGERMAN,  
GRABEL,  
UNGERMAN  
& LEITER  
  
SIXTH FLOOR  
WRIGHT BUILDING  
TULSA, OKLAHOMA

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

CIVIL ACTION NO. 69-C-197

vs.

EDDIE C. CROSBY; A. WAYDEEN CROSBY;  
WAYNE HOWARD WILSON a/k/a WAYNE H. WILSON;  
FLOYD H. WILSON; MAEMIE M. WILSON; GERALD  
WILSON a/k/a GERALD D. WILSON a/k/a GERALD  
DEE WILSON; RETTA JEAN WILSON; ORVILLE E.  
DAVID; MARY L. DAVID; KATHLEEN WILSON a/k/a  
KATHLEEN ANN WILSON HENSON (now MRS. JERRY  
F. WILLARD); VIRGINIA C. WILSON; WALTER  
BROWN; A. D. MASON; L. FLOYD ROLLINS; PHILLIP  
LEWIS KRAMER; and OKLAHOMA TAX COMMISSION,

Defendants.

FILED

DEC 2 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

J U D G M E N T

NOW, on this 14 day of December, 1969, there came on for consideration this matter. The Court finds that the Complaint herein was filed on August 4, 1969, and that this is a civil action to quiet title, jurisdiction being invoked under Title 28, Section 1345 U.S.C.

The Court finds that personal service was had upon the following defendants: Wayne Howard Wilson, a/k/a Wayne H. Wilson; Floyd H. Wilson; Kathleen Wilson, a/k/a Kathleen Ann Wilson Henson (now Mrs. Jerry F. Willard); A. D. Mason; L. Floyd Rollins; and the State of Oklahoma ex rel Oklahoma Tax Commission. The Court further finds that service by publication was had upon the following defendants: Eddie C. Crosby; A. Waydeen Crosby; Maemie M. Wilson; Gerald Wilson a/k/a Gerald D. Wilson a/k/a Gerald Dee Wilson; Retta Jean Wilson; Orville E. David; Mary L. David; Virginia C. Wilson; Walter Brown; and Phillip Lewis Kramer, by virtue of an Order entered herein on October 9, 1969.

The Court finds that the following defendants have entered their appearance and disclaimer herein: L. Floyd Rollins; State of Oklahoma ex rel Oklahoma Tax Commission; Kathleen Wilson, a/k/a Kathleen Ann Wilson Henson (now Mrs. Jerry F. Willard); and A. D. Mason.

The Court further finds that no answer or appearance has been made on behalf of Eddie C. Crosby; A. Waydeen Crosby; Wayne Howard Wilson, a/k/a Wayne H. Wilson; Floyd H. Wilson; Maemie M. Wilson; Gerald Wilson, a/k/a Gerald D. Wilson, a/k/a Gerald Dee Wilson; Retta Jean Wilson; Orville E. David; Mary L. David;

Virginia C. Wilson; Walter Brown; and Phillip Lewis Kramer.

The Court finds that the averments and allegations of the plaintiff's Complaint are true and correct. The Court further finds that judgment should be entered against all the named defendants adjudging and decreeing that the United States of America, on behalf of the Administrator of Veterans Affairs, is the owner of the legal title in fee simple in and to the below described real property, free and clear of all right, title or interest of such defendants; that the subject defendants should be adjudged to have no right, title, or interest in and to such real property and that such defendants should be permanently barred and enjoined from asserting any right, title or interest in and to such property, and that the fee simple title thereto should be quieted and confirmed as against said defendants and that the forged instruments be expunged from the record, cancelled and held for naught; and that the United States of America, on behalf of the Administrator of Veterans Affairs, should be adjudged the owner of the fee simple title to the following described real property situated in the City of Tulsa, Tulsa County, Oklahoma and further should be adjudged to be entitled to the immediate possession thereof, to-wit:

Lot Four (4), Block Twenty-three (23), Valley  
View Acres Addition to the City of Tulsa.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the plaintiff, United States of America, recover judgment against the defendants, Eddie C. Crosby; A. Waydeen Crosby; Wayne Howard Wilson, a/k/a Wayne H. Wilson; Floyd H. Wilson; Mamie M. Wilson; Gerald Wilson, a/k/a Gerald D. Wilson, a/k/a Gerald Dee Wilson; Retta Jean Wilson; Orville E. David; Mary L. David; Kathleen Wilson, a/k/a Kathleen Ann Wilson Henson (now Mrs. Jerry F. Willard); Virginia C. Wilson; Walter Brown; A. D. Mason; L. Floyd Rollins; Phillip Lewis Kramer; and the State of Oklahoma, ex rel Oklahoma Tax Commission, adjudging and decreeing that the United States of America, on behalf of the Administrator of Veterans Affairs, is the owner of the legal title in fee simple in and to the above-described real property free and clear of all right, title or interest of such named defendants; that the subject defendants have no right, title or interest in and to such real property and that they are permanently barred and enjoined from asserting any right, title or interest to such property and the fee simple title thereto is quieted and confirmed against said defendants and the forged instruments referred to in the Complaint are expunged from the record, cancelled and held for naught;

and further that the United States of America, on behalf of the Administrator of Veterans Affairs, is the owner of the fee simple title to the above-described property and is entitled to the immediate possession thereof.

*Edward G. ...*  

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UNITED STATES DISTRICT JUDGE

APPROVED:

s/ Robert P. Santee

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ROBERT P. SANTEE  
Assistant U. S. Attorney

IEU:slb  
11/24/69

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

THE UDYLLITE CORPORATION, )  
a corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
HOLLYWOOD DEEP TONE MFG. COMPANY, )  
a corporation, CARL MERCER and )  
THE HOMINY INDUSTRIAL AUTHORITY, )  
 )  
Defendants. )

Civil Action  
No. 69-C-253

FILED  
IN OPEN COURT  
DEC 2 - 1969

M. M. EWING  
CLERK, U. S. DISTRICT COURT

J U D G M E N T

NOW, on this 32<sup>nd</sup> day of November, 1969, there having

come on for hearing before the undersigned United States District Judge the Motion filed herein by the Plaintiff for a Default Judgment; Plaintiff appearing by its agents and attorneys, Ungerman, Grabel, Ungerman & Leiter, and the Defendants herein appeared neither in person nor by counsel but came not and make default.

THEREUPON this Court finds that it has complete jurisdiction in the premises and that the Defendants, and each of them, have been duly and properly served with summons in the time and manner prescribed by the Statutes of the State of Oklahoma, and have wholly failed, refused and neglected to plead, answer or otherwise defend the action herein.

The Court further finds that the Defendants, and each of them, are in default, and hereby orders that the allegations of the Plaintiff's Complaint be taken as true and confessed as against the Defendants, and each of them, and that the Plaintiff's Motion for a Default Judgment should be sustained

THEREUPON AND IN OPEN COURT the Plaintiff waived its right to a trial by jury, and the Court having heard the testimony of a witness duly sworn and examined, and being fully advised in the premises, finds that the allegations of the Plaintiff's Complaint as set forth in the Plaintiff's First Cause of Action are true and correct and that the Plaintiff is now entitled to an immediate judgment on its First Cause of Action, granting unto it the right to the immediate possession of the property described in the Complaint on file herein.

The Court further finds that the Plaintiff's Second Cause of Action based upon a certain promissory note should be stayed, as provided by Statute, pending the determination of the amount thereof that may be remaining due and owing to the Plaintiff after a sale of the aforesaid property described

LAW OFFICES  
UNGERMAN,  
GRABEL,  
UNGERMAN  
& LEITER  
  
SIXTH FLOOR  
WRIGHT BUILDING  
TULSA, OKLAHOMA

## EXHIBIT "B"

Item #1 - 1 Steel Plate Coil, Style #90...Item #2 - 1 Steel Plate Coil, Style #90...Item #2 - 1 Work Rod, Solid Copper...Item #3 - 1 Titanium Coil...Item #3 - 1 Single Fingered Air Agitation Coil...Item #4 - 1 Titanium Coil...Item #5 - 1 Titanium Coil, 1 Single Fingered Air Agitation Coil...Item #6 - 1 Steel Plate Coil, Style #90...Items #6, #8, #3 - 3 Anode Rods and 2 Cathode Rods, Solid Copper...Item #7 - 4 Steel Plate Coils, Style #50, 1 Single Fingered Air Agitation Coil...Item #8 - 1 Steel Plate Coil, Style #90...Item #9 (A) - 1 Single Sided Draft Box, fabricated of fiberglass...Item #9 (B) - 1 Single Fingered Air Agitation Coil...Item #10 - 2 Anode Rods and 1 Cathode Rod...Item #11 (A) - 2 Sets Air Distribution Systems... Item #11 (B) - 8 Plastisol Coated Coils...Item #11 (C) - 4 Plastisol Coated Air System Protector Screens... Item #12 (A) - 2 Sets Air Distribution Systems...Item #12 (B) - 8 Plastisol Coated Coil Weights Item #12 (C) - Plastisol Coated Air System Protector Screens...Item #12 - 1 Single Fingered Air Agitation Coil...Item #13 - U.S. Hoffman Blower #4110...Item #14 - 1 Model #4-IP for Electro Clean #2 Tank... Item #15 - 2 Model #24-ITL-3M012 for 66 Nickel Tanks - 1 Single Fingered Air Agitation Coil, 2 Work Rods, Solid Copper...Item #17 - Single Fingered Air Agitation Coil, 1 Udyllite Ultra Model 4-IMP-9 Silicon Rectifier...Item #18 - 1 Udyllite Ultrasil Model #24-ITL-2M012 Silicon Rectifier...Item #19 - 2 Mounted Anode Rods and 1 Cathode Rod, 1 Single Fingered Air Agitation Coil...Item #19 - 1 Udyllite Ultra Model 4-IP-2-6 Silicon Rectifier...Item #20 - 1 Udyllite Reversing Switch, Model #C-23301, 2 Anode Rods and 1 Cathode Rod...Item #21 - 1 Work Rod, Solid Copper, 2 Industrial Stationary Filters, S/N F-14596 & #F-14597...1 Double Cathode Rod Agitator with Brackets...1 Set Steel Buff Flanges 7"Dia. x 1-1/4" Arbor...1 Set Steel Buff Flanges 9" Dia x 1-1/4" Arbor...1 Udyllite Solid State Converter, Model 4DE-6M012 for use with Chrome Tank...7 Udyllite Trerice #91400 Indicating Self-Operated Temp. Controllers...1 Udyllite Trerice #84500 Indicating Electric-Operated Double Switch Temp. Controller... 1 Udyllite Trerice #L84500 Duplex Indicating Electric-Operated Temp. Controller...1 Karbate Heater...1 Udyllite-Dupont Braided Immersion Heat Exchanger...1 Solenoid Valve N.O. 115 Volt Coil...1 Trerice #960 3/4" Solenoid Valves...4 Steel Plate Coils, Style #50...Item #22 - 1 Continental Boiler, Model #E7080LS-G.

In the First Cause of Action pursuant to the lien held by the Plaintiff on the same.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THIS COURT that the Plaintiff, The Edylite Corporation, a corporation, have and recover a judgment on its First Cause of Action as against the Defendants herein, Hollywood Deep Tone Mfg. Company, a corporation, Carl Mercer and The Hominy Industrial Authority for the right to the immediate possession of the following described personal property, to-wit:

together with a judgment for the Plaintiff's costs herein expended in order to enable the Plaintiff to foreclose its lien against the said personal property described herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED BY THIS COURT that the Plaintiff's Second Cause of Action herein based upon a certain promissory note be stayed, as provided for by Statute, as against the Defendants, Hollywood Deep Tone Mfg. Company, a corporation, and Carl Mercer, only, pending the determination of the amount thereof remaining due and owing to the Plaintiff after any sale of the aforementioned personal property pursuant to the aforementioned lien.



United States District Judge

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

United States of America,

Plaintiff,

vs.

8.04 Acres, More or Less, in Rogers  
County, Oklahoma, including all ac-  
cretions and riparian rights there-  
to, and James L. Martin, Jr., et al,  
and Unknown Owners,

Defendants.

CIVIL ACTION NO. 67-C-129

Tract No. 154E

**FILED**

DEC - 3 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

J U D G M E N T

1.

Now, on this 3<sup>rd</sup> day of December, 1969, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on a stipulation agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for Plaintiff, finds:

2.

This judgment applies to the entire estate condemned in Tract No. 154E, as such estate and tract are described in the Complaint and the Declaration of Taking filed in this action.

3.

The Court has jurisdiction of the parties and subject matter of this action.

4.

Service of Process has been perfected either personally, or by publication notice, as provided by Rule 71A of Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject tract.

5.

The Acts of Congress set out in paragraph 2 of the Complaint herein give the United States of America the right, power, and authority to condemn for public use the estate described in paragraph 2 herein. Pursuant thereto, on July 19, 1967, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing the Declaration of Taking.

6.

On filing of the Declaration of Taking, there was deposited in the Registry of this Court, as estimated compensation for the taking of a certain estate in the subject tract a certain sum of money, and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owners of the estate taken in subject tract were the defendants whose names are shown below in paragraph 12. Such named defendants are the only persons asserting any interest in the estate taken in such tract, all other persons having either disclaimed or defaulted, and such named defendants are entitled to receive the just compensation for the estate taken in this tract.

8.

The owners of the subject tract and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject tract is in the amount shown as compensation in paragraph 12 below, and such Stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for subject tract and the amount fixed by the Stipulation As To Just Compensation, and the amount of such deficiency should be deposited for the benefit of the owners. Such deficiency is set out below in paragraph 12.

10.

It Is, Therefore, ORDERED, ADJUDGED, and DECREED that the United States of America has the right, power, and authority to condemn for public use the tract named in paragraph 2 herein, as such tract is particularly described in the Complaint and Declaration of Taking filed herein; and such tract, to the extent of the estate described in such Declaration of Taking, is condemned, and title thereto is vested in the United States of America, as of the date of filing such Declaration of Taking; and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such estate.

11.

It Is Further ORDERED, ADJUDGED, and DECREED that on the date of taking, the owners of the estate condemned herein in subject tract were the defendants whose names appear below in paragraph 12, and the right to just compensation for the estate taken herein in this tract is vested in the parties so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, mentioned in paragraph 8 above, hereby is confirmed; and the sum therein fixed is adopted as the award of just compensation for the estate condemned in subject tract, as follows:

TRACT NO. 154E

Owners:

James L. Martin, Jr. and  
Hazel A. Martin

Subject to a mortgage held by the Commissioners  
of the Land Office of the State of Oklahoma.

Award of just compensation, pursuant to stipulation - - - - -	\$5,000.00	\$5,000.00
Deposited as estimated compensation - - -	3,948.00	
Disbursed to owners - - - - -		<u>None</u>
Balance due to owners - - - - -		\$5,000.00
Deposit deficiency - - - - -	-\$1,052.00	

13.

It Is Further ORDERED, ADJUDGED, and DECREED that the United States of America shall deposit in the Registry of this Court, in this civil action the deficiency sum of \$1,052.00. The Clerk of this Court then shall disburse from the deposit for subject civil action to James L. Martin, Jr., and Hazel A. Martin, and Commissioners of the Land Office of the State of Oklahoma, jointly, the sum of \$5,000.00.

Spencer E. B...  
UNITED STATES DISTRICT JUDGE

APPROVED:

Hubert A. Marlow  
HUBERT A. MARLOW  
Assistant United States Attorney

C U P O Y

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

RUTH ELLEN GARRISON, )  
Plaintiff, )  
vs. )  
MISSOURI PACIFIC RAILROAD )  
COMPANY and V. F. HUFFSTETLER, )  
Defendants. )

No. 69-C-137

**FILED**

DEC 4 1969

MOTION TO DISMISS AND  
STIPULATION FOR DISMISSAL

M. M. EWING, CLERK  
U. S. DISTRICT COURT

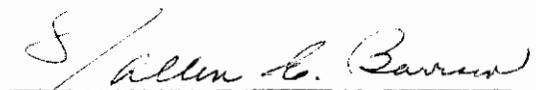
Comes now the plaintiff and moves to dismiss the above action with prejudice to the bringing of a future action upon the grounds and for the reason that all matters of issue between the parties have been compromised and settled.

  
Ruth Ellen Garrison, Plaintiff  
  
Gerald D. Swanson,  
Swanson & Montgomery  
711 Thurston National Bldg.,  
Tulsa, Oklahoma,  
Attorney for Plaintiff

ORDER OF DISMISSAL

Now, on this 10<sup>th</sup> day of Dec, 1969, this cause comes on for <sup>consideration</sup> hearing upon plaintiff's stipulation and motion to dismiss with prejudice and the Court, having examined the files and being advised in the premises, finds that there is no issue remaining and that all matters have been settled between the parties and the motion should be sustained.

IT IS THEREFORE BY THE COURT ORDERED, ADJUDGED AND DECREED that this action be and the same is hereby dismissed with prejudice, at the cost of plaintiff.

  
United States District Judge.

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

CHARLES B. JACKMAN, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 CORNELL CORPORATION, )  
 )  
 Defendant. )

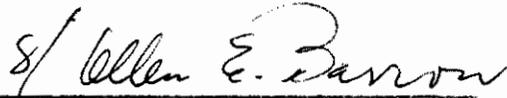
DEC 11 1969  
M. M. EWING, CLERK  
U. S. DISTRICT COURT

No. CA 69-C-232

ORDER

NOW on this 2nd day of December, 1969, this matter came on for hearing. Upon statements of counsel the Court finds that by agreement of counsel that this matter should be dismissed with prejudice to the plaintiff for bringing any later action and for the costs of the action to be borne by the plaintiff.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that this matter is to be dismissed with prejudice to the plaintiff for bringing a cause of action on the facts alleged in the petition, and that the costs of this matter should be borne by the plaintiff.

  
Allen E. Barrow, Judge

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

MARY FRANCES DRURY, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 ERWIG G. BLANKENMEISTER, )  
 )  
 Defendant. )

No. 69-C-256

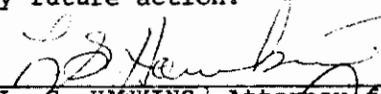
**FILED**

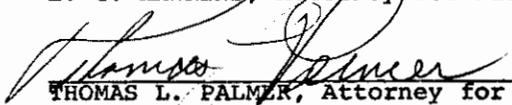
DEC - 4 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

STIPULATION <sup>of</sup> FOR DISMISSAL

Comes now the plaintiff, Mary Frances Drury, by and through her attorney of record, L. G. Hawkins, and comes now the defendant, Erwig G. Blankenmeister, by and through his attorney of record, Thomas L. Palmer, and upon the consideration of full, final and complete compromise and settlement of all issues of fact and law between the parties hereto, stipulate and agree that the above entitled cause should be, and the same is hereby dismissed with prejudice to the bringing of any future action.

  
L. G. HAWKINS, Attorney for Plaintiff

  
THOMAS L. PALMER, Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

C. P. CULP, d/b/a CULP DR. PEPPER )  
BOTTLING COMPANY, and MARYLAND )  
CASUALTY COMPANY, )  
 )  
 ) Plaintiffs, )  
 )  
vs. )  
 )  
NORTHWESTERN PACIFIC INDEMNITY )  
COMPANY, )  
 )  
 ) Defendants. )

No. 6268 Civ.

**FILED**

DEC 5 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

J U D G M E N T

Based upon the Findings of Fact and Conclusion of Law this day filed, it is adjudged and decreed by the Court that plaintiffs do not recover of and from the defendant any sum, and that Judgment is hereby rendered in favor of said defendant.

Costs are awarded to the defendant.

Dated this 3<sup>rd</sup> day of December, 1969.

*Luther Bohannon*

United States District Judge

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

United States of America, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 952.63 Acres of Land, More or Less, )  
 Situate in Osage and Kay Counties, )  
 State of Oklahoma, and Cecil Cales, )  
 et al, and Unknown Owners, )  
 )  
 Defendants. )

CIVIL ACTION NO. 68-C-111  
Tracts Nos. 129, 142 & 142E

**FILED**

DEC - 8 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 8<sup>th</sup> day of November, 1969, this matter comes on for disposition on application of the Plaintiff, United States of America, and the defendant landowner, for entry of Judgment on the Second Report of Commissioners filed herein on May 23, 1969, and the Court, after having examined the files in this action and being advised by counsel for the parties, finds:

2.

The Court has jurisdiction of the parties and the subject matter of this action.

3.

This Judgment applies to the entire estates taken in all of the property involved in this action as such estates and property are described in the Complaint and the Declaration of Taking, filed herein.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause, who are interested in subject tract.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the subject property. Pursuant thereto, on May 9, 1968, the United States of America filed its Declaration of Taking of certain estates in such tracts of land, and title to such estates should be vested in the United States of America as of the date of filing such instrument.

6.

On the filing of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the subject property a certain sum of money, and all of this deposit has been disbursed as set out below in paragraph 10. Likewise, the deficiency between the deposit of estimated compensation and the amount of the Commissioners' award has been deposited and disbursed to the owner as shown below in paragraph 10. The interest on such deficiency has not been deposited and an amount sufficient to pay the same should be deposited by the Plaintiff, as shown below in paragraph 10.

7.

The Second Report of Commissioners filed herein on May 23, 1969, hereby is accepted and adopted as a finding of fact as to subject tracts. The amount of just compensation for the estates taken in the subject tracts, as fixed by the Commission, is set out in paragraph 10 below.

8.

The defendant named in paragraph 10 as owner of subject tracts is the only person asserting any interest in the estates condemned herein, all other defendants having either disclaimed or defaulted. The named defendant, as of the date of taking, was the owner of the estates condemned herein, and, as such, is entitled to receive the award of just compensation for the estates taken.

9.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property described in the Complaint and Declaration of Taking filed herein, and such property, to the extent of the estates described in such Complaint and Declaration of Taking, is condemned, and title thereto is vested in the United States of America, as of the date of filing the Declaration of Taking, and all defendants herein and all other persons are forever barred from asserting any claim to such estates.

10.

It Is Further ORDERED, ADJUDGED, and DECREED that the right to receive the just compensation for the estates taken herein in subject tracts is vested in the person named in the schedule below; the Second Report of Commissioners of May 23, 1969, is hereby confirmed and the sum therein fixed is adopted as the award of just compensation for the estates taken in subject tracts as shown by the following schedule:

TRACTS NOS. 129, 142 and 142E

Owner: Cecil E. Cales

Award of just compensation pursuant to Commissioners' Report - - - - -	\$415,000.00	\$415,000.00
Deposited as estimated compensation - - - - -	<u>303,725.00</u>	
Deposit deficiency created by award - - - - -	\$111,275.00	
Interest on deficiency:		
(Computed at 6% per annum from May 9, 1968 to June 3, 1969) - - - - -	<u>7,133.80</u>	7,133.80
Total deficiency and interest - - - - -	\$118,408.80	<u>                    </u>
Total award and interest - - - - -		\$422,133.80
Deposited in payment of deficiency on June 3, 1969 - - - - -		
	<u>111,275.00</u>	
Present deposit deficiency - - - - -	\$ 7,133.80	
Disbursed to owner:		
By Order June 11, 1968 - -	\$303,725.00	
By Order June 12, 1969 - -	<u>111,275.00</u>	
Total disbursed - - - - -		<u>415,000.00</u>
Balance due to owner - - - - -		\$ 7,133.80

11.

It Is Further ORDERED that the Plaintiff, United States of America, shall pay into the Registry of this Court for the benefit of the owners the present deficiency in the deposit in this case in the sum of \$7,133.80.

Upon receipt of such deposit, the Clerk of this Court shall disburse from the deposit in this case, to Cecil E. Cales the sum of \$7,133.80.

ALLEN E. BARROW

UNITED STATES DISTRICT JUDGE

APPROVED:

*Hubert A. Marlow*

HUBERT A. MARLOW  
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

BUCK RICE, )  
)  
Plaintiff, )  
vs. )  
)  
TRANS WORLD AIRLINES, INC., )  
)  
Defendant. )

**FILED**  
NO. 68-C-195 DEC - 8 1969  
M. M. EWING, CLERK  
U. S. DISTRICT COURT

STIPULATION FOR ORDER OF DISMISSAL WITH PREJUDICE

It is hereby stipulated and agreed that all claims of the plaintiff herein against the defendant herein have been fully compromised and settled, and that this cause should be dismissed with prejudice.

DATED this 23<sup>rd</sup> day of November, 1969.

\_\_\_\_\_  
Attorney for Plaintiff, Darlene Rice,  
Administratrix of the Estate of  
Buck Rice, Deceased.

[Signature]  
Attorney for Defendant

ORDER OF DISMISSAL WITH PREJUDICE

Upon stipulation of counsel;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Court that this cause be and the same is hereby dismissed with prejudice.

DATED this 9 day of ~~November~~ December, 1969.

[Signature]  
JUDGE OF THE UNITED STATES DISTRICT COURT

OK:

\_\_\_\_\_  
Attorney for Plaintiff, Darlene  
Rice, Administratrix of the  
Estate of Buck Rice, Deceased

[Signature]  
Attorney for Defendant



from the 1st day of May, 1933, at the rate of 7% per annum until the date of this judgment, December 2, 1934. The Court further finds that by the terms of said note that the responsibility is delegated to the plaintiff for attorney fees in the amount of 10% of the total amount due herein and such amount therefore being \$1,204.00.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the court that the plaintiff is hereby granted judgment against the defendants and each of them in the principal sum of \$13,040.00, interest from May 3, 1933, until December 2, 1934, in the sum of \$475.00, attorney fees in the sum of \$1,204.00, plus the costs of this action. That said judgment shall bear interest from the date of its rendition, December 2, 1934, until paid at the rate of 10% per annum.

WHEREFORE, let execution issue.

*S. Allen C. Barrow*  
UNITED STATES DISTRICT JUDGE  
NORTHERN DISTRICT OF OKLAHOMA



It further appears to the Court that the parties have heretofore entered into settlement negotiations with the purpose of settling the dispute as to the actual land needed in said project with reference to Tract No. 402, and that the same cannot be accomplished.

That the final disposition of the litigation concerning Tract No. 402 has been delayed in prosecution for almost three years by virtue of the acreage dispute.

That the defendants, landowners and condemnees, have indicated their willingness to cooperate with the agencies of the United States Government, to no avail.

That the Government has acknowledged that a portion of the property described in the original taking is not at this time needed for public purposes originally asserted; that additional portions of Tract No. 402 will be needed to effect the public purpose.

That the defendants, landowners and condemnees, timely filed objections to the taking, premised on lack of need and insufficiency of award.

That the condemnees premise the instant motion on lack of need.

That the condemnees have heretofore withdrawn from the registry of this Court the funds deposited as estimated compensation and have indicated their desire not to redeposit such funds; that the estimated compensation heretofore disbursed in the amount of \$2,799.00 shall be applied to the new taking and considered by the parties as deposited when a new complaint, correctly describing the lands needed, is filed with this Court.

IT IS, THEREFORE, ORDERED that this cause of action be and the same is hereby dismissed, and the Motion to Dismiss filed herein be and the same is hereby sustained.

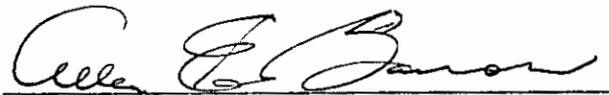
IT IS FURTHER ORDERED that the objections of defendants to the need for taking, set forth in their objections filed in this action, be and the same are hereby sustained.

IT IS FURTHER ORDERED that the estimated compensation withdrawn herein not be redeposited, but shall be applied to the new taking and considered as deposited when a new complaint in condemnation is filed with this Court.

IT IS FURTHER ORDERED that the Declaration of Taking, filed herein on February 3, 1967, insofar as it relates to Tract No. 402, is dismissed and title vested in the defendants, landowners and condemnees.

IT IS FURTHER ORDERED that this cause of action not be dismissed if, within five days, the parties enter into the stipulation attached to the Motion to Dismiss filed herein.

ENTERED this 9<sup>th</sup> day of December, 1969.

  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

HAZEL E. LONGSTAFF, Guardian of )  
the Person and Estate of William )  
O. Longstaff, an Incompetent )  
Person, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
DR. CLARENCE H. JOHNSON and )  
AFTON MEMORIAL HOSPITAL CO., )  
a Corporation, )  
 )  
Defendants. )

NO. 69-C-83

**FILED**

DEC 11 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

ORDER OF DISMISSAL

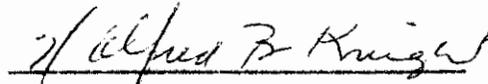
The above matter coming on to be heard this 11<sup>th</sup> day of December, 1969, upon the written application of the parties for a dismissal of said action with prejudice, the Court having examined said application finds that said parties have entered into a compromise settlement covering all claims involved in the action and have requested the Court to dismiss said action with prejudice to any future action, and the Court being fully advised in the premises, finds that said action should be dismissed pursuant to said application.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Action of Plaintiff filed herein against the Defendants be and the same is hereby dismissed with prejudice to any future action.

  
ALFRED E. KNIGHT, DISTRICT COURT OF THE UNITED  
STATES, NORTHERN DISTRICT OF OKLAHOMA

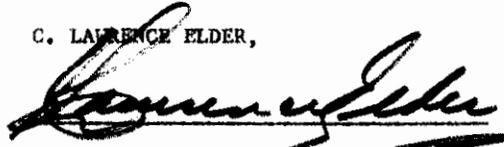
APPROVAL:

ALFRED E. KNIGHT,



Attorney for the Defendants,

C. LAWRENCE ELDER,



Attorney for the Plaintiff.

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

United States of America, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 503.74 Acres of Land, More or Less, )  
 Situate in Nowata County, Oklahoma, )  
 and Hinman Stuart Milam, et al, and )  
 Unknown Owners, )  
 )  
 Defendants. )

Civil Action No. 4973

Tract No. 6636-9

**FILED**

DEC 12 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

J U D G M E N T

Now on this the 2nd day of December, 1969, there comes on for hearing the determination of ownership and for distribution of the proceeds of the judgment to the owners as hereinafter set out, of the following tract, to-wit:

Tract Number 6636-9:  
The SW $\frac{1}{4}$  of the NW $\frac{1}{4}$ ; and  
The SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of  
Section 36, Township 26 North,  
Range 16 East, Nowata County, Oklahoma,

and Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma, appearing for the plaintiff; Glenn H. Chappell, Attorney, appearing for the defendants for whom he has filed answer herein, and also appearing for Clars I. Daugherty; H. S. Milam and M. L. Hagen appearing in person, and no one else appearing and the Court having heard the evidence offered and being fully advised, finds as follows:

That the balance due the owners in the sum of \$2,450.00 now on deposit in the office of the Clerk of this Court, should be apportioned among the royalty owners, the overriding royalty owners, and the working interest owners as follows:

To the royalty owners . . . . .	\$1,750.00
To the working interest owners . . . . .	600.00
To the overriding royalty interest owners . . . . .	100.00
Total . . . . .	\$2,450.00

The Court Further Finds, and It Is Ordered, Adjudged and Decreed that the royalty interest therein, in the sum of \$1,750.00, should be distributed and paid to the following named parties, and the Clerk of this Court is directed to pay the same to the following named parties, as follows, to-wit:

1/3rd of 11.64% to Mary H. Hart . . . . .	\$ <u>67.90</u>
1/3rd of 11.64% to Esther H. Putnam . . . . .	\$ <u>67.90</u>
1/3rd of 11.64% to Wm. K. Harrington . . . . .	\$ <u>67.90</u>
23.29% to James A. Arnold and Glenn H. Chappell, as Trustees under the Will of H. W. Reed, deceased . . . . .	\$ <u>407.57</u>
1.455% to M. L. Hagan . . . . .	\$ <u>25.46</u>
1.455% to Orie Price . . . . .	\$ <u>25.46</u>
2.91% to the estate of B. G. Dowell, deceased . . . . .	\$ <u>50.93</u>
22.74% to Julian W. Glass, Jr., Trustee under the Will of J. Wood Glass, deceased . . . . .	\$ <u>397.95</u>
13.86% to E. C. Welsh . . . . .	\$ <u>242.55</u>
13.86% to Clara I. Daugherty . . . . .	\$ <u>242.55</u>
1/3rd of 5.13% to Alice L. Robertson . . . . .	\$ <u>29.92</u>
1/3rd of 5.13% to Ben L. Robertson . . . . .	\$ <u>29.93</u>
1/3rd of 5.13% to John L. Robertson . . . . .	\$ <u>29.93</u>
1/2 of 3.66% to P.I.C. Management . . . . .	\$ <u>32.03</u>
1/6th of 3.66% to H. S. Milam . . . . .	\$ <u>10.67</u>
1/6th of 3.66% to Mildred M. Viles . . . . .	\$ <u>10.67</u>
1/6th of 3.66% to Mary M. Stevenson . . . . .	\$ <u>10.68</u>

The Court Further Finds and It Is Ordered, Adjudged and Decreed that the proceeds of the working interest, in the sum of \$600.00, should

be distributed and paid to the following named party, and the Clerk of this Court is directed to pay the same to the following named party, as follows, to-wit:

George M. Ford  
522 South Fifth Street  
Neodesha, Kansas.

The Court Further Finds, and It Is Ordered, Adjudged and Decreed that the overriding royalty interest in the sum of \$100.00 should be distributed and paid to the following named parties, and the Clerk of this Court is directed to pay the same to the following named parties, as follows, to-wit:

1/3rd of 11.64% to Mary H. Hart . . . . .	\$ <u>3.88</u>
1/3rd of 11.64% to Esther H. Putnam . . . . .	\$ <u>3.88</u>
1/3rd of 11.64% to Wm. K. Harrington . . . . .	\$ <u>3.88</u>
23.29% to James A. Arnold and Glenn H. Chappell, as Trustees under the will of H. W. Reed, deceased . . . . .	\$ <u>23.29</u>
1.455% to M. L. Hagan . . . . .	\$ <u>1.46</u>
1.455% to Orie Price . . . . .	\$ <u>1.46</u>
2.91% to the estate of B. G. Dowell, deceased . . . . .	\$ <u>2.91</u>
5.82% to Julian W. Glass, Jr., Trustee under the will of J. Wood Glass, deceased . . . . .	\$ <u>5.82</u>
60% of 27.72% to E. C. Welsh . . . . .	\$ <u>16.63</u>
40% of 27.72% to Nellie A. Welsh . . . . .	\$ <u>11.08</u>
16.92% to Gilcrease Oil Company . . . . .	\$ <u>16.92</u>
5.13% to Gertrude F. Welsh . . . . .	\$ <u>5.13</u>
1/2 of 3.66% to P.I.C. Management . . . . .	\$ <u>1.83</u>
1/6th of 3.66% to H. S. Milam . . . . .	\$ <u>.61</u>
1/6th of 3.66% to Mildred M. Viles . . . . .	\$ <u>.61</u>
1/6th of 3.66% to Mary M. Stevenson . . . . .	\$ <u>.61</u>

5/ Hubert A. Marlow  
APPROVED:

5/ Glenn H. Chappell  
Glenn H. Chappell, Attorney for Defendants

5/ Allen E. Barrow  
Judge of the United States District Court  
for the Northern District of Oklahoma

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MAX A. McMAHILL,

Defendant.)

CIVIL ACTION NO. 69-C-214 ✓

**FILED**

DEC 12 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

NOTICE OF DISMISSAL

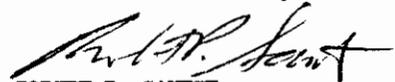
COMES NOW the United States of America by and through its attorney Robert P. Santee, Assistant United States Attorney for the Northern District of Oklahoma, and herewith gives its notice of dismissal with prejudice for the following reason:

A compromise settlement has been effected with the defendant, Max A. McMahonill. The plaintiff, United States of America, has agreed to accept the sum of \$750.00 in compromise of the amount sued for.

Dated this 12th day of December, 1969.

UNITED STATES OF AMERICA

NATHAN G. GRAHAM  
United States Attorney



ROBERT P. SANTEE  
Assistant United States Attorney

FILED  
DEC 12 1969  
W. M. EWING, CLERK  
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

TERRY LYNN DUFF, )  
 )  
Plaintiff, ) 69-C-239  
 )  
vs. )  
 )  
THE AETNA CASUALTY AND SURETY )  
COMPANY, a foreign insurance )  
corporation, et al, )  
 )  
Defendants. )

ORDER REMANDING CAUSE OF  
ACTION

The Court has for consideration the Plaintiff's Motion to Remand; Plaintiff's Supplemental Motion to Remand; and Application for Leave to Amend Petition for Removal filed by the defendant; the briefs in support and opposition thereto, and, having carefully perused the entire file, being fully advised in the premises, finds:

That this cause of action was originally commenced in the District Court of Creek County, Oklahoma, on the 5th day of September, 1969, and was removed to this Court by the defendant, Aetna Casualty and Surety Company, on the 24th day of September, 1969. As grounds for said removal Aetna Casualty and Surety Company alleged diversity of citizenship, requisite amount in dispute, fraudulent joinder of the two defendants, Evelyn J. Smith, Administratrix of the Estate of Emory L. Smith, deceased, and W. E. Green.

On October 1, 1969, plaintiff filed a Motion to Remand, premised on the allegation that the requisite diversity of citizenship was not present, in that it is alleged that the defendants,

Evelyn J. Smith, Administratrix and W. E. Green, are citizens of the State of Oklahoma. Thereafter, and on November 10, 1969, plaintiff filed the Supplemental Motion to Remand, alleging that the petition for removal was fatally defective in that there is no allegation as to the citizenship of Aetna Casualty and Surety Company at the time of the commencement of the action in state court. On November 17, 1969, Aetna Casualty and Surety Company filed its application for leave to amend petition for removal.

The petition for removal must show the citizenship of the parties at the time of the commencement of the action. A failure to so state is a fatal defect which cannot be corrected unless an application to amend is made within the prescribed statutory period for the filing of a petition for removal. To permit an amendment after the expiration of the period of limitation for the filing of the petition for removal would be not to correct a defective allegation, but to permit a new hitherto unplead jurisdictional ground for removal.

This Court will continue to insist that allegations of jurisdiction as required by statute, must be expressly alleged.

The Court has a responsibility to accept jurisdiction in all proper cases. It has a greater duty to protect the jurisdiction of the State court, both by reason of comity to that court and fairness to litigants who have chosen it as a forum.

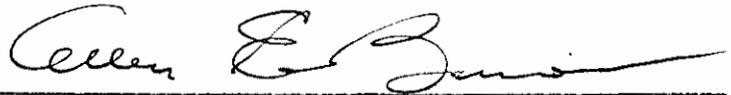
Where there is doubt as to federal jurisdiction, the doubt should be construed in favor of remanding the case to the State court where there is no doubt as to its jurisdiction.

Since the Court has determined the case must be remanded, based on the allegations of the Supplemental Motion to Remand, this Court will make no ruling at this time with reference to the alleged fraudulent joinder raised by the defendant, Aetna Casualty and Surety Company.

IT IS, THEREFORE, ORDERED that the Motion to Amend the Removal Petition be and the same is hereby denied.

IT IS FURTHER ORDERED that this cause be remanded to the District Court of Creek County, Oklahoma, from whence it was removed.

ENTERED this 12 day of November, 1969.



---

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

United States of America, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 345.00 Acres, etc., in Nowata )  
 and Rogers Counties, Oklahoma, )  
 and Harry E. Bagby, et al, and )  
 Unknown Owners, )  
 )  
 Defendant. )

Civil Action No. 5115

Tract No. J-1029

**FILED**

DEC 15 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

J U D G M E N T

Now on this the 2nd day of December, 1969, there comes on before hearing the determination of ownership and for distribution of the proceeds of the judgment in favor of the owners of the lessee interest as hereinafter set out, of the following tract, to-wit:

Tract Number J-1029:  
The S $\frac{1}{2}$  of the NE $\frac{1}{4}$  of Section 11,  
Township 24 North, Range 16 East,  
Rogers County, Oklahoma,

and Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma, appearing for the plaintiff, and Glenn H. Chappell, Attorney, appearing for all of the defendants for whom he has filed answer herein except for Allen A. Borton, who is now deceased, and no one else appearing and the Court having heard the evidence offered and being fully advised, finds and orders as follows:

That the entire award for the entire lessee interest in the sum of \$8225.00, is on deposit in the registry of the Court Clerk of this Court.

The Court Further Finds and It Is Ordered, Adjudged and Decreed that the entire award for the lessee interest in the sum of \$8225.00

should be distributed and paid to the following named parties, and the Clerk of this Court is ordered and directed to pay the same to the following named parties, as follows, to-wit:

1/16th thereof to W. G. McCartney . . . .	\$ <u>514.06</u>
1/16th thereof to W. R. Scott . . . . .	\$ <u>514.06</u>
1/8th thereof to Glenn G. Hayes . . . . .	\$ <u>1,028.13</u>
1/2 thereof to D. P. Cobb, for interest owned . . . . .	\$ <u>4,112.50</u>
1/4th thereof to D. P. Cobb, as prior assignee mortgages of the interest of Veva L. Borton and Allen A. Borton	\$ <u>2,056.25</u>
Total . . . . .	\$ <u>8,225.00</u>

*151 Allen E. Borton*  
United States District Judge

APPROVED:

*151 Hubert A. Marlow*  
Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma

APPROVED:

*Glenn H. Chappell*  
Glenn H. Chappell, Attorney for Defendants for whom he has filed answer

IN THE UNITED STATES DISTRICT COURT FOR THE

NORTHERN DISTRICT OF OKLAHOMA

R.T. DANIEL, JR., )  
 )  
 Plaintiff, )  
 )  
 -vs- )  
 )  
 SAMUEL PHILLIPS DANIEL and )  
 WILLIAM HARRISON DANIEL, Individually )  
 and as Trustees under the Will of )  
 RICHARD T. DANIEL, Deceased, )  
 )  
 Defendants. )

No. 69 C 35

FILED

DEC 15 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

STIPULATION <sup>OF</sup> FOR DISMISSAL WITH PREJUDICE

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned attorneys for plaintiff and the undersigned attorneys for defendants that the above entitled cause of action be and is hereby discontinued and the complaint dismissed as to each of the defendants with prejudice to refile another suit based upon the same claims as set forth in the complaint and amendments thereto filed herein and at plaintiff's cost.

DATED this 15th day of December, 1969.

Of Counsel:  
MASON & MASON

A.D. Mason  
A.D. MASON

Of Counsel:  
WATTS, LOONEY, NICHOLS  
& JOHNSON

C.J. Watts  
C.J. WATTS

Attorneys for Plaintiff

Sam P. Daniel, Jr.  
SAM P. DANIEL, JR.

A.C. Saunders  
A.C. SAUNDERS

William C. Anderson  
WILLIAM C. ANDERSON

Of Counsel:  
DOERNER, STUART, SAUNDERS,  
DANIEL & LANGENKAMP

Attorneys for Defendants

IEU:lg  
12/10/69

FILED  
DEC 15 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

DUNLOP TIRE & RUBBER CORPORATION, )  
a corporation, )  
 )  
Plaintiff )  
 )  
vs. )  
 )  
STANLEY SYNAR, )  
 )  
Defendant )

Civil Action  
No. 69-C-275

J U D G M E N T

Now on this 15<sup>th</sup> day of Dec, 1969, there having been presented to the undersigned United States District Judge the Stipulation for the entry of a judgment and the Court having considered the same and being well and sufficiently advised in the premises finds that judgment should be entered herein as set forth in said Stipulation.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THIS COURT that the Stipulation for an entry of judgment be and the same is hereby approved and judgment is hereby entered in favor of the plaintiff, Dunlop Tire & Rubber Corporation, a corporation, and as against the defendant, Stanley Synar, for the sum of \$10,456.78 with interest thereon at the rate of 10% per annum from this date, together with a further sum of \$1500.00 attorneys fees for the use and benefit of plaintiff's counsel herein, to be taxed as cost, together with all the other costs of this action.

*William E. Ewing*  
United States District Judge

APPROVED:

UNGERMAN, GRABEL, UNGERMAN & LEITER

By *[Signature]*  
Attorneys for Dunlop Tire & Rubber Corporation, a corporation, Plaintiff

*Stanley Synar*  
Stanley Synar - defendant

LAW OFFICES  
UNGERMAN,  
GRABEL,  
UNGERMAN  
& LEITER  
  
SIXTH FLOOR  
WRIGHT BUILDING  
TULSA, OKLAHOMA

IN THE UNITED STATES DISTRICT COURT FOR THE

NORTHERN DISTRICT OF OKLAHOMA

**FILED**

R.T. DANIEL, JR.,

Plaintiff,

-vs-

SAMUEL PHILLIPS DANIEL and  
WILLIAM HARRISON DANIEL, Individually  
and as Trustees under the Will of  
RICHARD T. DANIEL, Deceased,  
Defendants

DEC 17 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

No. 69 C 35

ORDER ALLOWING DISMISSAL

NOW on this 16<sup>th</sup> day of December, 1969, this Court being presented with a stipulation of the attorneys for both parties for the discontinuance of this action and a dismissal thereof with prejudice to further action and at the plaintiff's cost, it is ordered that the complaint be dismissed with prejudice, with costs to the plaintiff.

DATED December 16<sup>th</sup>, 1969.

Luther Bohannon  
UNITED STATES DISTRICT JUDGE

*etc. C. J. Walls*  
*W. Harrison*

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALBERT OLONOFF, PEARL OLONOFF, and  
ALBERT OLONOFF COMPANY, INC.,

Defendants.)

CIVIL ACTION NO. 69-C-200

FILED

DEC 17 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

J U D G M E N T

On the 13th day of October, 1969, the above-entitled matter came on for hearing before the Honorable Luther Bohanon, United States District Judge. Plaintiff, United States of America, appeared by and through its attorney, Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. The Defendants, Albert Olonoff and Pearl Olonoff, appeared by and through their attorney, Ted P. Gibson. The Defendant, Albert Olonoff Company, Inc., appeared not.

The Court finds it has jurisdiction of this action by virtue of 28 U.S.C., Section 1345.

The Court finds that this is an action based upon a Promissory Note given by the Defendant, Albert Olonoff Company, Inc., and guaranteed by Defendants, Albert Olonoff and Pearl Olonoff; that said Promissory Note was dated March 31, 1966, in the amount of \$15,000.00 bearing interest at the rate of 5½% per annum and was payable to the Small Business Administration, an Agency of the Plaintiff, United States of America.

After examination of the file and pleadings and upon statement of counsel for both the Plaintiff and Defendants, the Court finds that said Promissory Note is in default and that there is now due and owing on said Note to the Plaintiff a balance of \$11,312.01 as of October 2, 1968, with interest thereafter at 5½% per annum until paid.

The Court further finds that as an inducement for the Small Business Administration to accept such Promissory Note, the Alex Import and Export Company, Inc., a New York Corporation, did execute a guaranty in favor of the Small Business Administration, which guaranty was dated March 31, 1966.

There is presently pending in the United States District Court for the Southern District of New York a suit, 69 Civ. 2602, by the United States of America, Plaintiff, vs. Eltex Import and Export Company, Inc., based on a guaranty executed by said Defendant. The suit prays for recovery in the amount of \$11,312.01 as of October 2, 1968, with interest at 5½% per annum until paid. The Court takes cognizance of such suit and, as a part of this Judgment, finds that the Plaintiff, United States of America, shall have only one full satisfaction of the sum of \$11,312.01 as of October 2, 1968, with interest therefrom at 5½% per annum until paid.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Plaintiff, United States of America, have and recover judgment against the Defendants, Albert Olonoff, Pearl Olonoff, and Albert Olonoff Company, Inc., in the amount of \$11,312.01, as of October 2, 1968, with interest therefrom at 5½% per annum until paid, for the costs of this action and for such other relief as this Court might deem proper.

Dated this 16th day of December, 1969.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

s/ Robert P. Santee

ROBERT P. SANTEE  
Assistant United States Attorney

  
TED P. GIBSON  
Attorney for Albert Olonoff and  
Pearl Olonoff

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

United States of America,

Plaintiff,

vs.

Emile C. Seitz and Gwen A. Seitz,  
and Mutual Plan of Tulsa, Inc.,

Defendants.

Civil No. 69-C-230

**FILED**

**DEC 19 1969**

**M. M. EWING, CLERK  
U. S. DISTRICT COURT**

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 16<sup>th</sup> day of  
December 1969. The defendant, Mutual Plan of Tulsa, Inc., appearing  
by B. C. Irwin, and the defendants, Emile C. Seitz and Gwen A. Seitz,  
appearing not; and

The Court being fully advised and having examined the file  
herein finds that the defendant, Mutual Plan of Tulsa, Inc., has heretofore  
filed its answer disclaiming any right, title and interest in and to the  
real property which is the subject of this foreclosure proceeding; and

It further appearing and the Court finds that due and legal  
personal service of summons has been made on the defendant, Mutual Plan  
of Tulsa, Inc., on September 17, 1969; and

It further appearing and the Court finds that legal service by  
publication was made upon the defendants, Emile C. Seitz and Gwen A. Seitz,  
as appears by Proof of Publication filed herein on December 12, 1969, re-  
quiring each of them to answer the complaint filed herein not more than  
(20) twenty days after service of summons, and it appearing that said  
defendants have failed to file an answer herein and their default has  
been entered by the Clerk of this Court; and

The Court further finds that this is a suit based upon a mortgage  
note and foreclosure on a real property mortgage securing said mortgage note  
on the following described real property located in Tulsa, Tulsa County,  
Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Fifteen (15), Block Forty-Five (45), Valley  
View Acres Second Addition to the City of Tulsa,  
Tulsa County, Oklahoma, according to the recorded plat  
thereof.

The Court further finds that the material allegations of Plaintiff's Complaint are true and correct;

That the defendants, Emile C. Seitz and Gwen A. Seitz, did on November 2, 1968, execute and deliver to the Administrator of Veterans Affairs, their mortgage and mortgage note for the sum of \$10,000.00, with interest thereon at the rate of 7% per annum and further providing for the payment of monthly installments of principal and interest; and

It further appears that the defendants, Emile C. Seitz and Gwen A. Seitz, made default under the terms of the aforesaid mortgage note and mortgage by reason of their failure to make monthly installments due thereon on June 2, 1969, which default has continued and that by reason thereof the defendants are now indebted to the Plaintiff in the sum of \$9,950.04, as unpaid principal, with interest thereon at the rate of 7% per annum from June 2, 1969, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that the Plaintiff, United States of America, have and recover judgment against the defendants, Emile C. Seitz and Gwen A. Seitz, for the sum of \$9,950.04, with interest thereon at the rate of 7% per annum from June 2, 1969, until paid, plus the cost of this action accrued and accruing.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that upon failure of the defendants to satisfy Plaintiff's money judgment herein, an Order of Sale shall issue to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisal, the above-described real property and apply the proceeds thereof in satisfaction of Plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part hereof.

APPROVED:

  
ROBERT F. SANDEE  
Assistant U. S. Attorney

  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

RAYMOND V. TAFF,

Petitioner,

vs.

RAY H. PAGE and THE STATE  
OF OKLAHOMA,

Respondents.

No. 69-C-261

**FILED**

**DEC 22 1969**

**M. M. EWING, CLERK  
U. S. DISTRICT COURT**

ORDER OF DISMISSAL

Respondents move to dismiss this federal habeas corpus proceeding because the constitutional question involved herein is being considered anew by the Oklahoma Court of Criminal Appeals, as shown by its Order dated December 11, 1969 and filed with said Motion of Respondents.

28 U.S.C. 2254 provides that available state remedies must be exhausted before federal courts will entertain writs of habeas corpus presented by state prisoners. It is the clear intention of said statute that state courts should first fully entertain any federal constitutional questions involving the confinement of state prisoners.

It being the desire of the Oklahoma Court of Criminal Appeals to consider anew the federal constitutional question involved herein, as shown by its Order above mentioned, this Court is desirous that it do so under the spirit and intent of 28 U.S.C. 2254.

As Petitioner's state remedy has not been exhausted on the federal constitutional question involved herein but is now pending in the Oklahoma Court of Criminal Appeals, the Petition herein is

hereby dismissed.

It is so ordered this 22 day of December, 1969.

  
Fred Daugherty  
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

HOSSEIN MIRAHMADZADEH, )

Plaintiff, )

vs. )

DILLARD DEPARTMENT STORES, INC., )  
(aka--Brown Dunkin Company), )  
A Corporation, )

Defendant. )

69-C-73

**FILED**

DEC 23 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

ORDER

The Court has for consideration the Application of Defendant to Tax Costs and Expenses to Plaintiff, pursuant to order entered by this Court on October 14, 1969, and being fully advised in the premises, finds:

The the following expenses should be taxed as costs against plaintiff in this action:

Removal Bond--\$10.00; Clerk's filing fee--\$15.00; Deposition--\$141.00; Deposition--\$13.95; Deposition--\$35.00; Marshal's Fee--\$6.72. The Court further finds that in lieu of all other items claimed in said application and statement of costs, plaintiff should pay to defendant an additional sum of \$250.00.

IT IS, THEREFORE, ORDERED that the defendant have judgment against the plaintiff in the sum of \$471.67, taxed as costs in this action.

ENTERED this 23rd day of December, 1969.

  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

EVERETT J. FULCE,

Petitioner,

vs.

RAY H. PAGE, Warden, Oklahoma  
State Penitentiary, and the  
STATE OF OKLAHOMA,

Respondents.

No. 69-C-286

**FILED**

DEC 23 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

O R D E R

Plaintiff, a state prisoner, proceeds herein in habeas corpus pursuant to 28 U.S.C. 2254. As grounds for relief he alleges:

"10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) There is no Okla. Law titled, "After Former Conviction of a Felony." ("AFCF")

(b) Tried under Double Jeopardy in case No. 18069

(c) Violation of Constitutional rights amendment (5)"

Petitioner amplifies 10(b), supra, by stating that the same prior conviction of Petitioner was used to enhance the punishment in each of two consecutive sentences imposed against him and amplifies 10(c), supra, by stating that the court read Petitioner's past record in the middle of the trial.

28 U.S.C. 2254 requires an exhaustion of available state remedies on each complaint raised before the same will be considered by the federal courts. Petitioner has had two state habeas corpus proceedings. Fulce v. Page, 432 P.2d 353 (Okla. Cr. 1967), and Fulce

v. Page, Case No. A-15283 filed May 5, 1969 in the Oklahoma Court of Criminal Appeals, not published.

In 432 P.2d 353, supra, Petitioner complained about his two sentences from Tulsa County running consecutive instead of running concurrent. He was denied relief in that case, then filed a federal habeas corpus petition on the same point in which he was denied relief, appealed this decision to the United States Court of Appeals for the Tenth Circuit which affirmed. Fulce v. Page, Case No. 9867, United States Court of Appeals for the Tenth Circuit, affirmed by Opinion (not published) on May 9, 1968.

In Case No. A-15283, supra, in the Oklahoma Court of Criminal Appeals, Petitioner complained that Oklahoma had no "After Former Conviction" law. This is the first of the three grounds Petitioner raises herein. The Oklahoma Court of Criminal Appeals denied relief citing Title 21, Oklahoma Statutes Annotated, Section 51, which is the Oklahoma "After Former Conviction" law and held that Petitioner's sentences in the two consecutive cases were not in excess of statutory authorization.

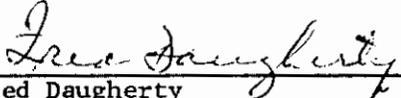
Thus, Petitioner has exhausted his state remedies on his first complaint raised herein but has not exhausted available state remedies on his second and third complaints raised herein. Such being the case, the Court will only consider Petitioner's first complaint and will not entertain his other two complaints on which he has not exhausted available state remedies.

As to Petitioner's complaint that there was no Oklahoma "After Former Conviction" law when he received his two consecutive sentences and that such "After Former Conviction" sentences imposed

in those cases are, therefore, illegal, such complaint is wholly void of merit. Oklahoma had an "After Former Conviction" law when and under which Petitioner was sentenced in 1959. See 21 Oklahoma Statutes Annotated, § 51. The law has been held constitutional in a number of cases. See Note 1 thereunder. Petitioner is, therefore, denied any relief on this complaint.

Petitioner not being entitled to relief on his first complaint and not showing an exhaustion of available state remedies on his second and third complaints, his Petition for Writ of Habeas Corpus filed herein is dismissed.

It is so ordered this 22 day of December, 1969.

  
Fred Daugherty  
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

ROBERT L. RADER, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 )  
 HAROLD W. MARTIN and )  
 O & U SECURITIES COMPANY, )  
 )  
 Defendants. )

Civil No. 69-C-111

*Filed  
Dec 24/69. Clerk  
m.m. Edwards  
U.S. Dist Court*

ORDER OF DISMISSAL

Upon the application of the plaintiff herein the above entitled cause is hereby dismissed with prejudice to the plaintiff's right of any further action.

*Fred Daugherty*  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

KENNETH EUGENE SUTTON,

Plaintiff,

vs.

JACK PURDY (G. J. PURDIE),

Defendant.

)  
)  
) 69-C-249  
)  
)  
)  
)  
)  
)

**FILED**

DEC 24 1969

M. M. EWING, CLERK  
U. S. DISTRICT COURT

ORDER SUSTAINING MOTION TO  
DISMISS

The Court has for consideration the Motion to Dismiss, and the briefs in support and opposition thereto, and, being fully advised in the premises, finds:

That this action is brought against defendant as the Chief of Police of the City of Tulsa. The Court finds that the chief of police of a municipality can not be held liable under the Civil Rights Act for an act of other officers of the police department, where there is no showing that the chief of police was present or directed the acts personally or personally cooperated in them. The Court further finds that the general allegation that the officers were acting at the direction and under the control of the chief of police is not sufficient to render him liable for any alleged violations of plaintiff's civil rights.

IT IS, THEREFORE, ORDERED that the Motion to Dismiss for failure to state a claim is sustained and this cause of action is dismissed.

ENTERED this 23rd day of December, 1969.

  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT  
OF OKLAHOMA

LUTHER COMPTON & SONS, INC., )  
a corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
COMMUNITY NATIONAL LIFE )  
INSURANCE COMPANY, a corporation, )  
 )  
Defendant. )

No. 68-C-10

**FILED**

**DEC 31 1969**

**M. M. EWING, CLERK  
U. S. DISTRICT COURT**

JUDGMENT

On this 31 day of December, 1969, after trial of the above entitled cause on the merits and briefs submitted by all parties and the memorandum opinion filed in this cause on December 11, 1969, the plaintiff being entitled to judgment,

IT IS ORDERED, ADJUDGED AND DECREED that Luther Compton & Sons, Inc., a corporation, have and recover judgment against Community National Life Insurance Company, a corporation, in the amount of \$25,000.00 plus interest on said amount at 6 per cent per annum from February 10, 1967, and the further sum of \$3,125.00 plus interest on said amount at 6 per cent per annum from August 23, 1967, plus the additional sum of \$27.25 as and for costs expended by the plaintiff in the Virginia Court judgment.

IT IS FURTHER ORDERED that interest on said judgments shall accrue at the rate of 10 per cent per annum from and after the date of this judgment in accordance with the provisions of Title 15, Oklahoma Statutes Annotated, Section 274, until paid, together with the costs of this action.

Approved: [Signature] UNITED STATES DISTRICT JUDGE  
[Signature]  
Attorney for Plaintiff  
[Signature]  
Attorney for Defendant, Community National Life Insurance Company  
[Signature]  
Attorney for Defendant, Joe B. Hunt, Receiver

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT  
OF OKLAHOMA.

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

EVERETT LEROY BIGGS, ET AL.,

Defendants,

FIDELITY & CASUALTY COMPANY OF  
NEW YORK,

Intervenor.

✓  
No. 69-C-258

**FILED**

DEC 31 1969

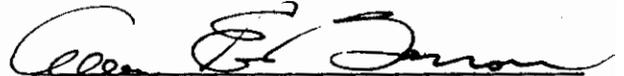
M. M. EWING, CLERK  
U. S. DISTRICT COURT

ORDER OVERRULING ANCILLARY MOTION OF  
EVERETT LEROY BIGGS AND SUPPLEMENTAL  
ORDER SUSTAINING APPLICATION FOR RELEASE OF FUNDS

COMES ON for hearing this 18th day of November, 1969, Ancillary Motion of Everett Leroy Biggs for return of the sum of \$800.00; and the United States of America appearing by United States Attorney by Hubert H. Bryant, Assistant U. S. Attorney; the defendant, Everett Leroy Biggs, appearing in person and by counsel, Ainslie Perrault, Jr. and Intervenor, Fidelity & Casualty Company of New York appearing by and through its counsel, Page Dobson; and all parties announcing ready for hearing, the Court proceeded to receive all evidence and exhibits proffered by the parties; and all parties having rested and upon argument of counsel, the Court proceeded to take said Motion under advisement; whereafter the Court having considered all of the evidence in said cause and being fully advised in the premises, upon consideration finds that the defendant, Everett Leroy Biggs, has failed to sustain his burden of proof for recovery of said funds claimed; that specifically the Court finds that the funds claimed as private personal monies had become so commingled with the currency seized as funds taken in the robbery of the Mercantile National Bank that they are not identifiable as being owned by defendant; and the

Court further finds that said claim is otherwise wholly unsupported by probative evidence; by reason of which said Ancillary Motion should be overruled and the balance of recovered funds herein in the amount of \$800.00 ordered released to Intervenor by Supplemental Order.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Ancillary Motion of Everett Leroy Biggs is overruled with exceptions; and it is further ordered that the balance of funds confiscated by proper authorities from defendants in the amount of \$800.00 is ordered to be paid and delivered to Intervenor, Fidelity & Casualty Company of New York; and that receipt therefore by its agent or attorneys shall constitute a full release of liability therefore by the delivering party.

  
ALLEN E. BARROW  
United States District Judge

O.K.

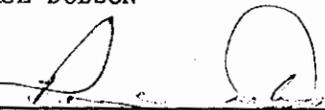
LAWRENCE A. MC SOUD  
United States Attorney

By \_\_\_\_\_  
Attorney for United States of  
America.

AINSLIE PERRAULT, JR.

By \_\_\_\_\_  
Attorney for Defendant Everett  
Leroy Biggs

PAGE DOBSON

By  \_\_\_\_\_  
Attorney for Intervenor, Fidelity  
& Casualty Company of New York