

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

MARY CLAUDEEN WAITS, Administratrix
of the Estate of JOSEPH C. ANDERSON,
Deceased,)

Plaintiff,)

vs.)

No. 72-C-407 ✓

WAYNE B. WESBROOK;
MAUER-NEUER, INC., a Corporation; and
JOHN MORRELL & CO., a Corporation,)

Defendants.)

FILED

NOV 30 1973 *JS*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER DISMISSING ACTION WITH PREJUDICE

This cause came on to be heard on stipulation of all parties to its dismissal, and the Court being fully advised and approving of the stipulation, it is

ORDERED that this cause be and the same hereby is dismissed with prejudice.

Ira Daugherty

U. S. District Judge.

At the outset, plaintiff, in its brief, has admitted that proper venue is established both in the Northern and Western District of Oklahoma.

The Motion is made pursuant to Title 28 U.S.C.A. Section 1404(a), which provides:

"(a) For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought."

The grounds for a transfer, raised by the Motion, are as follows:

1. Plaintiff's claim in the instant litigation against the Fund and its Trustees is the subject of Civil Action No. 73-C-491, pending in the Western District of Oklahoma, which was filed by the present Trustees of the Fund prior to the initiation of the present litigation.
2. Extensive and voluminous records related to and necessary for the resolution of the controversy are located in the Fund's offices in Duncan, Oklahoma. Duncan is in close proximity to Oklahoma City and the Western District, which would permit the necessary records to be available to the Court and the parties with a minimum of interference to the operation of the fund.
3. The present Trustees of the Fund and persons who were serving as Trustees at the time of the execution of the Note Purchase Agreement, which is in controversy and the central issue in the litigation, comprise a group of ten persons who will each be an important witness. Of these 10, 4 live in Duncan and 5 live in Dallas, two cities which are closer to Oklahoma City than Tulsa. In this regard, the Court notes, as reflected in the brief of the cross-claimants, one of the Trustees lives in Tulsa.
4. Some of the persons whom the Fund expects to call as witnesses are retired Trustees of the Fund and two are over the age of 65. Each of the retired Trustees resides at a location nearer Oklahoma City than Tulsa and the required travel to Oklahoma City will be more convenient than to require their travel and attendance in Tulsa.

There appears to be no serious question that the present action could have been brought in the Western District of Oklahoma.

The factors are equal in relation to the convenience of the parties and witnesses.

However, turning to the standard of "interest of Justice" the balance heavily favors a transfer to the Western District of Oklahoma.

The case now pending in the Western District is based essentially on the same underlying course of conduct by defendants, as alleged in the present suit. There is substantial identity in the question of fact and law raised in both cases. In such circumstances these actions should be brought together in a single forum for disposition. The balance of convenience, and, particularly, the interest of the courts in the effective administration of justice, weigh heavily in favor of transfer. There is a strong policy favoring the litigation of substantially similar claims in the same tribunal in order that (1) pre-trial discovery may be conducted more effeciently; (2) the witnesses can be saved time and money; (3) duplicitous litigation can be avoided, thereby eliminating expenses to the parties; and (4) inconsistent results can be avoided. *Schlusberg v. Werly* (S.D.N.Y., 1967) 274 F.Supp. 758, 764; *Freiman v. Texas Gulf Sulphur Co.* (N.D. Ill, 1965) 38 F.R.D. 336; *Firmani v. Clarke* (D.C. Del., 1971) 325 F.Supp. 689; *Jacobs v. Tenney* (D.C. Del., 1970) 316 F.Supp. 151; *Bayly Mfg. Co. v. Koracorp Industries, Inc.* (D.C. Col., 1969) 298 F.Supp. 308.

IT IS THEREFORE ORDERED that the motion to transfer be and the same is hereby sustained and this cause of action and complaint are hereby

transferred to the Western District of Oklahoma.

ENTERED this 30th day of November, 1973.

Allen B. Barrow

CHIEF UNITED STATES DISTRICT JUDGE

*Filed
2570 Tulsa
6/26/73*

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

THE TELEX CORPORATION and)
TELEX COMPUTER PRODUCTS, INC.,)
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Plaintiffs,)
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vs.)
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INTERNATIONAL BUSINESS MACHINES)
CORPORATION,)
)
Defendant.)

NO. C-72-18 ✓

NO. C-72-89

FILED
NOV 29 1973 *msw*
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U. S. DISTRICT COURT

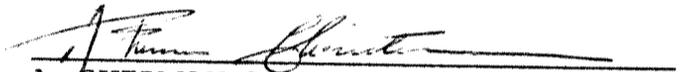
ORDER DENYING STAY OF INJUNCTIONS

On this 10th day of November, 1973, this matter came on for hearing in Salt Lake City, Utah by express consent of the parties, whereupon, the parties stipulated that they each would waive the posting of supersedeas to stay execution of the respective money judgments rendered in the Amended Judgment and Decree.

Upon consideration by the Court of IBM's Application for Stay of Injunctive Relief pending appeal, IBM stated that it was no longer seeking a stay of the injunctions granted in Paragraphs 3, 4, 5, 6, 7 and 9 of the Amended Judgment and Decree; and, after arguments of counsel, consideration of Briefs, and being otherwise fully advised,

IT IS HEREBY ORDERED that IBM's request for stay of Paragraph 8 of the Amended Judgment and Decree pending appeal is denied. IT IS FURTHER ORDERED that IBM is granted a temporary stay as to Paragraph 8 of the Amended Judgment and Decree for a period of ten (10) days within which it may seek a stay of said Paragraph 8 in the Court of Appeals. IT IS FURTHER ORDERED that IBM's request that Telex be required to post security is denied.

The Court's reasons for denial of a stay of injunctive relief are stated *or referred to* ^{ABC} in the transcript of the hearing of November 10, 1973, Pages 42 to 48, inclusive, copies of which are attached and made a part hereof by reference.


A. SHERMAN CHRISTENSEN
Assigned Senior District Judge

1 occur in the future.

2 If your Honor has no questions, I have concluded.

3 THE COURT: Thank you, Mr. Barr.

4 We're used to weighty and difficult matters in this
5 case, and I don't deprecate the importance of this final
6 point.

7 Perhaps I will have to rule upon it prior to the
8 directive words of the appellate court or courts.

9 It's an unusual situation. It's unusual, first,
10 because the Court's injunctive relief as modified particularly
11 is conservative. Even before modification, it was conservative,
12 I think; but with technical assistance of Mr. Katzenbach and
13 the joint efforts of counsel, I think we've improved it,
14 both in form and technicality to a degree, and in substance.

15 It's unusual in the sense of its original framing by
16 me, where, mindful of the avoidance of technological obstruction
17 to the best of my ability in my findings and conclusions,
18 I found some reassurance in this general provision now
19 represented as paragraph 8, as against the very conservatism
20 of the injunction.

21 It is unusual, too, because the defendants say with
22 respect to this what was a critical matter, now represented
23 by Section 2: "We will conform until and unless our position
24 is vindicated by the Court of Appeals. And, now, with respect
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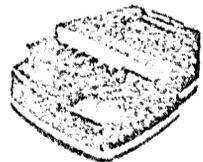


1 protection is just against the possibility of carrying out
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3 It's unusual because the only contested matter now
4 is the provision, not of a general tenor of an order to comply
5 with the law, but a very specific provision tailored to
6 conform to the scope of the contest, providing that IBM is
7 enjoined from adopting, implementing, or carrying out
8 predatory pricing, leasing, or other acts, practices, or
9 strategies with intent to obtain or maintain an illegal
10 monopoly in a relevant market for EDP peripheral equipment plug
11 compatible to its CPU's or any relevant submarket thereof
12 in violation of Section 2 of the Sherman Act.

13 I really think, gentlemen, that I should and I do
14 deny the stay with regard to Section 8, to which the motion
15 is now limited.

16 I do that for reasons some of which have been suggested
17 in the colloquy among court and counsel; but I do so also
18 because I think it has been relevant from the beginning in
19 the process of its framing through agreement--I shouldn't say
20 "through agreement"--but through collaboration, and at all
21 stages as it has finally reached this posture, a part of the
22 other provisions which IBM says it's going to comply with.
23 And in the context of the Court's findings and conclusions,
24 with all of the intents and intentments inbuilt into the other
25 sections of the decree itself, the disaffirmance of any idea

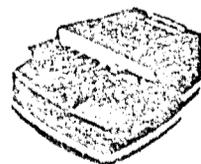


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2 the continued viability during appeal of the other particular
3 provisions, this final provision should remain as a complement.
4 I think it would not be right to grant the stay. Of course,
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7 Ordinarily I grant stays almost as a matter of course.
8 This is an extraordinary matter to stay in the first place,
9 in the context of what hasn't been stayed, which won't be
10 stayed, and in the context of all of the inbuilt protection
11 against frivolous approaches to the Court on this basis,
12 though Mr. Barr indicated that there were some public relations
13 problems with regard to orders to show cause. The plaintiffs
14 have their problems.

15 I've gone into this matter so long and so wholeheartedly
16 that I'm going to have a rest. And I'll tell you, if there are
17 frivolous applications for contempt, or any applications that
18 aren't clearly justified, I will certainly be inhospitable
19 toward them. That is neither here nor there, I suppose, but
20 I don't want any misunderstanding about my idea that we have
21 a basic problem here that has to be tested out in the appellate
22 court, and the unnecessary enforcement of Section 8 isn't a
23 way to test out that problem. The appeal is the way to test
24 out that problem.

25 I can see no reason whatsoever in the context here of



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2 the whole framework of the injunction, all of which has now
3 been accepted pending appeal and with full reservation of
4 rights, except as to Section 8.

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6 the obligation of reflecting the reasons that the Court has
7 had for a denial of the stay. They haven't been very articulate
8 and others may think they don't represent very good ones; but
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11 these comments, I think my reasons appear.

12 MR. BARR: Your Honor, would you grant the defendant
13 a brief stay to seek a stay of this in the Court of Appeals?

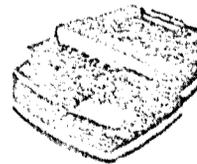
14 THE COURT: Why, certainly. And whatever point would
15 be--

16 MR. BARR: I think we will file that application with
17 the 1292(b) petition. Of course, when the Court of Appeals
18 acts on it will depend upon them.

19 But may we have a stay until the Court of Appeals
20 has acted on our request for a stay of this provision?

21 THE COURT: Why, certainly. I take it that there is
22 no objection.

23 MR. WALKER: None, except that perhaps we should be
24 a little more explicit with the time limit on it, your Honor,
25 would be the only thought that I have.



1 THE COURT: Well, they have ten days to file their
2 application. And you will file your application for a stay
3 within ten days?

4 MR. BARR: Yes, we will.

5 THE COURT: And then it will be up to the Court of
6 Appeals. Until the Court of Appeals acts, the stay will
7 certainly continue in full force and effect.

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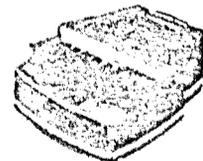
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1 more time to think about it, but the record is sufficient.

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4 MR. BERMAN: No, there is not, your Honor.

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7 assistance; and I think it would be not inappropriate now,
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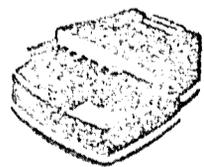
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THE COURT: We will continue it in camera, but copies
can be furnished to counsel.

I, Ronald W. Hubbard, official reporter in the U. S. District
Court, do hereby certify the foregoing transcript to be true
and correct. Dated this 16th day of November,
19 73, at St. Louis, Missouri.

Ronald W. Hubbard

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Ronald M. Hubbard

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which he was denied the right to counsel. See United States v. Tucker, 404 U.S. 443 (1972) and Loper v. Beto, 405 U.S. 473 (1972). The Court ordered Petitioner to specify those prior criminal convictions he was relying on. Petitioner has done so by asserting the following:

"In compliance with the Court Order and Supplement Request, the Petitioner lists and submits the following previous convictions:

<u>Court</u>	<u>Date</u>	<u>Charge</u>
King County, Washington	9 February 1952	N.S.F.
Multonamah County, Oregon	22 June 1953	N.S.F.
U.S.D.C. Cent. Dist. Calif.	31 January 1955	I.T.S.M.V. **** (Note)
Allegheny County, Penna.	20 November 1956	False Pret. Check.
U.S.D.C. So. Dist. Texas	24 February 1959	I.T.S.M.V.
King County, Washington	14 January 1960	Grand Larceny (Check)
Baton Rouge Parish, Louisiana	29 December 1962	Iss. Worthless Check
Jefferson County, Texas	3 June 1965	Grand Larceny

****Note: Transferred to U.S.D.C. Pittsburgh, Penna. Rule 20.

The Petitioner states that the Court Records will show that he was not represented by legal counsel in the above cases and had all legal contact with the court through the District Attorney, Public Defender, Prosecuting Attorney and/or the United States Attorney, or assistants thereto."

The Respondent has replied to said assertion by furnishing official documents regarding each of the criminal convictions of Petitioner relied upon by Petitioner and alleging as follows:

"Reference will be to the convictions numerically and in descending order as they are listed in the Court's Order of September 26, 1973.

Washington, 1952. No. 1 Investigation by FBI indicates the Court records are no longer in existence. Attached as RX-1 is copy of pertinent FBI report.

Oregon, 1953. No. 2 Same result as No. 1. Pertinent FBI report attached as RX-2.

California, 1955. No. 3 Copy of Judgment and Commitment shows that Petitioner was represented by Counsel Michael J. Georgalas, Esq. Copy attached as RX-3.

No. 4

Pennsylvania, 1956. There appears to be really two convictions involved here, cases No. 108 and 286. Copies of Court records show Petitioner's signature acknowledging Waiver of Counsel. Copies attached as RX-4 and RX-4A.

No. 5

Texas, 1959. Copy of Judgment and Commitment shows a Waiver of Counsel by Petitioner. Copy attached as RX-5.

No. 6

Washington, 1960. Copy of Judgment and Sentence shows Petitioner represented by Counsel David Gossard. Copy attached as RX-6.

No. 7

Louisiana, 1962. Again there appears to be two convictions rather than one. Both are silent on the question of counsel. Sentencing Judge is now deceased. Copies attached as RX-7 and RX-7A, together with copy of pertinent FBI report.

No. 8

Texas, 1965. Copy of Court record shows Petitioner was represented by counsel on date of conviction. Attached as RX-8.

So of the eight convictions, the record now shows that Petitioner had counsel in three and waived counsel in two. The remaining three consist of one silent record and no available records in two. These are Nos. 1, 2, and 7."

Petitioner has been afforded the opportunity to reply to the Respondent's documents and allegations and has done so by filing herein on October 18, 1973 his "Reply of Petitioner".

The Court finds and concludes that in the circumstances of the record before the Court, Petitioner is not entitled to any relief on claim No. 8 and therefore Petitioner's action should be dismissed in its entirety.

As to convictions No. 3, 6 and 8, the record conclusively shows that Petitioner had counsel in each of these cases and his sworn claims to the contrary are false. In his "Reply of Petitioner" the Petitioner does not now refute his having had counsel in said criminal cases. In these circumstances the

official records must be taken as being true.

As to criminal convictions No. 2 and 7 the record shows that the Petitioner himself initially brought out these convictions in his criminal trial. In these circumstances, he cannot now claim the benefit of Loper and Tucker, supra.

As to criminal convictions No. 4 and 5 the record shows that the Petitioner waived counsel in these criminal cases. In his "Reply of Petitioner" as to conviction No. 4, Petitioner does not claim said waiver was involuntary or not understood. Rather, Petitioner says:

"In the above convictions (Nos. 1, 2 and 4) which are of misdemeanor type, there is not a requirement of legal counsel by the courts in these type of cases."

In his "Reply of Petitioner" as to conviction No. 5, Petitioner does not claim said waiver was involuntary or not understood, rather Petitioner states:

"Conviction No. V: The Petitioner was tried before the Honorable Justice Joe Ingraham, U.S. District Court, Houston, Texas. Special Agents of the F.B.I. interviewed the defendant and a plea bargain was made. The Defendant Plead guilty and was sentenced by the Court. After sentencing, the defendant was requested by the Federal Agents to sign some papers at the Court House prior to returning to jail and transfer to the Federal Correctional Institution. The waiver of grand Jury and related documents were in those legal papers. RX -5"

Thus, Petitioner makes no claim that his waiver of counsel in convictions No. 4 and 5 were not made or were not voluntarily, knowingly and understandingly made.

As to conviction No. 1 the Respondent alleges:

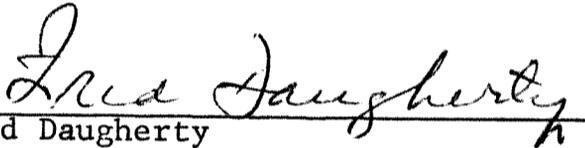
"No. 1
Washington, 1952. Investigation
by FBI indicates the Court records
are no longer in existence. Attached
as RX-1 is copy of pertinent FBI report."

In the "Reply of Petitioner" he alleges:

"Conviction No. I: The Petitioner was tried by the Honorable Justice Evangeline Starr, King County Petit Court, and plead guilty to a misdemeanor offense. Exhibit (sic) No. RX-1"

Considering conviction No. 1 in the state of the entire record, it is not believed that Petitioner could have been prejudiced by reason thereof even though he may not have had counsel and apparently this cannot be demonstrated from the official record since they are no longer in existence. Moreover, Petitioner lays no claim to counsel in this misdemeanor offense.

Petitioner's action contained in his Motion pursuant to 28 U.S.C. §2255 is denied in its entirety as to all claims made therein this 29 day of November, 1973.


Fred Daugherty
United States District Judge

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

HAZEL DOBBS, Administratrix of the
Estate of VERNA ANDERSON, Deceased,

Plaintiff,

vs.

No. 72-C-405. ✓

WAYNE B. WESBROOK;
MAUER-NEUER, INC., a Corporation; and
JOHN MORRELL & CO., a Corporation,

Defendants.

FILED

NOV 29 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER DISMISSING ACTION WITH PREJUDICE

This cause came on to be ~~heard~~ ^{considered} on stipulation of all parties to its dismissal, and the Court being fully advised and approving of the stipulation, it is

ORDERED that this cause ^{of action & Complaint} be and the same hereby is dismissed with prejudice.

Allen E. Barron
U. S. District Judge.

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

UNITED STATES OF AMERICA,)
)
) Plaintiff,)
vs.)
)
) WILLIAM WOODARD, et al.,)
)
) Defendants.)

CIVIL ACTION NO. 73-C-241

FILED

NOV 28 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 28 day of November, 1973, the plaintiff appearing by Robert P. Santee, Assistant United States Attorney, and the defendants, County Treasurer, Tulsa County, and Board of County Commissioners, Tulsa County, appearing by their attorney, Gary Summerfield, and the defendants, William Woodard, Katherine Woodard, and Yvonne Ball, appearing not.

The Court being fully advised and having examined the file herein finds that William Woodard and Katherine Woodard were served by publication, as appears from Proof of Publication filed herein on November 14, 1973; that Yvonne Ball was served with Summons and Complaint on August 6, 1973; and that County Treasurer, Tulsa County, and Board of County Commissioners, Tulsa County, were served with Summons and Complaint on August 3, 1973, all as appears from the Marshal's Return of Service herein, and

It appearing that the defendants, William Woodard, Katherine Woodard, and Yvonne Ball, have failed to answer herein and that default has been entered by the Clerk of this Court.

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 and that the following described real property is located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

The North One Hundred Twenty feet (120') of Lot Twenty-two (22), Block Five (5), MEADOWBROOK ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

action by plaintiff by taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the County of Tulsa have and recover judgment against the defendant, Yvonne Ball, for the sum of \$17.43 as of the date of this judgment plus interest thereafter according to law, but that such judgment is subject to and inferior to the first mortgage lien of the plaintiff herein.

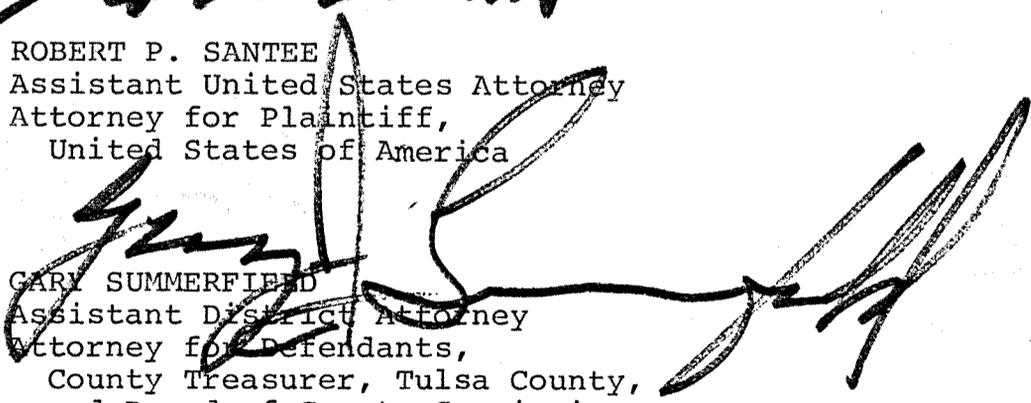
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisal the real property 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, all of 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.

FRED DAUGHERTY
United States District Judge

APPROVED.


ROBERT P. SANTEE
Assistant United States Attorney
Attorney for Plaintiff,
United States of America


GARY SUMMERFIELD
Assistant District Attorney
Attorney for Defendants,
County Treasurer, Tulsa County,
and Board of County Commissioners,
Tulsa County

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

NELLIE MAE COLLINS,)

Plaintiff,)

vs.)

No. 72-C-382

TALMAN FEDERAL SAVINGS AND)
LOAN ASSOCIATION OF CHICAGO,)
a Federal Savings and Loan Association,)

Defendant,)

vs.)

FILED

NOV 28 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

HOWARD COLLINS; LUCILLE V.)
MESSALL, Individually and as)
Administratrix of the Estate of F. E.)
MESSALL; GULF INSURANCE GROUP)
OF DALLAS, TEXAS; UNIGARD)
INSURANCE GROUP OF SEATTLE,)
WASHINGTON; MERCANTILE)
NATIONAL BANK OF DALLAS and)
NATIONAL BANK OF COMMERCE)
OF DALLAS, TEXAS,)

Interpleaded defendants.)

JOURNAL ENTRY OF JUDGMENT

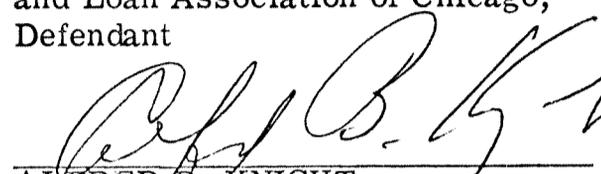
NOW, on this 28 day of November, 1973, this matter comes before the undersigned Judge upon pre-trial and the Court being advised in the premises finds that on October 27, 1972, that TALMAN FEDERAL SAVINGS AND LOAN ASSOCIATION OF CHICAGO, a Federal Savings and Loan Association, defendant in this action, was duly served with summons in the above-styled case, entered its appearance and on the 27th day of November, 1972, filed its answer to complaint and counterclaim for interpleader. That on the 27th day of February, 1973, by order of the Court, HOWARD COLLINS; LUCILLE V. MESSALL, Individually and as Administratrix of the Estate of F. E. MESSALL; GULF INSURANCE GROUP OF DALLAS, TEXAS; UNIGARD INSURANCE GROUP OF SEATTLE, WASHINGTON; MERCANTILE NATIONAL BANK OF DALLAS and NATIONAL



JERRY L. SMITH
Attorney for Plaintiff



C. D. McDOULETT, JR.
Attorney for Talman Federal Savings
and Loan Association of Chicago,
Defendant



ALFRED B. KNIGHT
Attorney for Gulf Insurance Group,
Interpleaded defendant



RICHARD D. GIBBON
Attorney for Unigard Insurance Group,
Interpleaded defendant

and the United States during the pendency of this action.

Rule 62(d), Federal Rules of Civil Procedure governs stays on appeal. Such a stay is not automatic. In the case of In re Turner, 309 F. 2d 69 (Second Cir. 1962) the Court stated:

"A stay pending an appeal from the denial of a motion to vacate or modify a summons under §7602(2) should not be granted as a matter of course, but only when there is a substantial possibility of success,..."

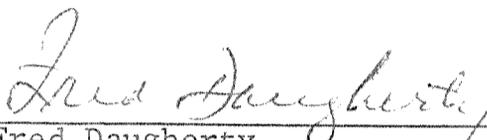
Further standards for determining whether a stay pending an appeal should be granted are as set out in the case of Long v. Robinson, 432 F. 2d 977 (Fourth Cir. 1970) which states:

"Briefly stated, a party seeking a stay must show (1) that he will likely prevail on the merits of the appeal, (2) that he will suffer irreparable injury if the stay is denied, (3) that other parties will not be substantially harmed by the stay, and (4) that the public interest will be served by granting the stay."

In applying these standards to the instant case, the Court finds that Respondent has failed to show any of the above. It is unlikely Respondent will prevail in this appeal for the reason that the Judgment and Order being appealed was entered upon remand of the case from the Tenth Circuit and the only issues before the Court, namely, good faith and limitations were correctly decided. Respondent, not being the taxpayer under investigation, has not shown any irreparable injury if the stay is denied. Respondent has failed to show that the Petitioner will not be substantially harmed by the delay and the Court takes notice that the statute of limitations for various taxable years may run during the pending appeal therefore causing harm to Petitioners. The public interest will not be

served by granting this stay and in fact same will be better served by denying same which will allow possible enforcement of the Internal Revenue Laws. Respondent's Motion for Superseas is denied and the Judgment and Order of November 1, 1973 is to remain in full force and effect.

It is so ordered this 27th day of November, 1973.



Fred Daugherty
United States District Judge

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

NOV 27 1977

Jack C. Silver, Clerk
U. S. DISTRICT COURT

United States of America,)
)
 Plaintiff,)
)
 vs.)
)
 50.00 Acres of Land, More or)
 Less, Situate in Nowata County,)
 State of Oklahoma, and Jack H.)
 Scott, et al., and Unknown)
 Owners,)
)
 Defendants.)

CIVIL ACTION NO. 70-C-107

AND:

- CIVIL ACTION NO. 70-C-108
- CIVIL ACTION NO. 70-C-109
- CIVIL ACTION NO. 70-C-110
- CIVIL ACTION NO. 70-C-111
- CIVIL ACTION NO. 70-C-112
- CIVIL ACTION NO. 70-C-113
- CIVIL ACTION NO. 70-C-114
- CIVIL ACTION NO. 70-C-171
- CIVIL ACTION NO. 70-C-172
- CIVIL ACTION NO. 70-C-173
- CIVIL ACTION NO. 70-C-174
- CIVIL ACTION NO. 70-C-175
- CIVIL ACTION NO. 70-C-176
- CIVIL ACTION NO. 70-C-177
- CIVIL ACTION NO. 71-C-188
- CIVIL ACTION NO. 71-C-189
- CIVIL ACTION NO. 71-C-190
- CIVIL ACTION NO. 71-C-191
- CIVIL ACTION NO. 71-C-192
- CIVIL ACTION NO. 71-C-193
- CIVIL ACTION NO. 71-C-194
- CIVIL ACTION NO. 71-C-195
- CIVIL ACTION NO. 71-C-196
- CIVIL ACTION NO. 71-C-197
- CIVIL ACTION NO. 71-C-198
- CIVIL ACTION NO. 71-C-199
- CIVIL ACTION NO. 71-C-200
- CIVIL ACTION NO. 71-C-201
- CIVIL ACTION NO. 71-C-202
- CIVIL ACTION NO. 71-C-203
- CIVIL ACTION NO. 71-C-204
- CIVIL ACTION NO. 71-C-205

J U D G M E N T

(Forest Oil Corporation Interest)

J U D G M E N T

1.

NOW, on this _____ day of November, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on a stipulation of the parties, filed herein on November 20, 1973, and the Court, after having examined the files in these actions and being advised by counsel for the Plaintiff, finds that:

2.

The Court has jurisdiction of the parties and the subject matter of these actions.

3.

This judgment applies only to the interest owned by Forest Oil Corporation, as shown on the attached Schedule "A", in the estate taken in all tracts included in the captioned civil actions, as such estate and tracts are described in the Complaints filed in such actions.

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 property.

5.

The Acts of Congress set out in paragraph 2 of the Complaints filed herein give the United States of America the right, power and authority to condemn for public use the subject property. Pursuant thereto, on April 13, 1970 as to Civil Actions 70-C-107 through 70-C-114 inclusive, and on June 4, 1970, as to Civil Actions 70-C-171 through 70-C-177 inclusive, and on June 1, 1971 as to Civil Actions 71-C-188 through 71-C-205 inclusive, the United States of America filed its Declarations of Taking of a certain estate in certain tracts described therein, and title to such property should be vested in the United States of America, as of the date of filing such Declarations of Taking.

6.

Simultaneously with filing of the Delcarations 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 part of this deposit has been disbursed, as set out below in paragraph 12.

7.

On the date of taking in this action, the owner of the subject property was Forest Oil Corporation. Such defendant is the only person asserting any claim to the subject property. All other persons having either disclaimed or defaulted, such named defendant is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject property and the United States of America have executed and have filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the taking of subject property 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 the taking of subject property 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 owner. 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 tracts as described in the Complaints filed herein, and the interest owned by Forest Oil Corporation, as shown on the attached Schedule "A", in the estate taken in all tracts included in the captioned civil actions, as such estate and tracts are described in the Complaints filed in such actions, is

condemned, and title thereto is vested in the United States of America, as of the dates of filing the respective Declarations of Taking, and all defendants herein and all other persons are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owner of the subject property was Forest Oil Corporation, and the right to receive the just compensation for the taking of such property is vested in said party.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Stipulation As To Just Compensation, described above in paragraph 8, hereby is confirmed and the sum therein fixed is adopted as the award of just compensation for the taking of subject property, as shown by the following schedule:

All Tracts in Captioned Civil Actions
(Interests in estate taken as shown in
attached Schedule "A")

OWNER: Forest Oil Corporation

Award of just compensation pursuant to Stipulation -----	\$185,000.00	\$185,000.00
Deposited as estimated compensation (per attached Schedule "B") -----	\$141,297.92	
Disbursed to owner ----- (per attached Schedule "B")		<u>\$125,539.00</u>
Balance due to owner -----		<u>\$59,461.00</u>
Deposit deficiency -----	\$43,702.08	

13.

It Is Further ORDERED that the Plaintiff, United States of America, shall pay into the Registry of this Court the deposit deficiency created by this judgment in the amount of \$43,702.08, and such sum shall be placed in the deposit for Civil Action No. 70-C-107.

When the said deficiency deposit has been made, the Clerk of this Court shall disburse from the deposits in the

subject civil actions certain sums, to Forest Oil Corporation,
as follows:

70-C-107 -----	\$43,702.08
70-C-188 -----	68.00
70-C-189 -----	80.00
71-C-190 -----	50.00
71-C-191 -----	50.00
71-C-192 -----	30.00
71-C-193 -----	20.00
71-C-194 -----	5,821.00
71-C-195 -----	4,220.00
71-C-196 -----	2,201.00
71-C-197 -----	20.00
71-C-198 -----	80.00
71-C-199 -----	80.00
71-C-200 -----	640.00
71-C-201 -----	320.00
71-C-202 -----	800.00
71-C-203 -----	473.00
71-C-204 -----	420.42
71-C-205 -----	<u>385.50</u>
	\$59,461.00

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

United States District Court)
Northern District of Oklahoma) ss

I hereby certify that the foregoing
is a true copy of the original on file
in this Court.

Jack C. Silver, Clerk

By R. Miller
Deputy

SCHEDULE "A"

Civil Action No.	Tract No.	Interest Owned by Forest
70-C-107	826M	(59/64 of 9/10) Working Interest
70-C-108	836M	(.775 of 8/8) Working Interest
70-C-109	838M	(51/64 of 8/8) Working Interest
70-C-110	828M	(49/64 of 8/8) Working Interest
70-C-111	834M	(49/64 of 8/8) Working Interest
70-C-112	1049M	(51/64 of 8/8) Working Interest
70-C-113	1132M	(51/64 of 8/8) Working Interest
70-C-114	1133M	(51/64 of 8/8) Working Interest
70-C-171	533M & 538M	(27/32 of 8/8) Working Interest
70-C-172	535M	(27/32 of 7/8) Working Interest
70-C-173	536M	(27/32 of 7/8) Working Interest
70-C-174	812M-1 & 812M-2	(27/32 of 8/8) Working Interest
70-C-175	818M	(3/4 of 8/8) Working Interest
70-C-176	819M & 820M	(3/4 of 8/8) Working Interest
70-C-177	821M-1 & 821M-2	(59/64 of 8/8) Working Interest
71-C-188	1232M	All Interests
71-C-189	1609M	All Interests
71-C-190	1611M	(7/8 of 8/8) Working Interest and (1/2 of 1/8) Lessor Interest
71-C-191	1614M	(7/8 of 8/8) Working Interest
71-C-192	1617M	(7/8 of 8/8) Working Interest
71-C-193	1621M	(7/8 of 8/8) Working Interest
71-C-194	1622M	(7/8 of 8/8) Working Interest
71-C-195	1623M	(7/8 of 8/8) Working Interest
71-C-196	1624M & 1626M	(7/8 of 8/8) Working Interest
71-C-197	1625M	(7/8 of 8/8) Working Interest
71-C-198	1669M	All Interests
71-C-199	1670M	All Interests
71-C-200	1672M	All Interests
71-C-201	1683M	All Interests
71-C-202	1684M	All Interests
71-C-203	1703M,) 1704M &) 1707M)	All Interests
71-C-204	1706M	(7/8 of 8/8) Working Interest and (5/12 of 1/8) Lessor Interest
71-C-205	1708M	(7/8 of 8/8) Working Interest and (1/2 of 1/8) Lessor Interest

SCHEDULE "B"

Deposits and Disbursals by Civil Action As
To Forest Oil Corporation Interest

Civil Action No.	Tract Number	Deposited for Forest Interest	Disbursed to Forest
70-C-107	826M	\$ 7,397.00	\$ 7,397.00
70-C-108	836M	89.00	89.00
70-C-109	838M	107.00	107.00
70-C-110	828M	24,837.00	24,837.00
70-C-111	834M	10,264.00	10,264.00
70-C-112	1049M	4,359.00	4,359.00
70-C-113	1132M	1,181.00	1,181.00
70-C-114	1133M	1,146.00	1,146.00
70-C-171	533M & 538M	16,680.00	16,680.00
70-C-172	535M	200.00	200.00
70-C-173	536M	65.00	65.00
70-C-174	812M-1 & 812M-2	1,152.00	1,152.00
70-C-175	818M	30.00	30.00
70-C-176	819M & 820M	9,534.00	9,534.00
70-C-177	821M-1 & 821M-2	48,498.00	48,498.00
			<u>\$125,539.00</u>
71-C-188	1232M	68.00	
71-C-189	1609M	80.00	
71-C-190	1611M	50.00	
71-C-191	1614M	50.00	
71-C-192	1617M	30.00	
71-C-193	1621M	20.00	
71-C-194	1622M	5,821.00	
71-C-195	1623M	4,220.00	
71-C-196	1624M & 1626M	2,201.00	
71-C-197	1625M	20.00	
71-C-198	1669M	80.00	
71-C-199	1670M	80.00	
71-C-200	1672M	640.00	
71-C-201	1683M	320.00	
71-C-202	1684M	800.00	
71-C-203	1703M, 1704M & 1707M	473.00	
71-C-204	1706M	420.42	
71-C-205	1708M	<u>385.50</u>	
		<u>\$141,297.92</u>	

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

UNITED STATES OF AMERICA,)
)
) Plaintiff,)
 vs.) CIVIL ACTION NO. 73-C-212
)
)
 CHARLES L. SMITH, et al.,)
)
) Defendants.)

FILED
NOV 26 1973

JUDGMENT OF FORECLOSURE

Jack C. Silver, Clerk
U. S. DISTRICT COURT

THIS MATTER COMES on for consideration this 16 day of November, 1973, the plaintiff appearing by Robert P. Santee, Assistant United States Attorney, and the defendants, Charles L. Smith, Judy Katherine Smith, Wendell E. Miles, Betty A. Miles, Elmo Louise Haynes, individually and as Guardian Ad Litem for Tracy Lenette Brown, a minor, appearing not.

The Court being fully advised and having examined the file herein finds that defendants, Charles L. Smith, Judy Katherine Smith, Wendell E. Miles, and Betty A. Miles, were served by publication, as appears from Proof of Publication filed herein on November 14, 1973; and that defendants, Elmo Louise Haynes, individually and as Guardian Ad Litem for Tracy Lenette Brown, a minor, was served with Summons and Complaint on July 26, 1973, as appears from the Marshal's Return of Service herein.

It appearing that the said defendants have failed to answer herein and that default has been entered by the Clerk of this Court.

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 and that the following described real property is located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Two (2) in Block Four (4) in SHARON HEIGHTS, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

THAT the defendants, Charles L. Smith, Judy Katherine Smith, Wendell E. Miles, and Betty A. Miles, did, on the 31st day of July, 1961, execute and deliver to Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$9,975.00 with 5 1/2 percent interest per annum, and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendants, Charles L. Smith, Judy Katherine Smith, Wendell E. Miles, and Betty A. Miles, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$7,570.93 as unpaid principal, with interest thereon at the rate of 5 1/2 percent interest per annum from January 1, 1972, until paid, plus the cost of this action accrued and accruing.

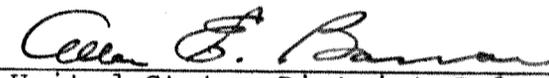
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Charles L. Smith, Judy Katherine Smith, Wendell E. Miles, and Betty A. Miles, in rem, for the sum of \$7,570.93 with interest thereon at the rate of 5 1/2 percent interest per annum from January 1, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff by taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment, in rem, against the defendants, Elmo Louise Haynes, individually and as Guardian Ad Litem for Tracy Lenette Brown, a minor.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma,

commanding him to advertise and sell, with appraisement, the 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, all of 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

APPROVED.


ROBERT P. SANTEE
Assistant United States Attorney

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

DONALD G. BENNER, ROY PETERSON
and JASON KOUMANOS,

Plaintiffs,

-vs-

EMPIRE RESOURCES INTERNATIONAL,
INC., an Oklahoma corporation,
and WILLIAM H. PARISH,

Defendants.

FILED

NOV 26 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 73-C-151

ORDER OF DISMISSAL WITHOUT PREJUDICE

NOW on this 23rd day of October, 1973, there came on for hearing before the Court the Motion for Dismissal heretofore filed by the plaintiffs. The hearing was held pursuant to the Order entered by the Court on October 2, 1973, notice of which was mailed to all stockholders of record of the defendant corporation, Empire Resources International, Inc., pursuant to said Order.

The plaintiffs were represented by their attorney of record, Richard T. Sonberg; the defendant William H. Parish was represented by his attorney of record, Gene L. Mortensen. No other person appeared at said hearing.

Whereupon, after hearing the argument and presentation of counsel, it is the determination of the Court that the plaintiffs have heretofore filed a Motion for Dismissal Without Prejudice on the 24th day of July, 1973; it is the further determination of the Court that this civil action was filed as a shareholders derivative action under Rule 23 of the Federal Rules of Civil Procedure such that notice to all stockholders of the corporation for whose benefit the derivative action was filed is required prior to the Court entering an order of dismissal. The Court further finds that the dismissal

should be without prejudice to the right of said corporation to pursue the claims against the defendant William H. Parish contained and set forth in the Complaint filed herein derivatively and that the dismissal should require all parties to bear their own costs incurred herein.

NOW, THEREFORE, IT IS THE ORDER of the Court that the above captioned civil action is hereby dismissed without prejudice to the right of Empire Resources International, Inc. to hereafter refile the claims contained and set forth in the Complaint filed herein, with each party hereto to bear his or its own costs herein incurred. This Order of Dismissal is entered pursuant to Rule 41 and Rule 23.1 of the Federal Rules of Civil Procedure.

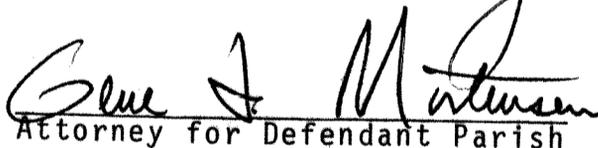
Exception allowed to the defendant Parish.

ORDERED this 23rd day of October, 1973.


U. S. District Judge

APPROVED AS TO FORM:


Attorney for Plaintiffs


Attorney for Defendant Parish

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.)
)
ELDO W. KOLPIN, et al.,)
)
Defendants.)

CIVIL ACTION NO. 73-C-213 ✓

FILED

NOV 26 1973 *ms*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 16th day of November, 1973, the plaintiff appearing by Robert P. Santee, Assistant United States Attorney, and the defendants, Eldo W. Kolpin, Florence B. Kolpin, John W. Levi, and Rosie Mae Levi, appearing not.

The Court being fully advised and having examined the file herein finds that Eldo W. Kolpin and Florence B. Kolpin were served by publication, as appears from Proof of Publication filed herein on November 14, 1973; that John W. Levi and Rosie Mae Levi were served with Summons and Complaint on July 24, 1973, as appears from the Marshal's Return of Service herein, and

It appearing that the said defendants have failed to answer herein and that default has been entered by the Clerk of this Court.

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 and that the following described real property is located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Seven (7), Block Forty-four (44) VALLEY VIEW ACRES SECOND ADDITION to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof.

THAT the defendants, Eldo W. Kolpin and Florence B. Kolpin, did, on the 13th day of July, 1968, execute and deliver to Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$10,000.00 with 7 percent interest per

annum, and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendants, John W. Levi and Rosie Mae Levi, were the grantees in a deed from Eldo W. Kolpin and Florence B. Kolpin, dated June 26, 1971, and filed July 16, 1971, in Book 3976, Page 1886, records of Tulsa County, wherein John W. Levi and Rosie Mae Levi assumed and agreed to pay the mortgage indebtedness being sued upon herein.

The Court further finds that the defendants, Eldo W. Kolpin, Florence B. Kolpin, John W. Levi, and Rosie Mae Levi, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$9,777.70 as unpaid principal, with interest thereon at the rate of 7 percent interest per annum from June 13, 1972, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Eldo W. Kolpin and Florence B. Kolpin, in rem, and John W. Levi and Rosie Mae Levi, in personam, for the sum of \$9,777.70 with interest thereon at the rate of 7 percent interest per annum from June 13, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff by taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, with appraisalment the 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, all of 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

APPROVED.



ROBERT P. SANTEE
Assistant United States Attorney

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.)
)
DELBERT CORNELIUS)
WOODARD, et al.,)
)
Defendants.)

CIVIL ACTION NO. 73-C-214

FILED

NOV 26 1973 *mm*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 16 day of November, 1973, the plaintiff appearing by Robert P. Santee, Assistant United States Attorney, the defendant, Robert B. Copeland, Attorney at Law, having filed his Disclaimer herein on November 13, 1973, and the defendants, Delbert Cornelius Woodard and Linda Faye Woodard, appearing not.

The Court being fully advised and having examined the file herein finds that Delbert Cornelius Woodard and Linda Faye Woodard were served by publication, as appears from Proof of Publication filed herein on November 14, 1973; that Robert B. Copeland, Attorney at Law, was served with Summons and Complaint on July 20, 1973, as appears from the Marshal's Return of Service herein, and

It appearing that Robert B. Copeland, Attorney at Law, has duly filed his Disclaimer herein on November 13, 1973; and that Delbert Cornelius Woodard and Linda Faye Woodard have failed to answer herein and that default has been entered by the Clerk of this Court.

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 and that the following described real property is located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Five (5), Block Three (3), CHANDLER FRATES FOURTH ADDITION, a subdivision of Tulsa County, State of Oklahoma, according to the recorded plat thereof,

THAT the defendants, Delbert Cornelius Woodard and Linda Faye Woodard, did, on the 22nd day of June, 1971, execute and deliver to Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$10,000.00 with 4 1/2 percent interest per annum, and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendants, Delbert Cornelius Woodard and Linda Faye Woodard, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$9,986.83 as unpaid principal, with interest thereon at the rate of 4 1/2 percent interest per annum from April 22, 1972, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Delbert Cornelius Woodard and Linda Faye Woodard, in rem, for the sum of \$9,986.83 with interest thereon at the rate of 4 1/2 percent interest per annum from April 22, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff by taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment, in rem, against the defendant, Robert B. Copeland, Attorney at Law.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma,

commanding him to advertise and sell, with appraisement the 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, all of 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

APPROVED.



ROBERT P. SANTEE
Assistant United States Attorney

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

AMERICAN MAGNESIUM COMPANY,
a Delaware corporation, SMYDER
MAGNESIUM COMPANY, a Delaware
corporation, NATIONAL MAGNESIUM
CORPORATION, a Texas corpora-
tion, BOMAG, INC., a Texas cor-
poration and MISSOURI, KANSAS
& OKLAHOMA LINES, INC., an
Oklahoma corporation d/b/a
AMERICAN MAGNESIUM COMPANY, a
joint venture,

Plaintiffs,

-vs-

ALLENDALE MUTUAL INSURANCE
COMPANY, a foreign insurance
company,

Defendant.

FILED

NOV 26 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 71-C-412

ORDER OF DISMISSAL WITH PREJUDICE

NOW on this 26th day of November, 1973, there comes
before the Court the Stipulation for Dismissal With Prejudice
made and filed in the above captioned civil action by the
plaintiffs and the defendant pursuant to Rule 41(a).

It appearing to the Court that the parties have
fully compromised and settled the claims alleged in the plead-
ings filed herein;

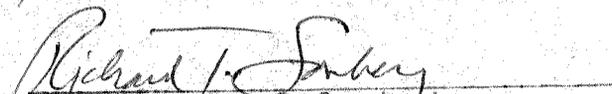
NOW, THEREFORE, it is the order of the Court that
the above captioned civil action is hereby dismissed with
prejudice with each party to bear its own costs herein incurred.

FRED DAUGHERTY

United States District Judge

APPROVED AS TO FORM AND CONTENT:


Attorney for Plaintiffs


Attorney for Defendant

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

FILED

NOV 23 1973 *h*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Petitioner,)
)
vs.)
)
MARGIE LEIGHANNE FORTNER)
)
Patient.)

Civil No. 72-C-444 ✓

ORDER OF DISCHARGE AND DISMISSAL

On this date, it appearing from the reports received by this Court (which are filed coincident herewith) that the above-named patient has entered a non-NARA treatment program which is community-based; therefore, the patient should be discharged from the care and custody of the Surgeon General.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED BY THE COURT that the above-named patient be and she is hereby discharged immediately from the care and custody of the Surgeon General pursuant to 42 U.S.C. §§3402, 3412(b) and 3415 and that these proceedings be and they are hereby dismissed.

Entered this 23rd day of November, 1973.

Allen E. Larson

UNITED STATES DISTRICT JUDGE

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

UNITED STATES OF AMERICA,)
)
 Petitioner,)
)
 vs.)
)
 DENNIS GENE FORTNER,)
)
 Patient.)

Civil No. 72-C-443 ✓

FILED

NOV 23 1973 *hm*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISCHARGE AND DISMISSAL

On this date, it appearing from the reports received by this Court (which are filed coincident herewith) that the above-named patient has entered a non-NARA treatment program which is community-based; therefore, the patient should be discharged from the care and custody of the Surgeon General.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED BY THE COURT that the above-named patient be and he is hereby discharged immediately from the care and custody of the Surgeon General pursuant to 42 U.S.C. §§3402, 3412(b) and 3415 and that these proceedings be and they are hereby dismissed.

Entered this 23rd day of November, 1973.

Cecla F. Barrow

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
) Plaintiff,)
)
 vs.) CIVIL ACTION NO. 70-C-113
)
) 20.00 Acres of Land, More or) Tract No. 1132M
) Less, Situate in Nowata County,)
) State of Oklahoma, and Wiser) (5/64 of 8/8) Overriding
) Oil Company, et al., and) Royalty Interest Only
)
) Unknown Owners,)
)
) Defendants.)

FILED

NOV 21 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 21 day of November, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies only to the overriding royalty interest (5/64 of 8/8) in the estate condemned in Tract No. 1132M, as such estate and tract are described in the Complaint filed in this action.

3.

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

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 property.

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 property described above in paragraph 2. Pursuant thereto, on April 13,

1970, the United States of America filed its Declaration of Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the overriding royalty interest in the estate taken in the subject tract a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 13.

7.

A pre-trial hearing in this case was held by the parties on November 8, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. Mr. Lloyd Rowland and Mr. Jack Heskett, Attorneys, appeared for the owner of the subject property.

8.

At the said pre-trial conference the Plaintiff advised that in the event of a trial its evidence as to compensation would be presented by testimony of J. M. Wanenmacher, Sr., and would be in the amount of \$8.00. The owner of subject property advised that in the event of trial its evidence as to compensation would be presented by testimony of Jay Robertson, and would be in the amount of \$400.00. Neither party requested a trial. Based upon the pre-trial statements of the parties the Court concludes that a trial is not necessary or advisable and that the sum of \$200.00 should be adopted as the award of just compensation for the subject interest.

9.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the overriding royalty interest in the estate taken in subject tract and the amount fixed by the Court as just compensation, and a sum of money

sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 13.

10.

The defendant named in paragraph 13 as the owner of the (5/64 of 8/8) overriding royalty interest in the estate taken in the subject tract is the only defendant asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendant is the owner of such property, as of the date of taking and, as such, is entitled to receive the just compensation awarded by this judgment.

11.

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 subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the overriding royalty interest in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of April 13, 1970, and all defendants herein and all other persons are forever barred from asserting any claim to such interest.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owner of the (5/64 of 8/8) overriding royalty interest in the estate taken herein in subject tract was the defendant whose name appears below in paragraph 13 and the right to receive the just compensation awarded by this judgment is vested in the party so named.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$200.00 hereby is adopted as the award of just compensation for the overriding royalty interest in the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 1132M
((5/64 of 8/8) Overriding
Royalty Interest Only)

OWNER:

The Wiser Oil Company

Award of just compensation pursuant to Court's findings -----	\$200.00	\$200.00
Deposited as estimated compensation -----	106.00	
Disbursed to owner -----		<u>106.00</u>
Balance due to owner -----		\$94.00
Deposit deficiency -----	\$94.00	

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owner the deposit deficiency shown in paragraph 13 above, in the total amount of \$94.00, and such sum shall be placed in the deposit for the subject tract in this civil action.

Upon receipt of such deficiency deposit the Clerk of this Court shall disburse from the deposit for the subject tract as follows:

To - The Wiser Oil Company ----- the sum of \$94.00.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
 Plaintiff,)
)
 vs.)
)
 50.00 Acres of Land, More or)
 Less, Situate in Nowata County,)
 State of Oklahoma, and Jack H.)
 Scott, et al., and Unknown)
 Owners,)
)
 Defendants.)

CIVIL ACTION NO. 70-C-107
Tract No. 826M
(5/64 of 9/10) Overriding
Royalty Interest Only

FILED

NOV 21 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 21 day of November, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies only to the overriding royalty interest (5/64 of 9/10) in the estate condemned in Tract No. 826M, as such estate and tract are described in the Complaint filed in this action.

3.

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

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 property.

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 property described above in paragraph 2. Pursuant thereto, on April 13,

1970, the United States of America filed its Declaration of Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the overriding royalty interest in the estate taken in the subject tract a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 13.

7.

A pre-trial hearing in this case was held by the parties on November 8, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. Mr. Lloyd Rowland and Mr. Jack Heskett, Attorneys, appeared for the owner of the subject property.

8.

At the said pre-trial conference the Plaintiff advised that in the event of a trial its evidence as to compensation would be presented by testimony of J. M. Wanenmacher, Sr., and would be in the amount of \$1,721.00. The owner of subject property advised that in the event of trial its evidence as to compensation would be presented by testimony of Jay Robertson, and would be in the amount of \$3960.00. Neither party requested a trial. Based upon the pre-trial statements of the parties the Court concludes that a trial is not necessary or advisable and that the sum of \$2,750.00 should be adopted as the award of just compensation for the subject interest.

9.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the overriding royalty interest in the estate taken in subject tract and the amount fixed by the Court as just compensation, and a sum of money

sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 13.

10.

The defendant named in paragraph 13 as the owner of the (5/64 of 9/10) overriding royalty interest in the estate taken in the subject tract is the only defendant asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendant is the owner of such property, as of the date of taking and, as such, is entitled to receive the just compensation awarded by this judgment.

11.

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 subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the overriding royalty interest in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of April 13, 1970, and all defendants herein and all other persons are forever barred from asserting any claim to such interest.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owner of the (5/64 of 9/10) overriding royalty interest in the estate taken herein in subject tract was the defendant whose name appears below in paragraph 13 and the right to receive the just compensation awarded by this judgment is vested in the party so named.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$2,750.00 hereby is adopted as the award of just compensation for the overriding royalty interest in the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 826M
((5/64 of 9/10) Overriding
Royalty Interest Only)

OWNER:

The Wiser Oil Company

Award of just compensation pursuant to Court's findings -----	\$2,750.00	\$2,750.00
Deposited as estimated compensation ---	\$1,797.00	
Disbursed to owner -----		<u>\$1,797.00</u>
Balance due to owner -----		\$953.00
Deposit deficiency -----	\$953.00	

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owner the deposit deficiency shown in paragraph 13 above, in the total amount of \$953.00, and such sum shall be placed in the deposit for the subject tract in this civil action.

Upon receipt of such deficiency deposit the Clerk of this Court shall disburse from the deposit for the subject tract as follows:

To - The Wiser Oil Company ----- the sum of \$953.00.

15/ Allen E. Barrow
UNITED STATES DISTRICT JUDGE

APPROVED:

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

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
 Plaintiff,)
 vs.)
)
 50.00 Acres of Land, More or)
 Less, Situate in Nowata County,)
 State of Oklahoma, and Jack H.)
 Scott, et al., and Unknown)
 Owners,)
)
 Defendants.)

CIVIL ACTION NO. 70-C-107

Tract No. 826M

Lessor Interest Only

FILED

NOV 21 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 21 day of November, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies only to the lessor interest in the estate condemned in Tract No. 826M, as such estate and tract are described in the Complaint filed in this action.

3.

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

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 property.

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 property described above in paragraph 2. Pursuant thereto, on April 13,

1970, the United States of America filed its Declaration of Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the lessor interest in the estate taken in the subject tract a certain sum of money, and part of this deposit has been disbursed, as set out below in paragraph 13.

7.

A pre-trial hearing in this case was held by the parties on November 8, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. Mr. W. E. Maddux and Mr. John Wall, Attorneys, appeared for the owners of the subject property.

8.

At the said pre-trial conference the Plaintiff advised that in the event of a trial its evidence as to compensation would be presented by testimony of J. M. Wanenmacher, Sr., and would be in the amount of \$3,505.00. The owners of subject property advised that in the event of trial they would offer no evidence but would rely upon the aforesaid testimony by the Plaintiff's witness. Neither party requested a trial. Based upon the pre-trial statements of the parties the Court concludes that a trial is not necessary or advisable and that the sum of \$3,505.00 should be adopted as the award of just compensation for the subject interest.

9.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the lessor interest in the estate taken in subject tract and the amount fixed by the Court as just compensation, and a sum of money

sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 13.

10.

The defendants named in paragraph 13 as the owners of the lessor interest in the estate taken in the subject tract are the only defendants asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendants are the owners of such property, as of the date of taking and, as such, are entitled to receive the just compensation awarded by this judgment.

11.

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 subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the lessor interest in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of April 13, 1970, and all defendants herein and all other persons are forever barred from asserting any claim to such interest.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owners of the lessor interest in the estate taken herein in subject tract were the defendants whose names appear below in paragraph 13 and the right to receive the just compensation awarded by this judgment is vested in the parties so named.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$3,505.00 hereby is adopted as the award of just compensation for the lessor interest in the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 826M

Lessor Interest Only

Award of just compensation
pursuant to Court's findings ----- \$3,505.00
Deposited as estimated compensation ----- 2,575.00
Deposit deficiency ----- \$930.00

Owners, Allocation of award and Disbursals:

<u>Owners and Interest</u>	<u>Dollar Share of Award</u>	<u>Disbursed</u>	<u>Balance Due</u>
Eva Payne Glass ----- 1/2	\$1752.50	None	\$1752.50
Dorothy Straub, Executrix under the Will of Julia Scott - 1/8	438.13	None	438.13
Jack H. Scott ----- 1/8	438.13	None	438.13
James R. Cable (Sole heir of Eunice Cable, deceased) ----- 1/8	438.12	321.87	116.25
W. Ross Whitworth ----- 1/24	146.04	None	146.04
Doris Davis, Guardian of: Carolyn Scott James Ray Scott Curtis Edwin Scott Susan Diane Scott	1/12 292.08	None	292.08

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owners the deposit deficiency shown in paragraph 13 above, in the total amount of \$930.00, and such sum shall be placed in the deposit for the subject tract in this civil action.

Upon receipt of such deficiency deposit the Clerk of this Court shall disburse from the deposit for the subject tract to each of the owners of subject property the balance due to him or her as shown above in paragraph 13.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
 Plaintiff,)
 vs.) CIVIL ACTION NO. 70-C-109
) Tract No. 838M
 20.00 Acres of Land, More or)
 Less, Situate in Nowata County,) ((5/64 of 8/8) Overriding
 State of Oklahoma, and E. C.) Royalty Interest Only)
 Lawson, et al., and Unknown)
 Owners,)
)
 Defendants.)

FILED

NOV 21 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 21 day of November, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies only to the (5/64 of 8/8) overriding royalty interest in the estate condemned in Tract No. 838M, as such estate and tract are described in the Complaint filed in this action.

3.

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

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 property.

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 property described above in paragraph 2. Pursuant thereto, on April 4,

1970, the United States of America filed its Declaration of Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the overriding royalty interest in the estate taken in the subject tract a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 13.

7.

A pre-trial hearing in this case was held by the parties on November 8, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. Mr. Lloyd Rowland and Mr. Jack Heskett, Attorneys, appeared for the owner of the subject property.

8.

At the said pre-trial conference the Plaintiff advised that in the event of a trial its evidence as to compensation would be presented by the testimony of J. M. Wanenmacher, Sr., and would be in the amount of \$133.00.

The owner of the subject property advised that in the event of trial its evidence as to compensation would be presented by the testimony of Jay Robertson, and would be in the amount of \$685.00. Neither party requested a trial. Based upon the pre-trial statements of the parties the Court concludes that a trial is not necessary or advisable and that the sum of \$342.00 should be adopted as the award of just compensation for the subject interest.

9.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the overriding royalty interest in the estate taken in subject tract and the amount

fixed by the Court as just compensation, and a sum of money sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 13.

10.

The defendant named in paragraph 13 as the owner of the (5/64 of 8/8) overriding royalty interest in the estate taken in the subject tract is the only defendant asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendant is the owner of such property, as of the date of taking and, as such, is entitled to receive the just compensation awarded by this judgment.

11.

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 subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the overriding royalty interest in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of April 13, 1970, and all defendants herein and all other persons are forever barred from asserting any claim to such interest.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owner of the (5/64 of 8/8) overriding royalty interest in the estate taken herein in subject tract was the defendant whose name appears below in paragraph 13 and the right to receive the just compensation awarded by this judgment is vested in the party so named.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$342.00 hereby is adopted as the award of just compensation for the overriding royalty interest in the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 838M

((5/64 of 8/8) Overriding
Royalty Interest Only)

OWNER:

The Wiser Oil Company

Award of just compensation pur-		
suant to Court's findings -----	\$342.00	\$342.00
Deposited as estimated compensation -----	\$8.00	
Disbursed to owner -----		<u>\$8.00</u>
Balance due to owner -----		<u>\$334.00</u>
Deposit deficiency -----	\$334.00	

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owner the deposit deficiency shown in paragraph 13 above, in the total amount of \$334.00, and such sum shall be placed in the deposit for the subject tract in this civil action.

Upon receipt of such deficiency deposit the Clerk of this Court shall disburse from the deposit for the subject tract as follows:

To - The Wiser Oil Company ----- the sum of \$334.00.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

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

HAROLD M. TOLLE,

Plaintiff,

vs.

CLARKE-GRAVELY CORPORATION,

Defendant.

No. 72-C-423

FILED

NOV 21 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

The Court has for consideration the Application for
Order of Dismissal jointly filed by the parties herein.
After due deliberation thereon, it is

- ORDERED (1) that the terms of the settlement between
the parties are never to be made public;
- (2) that the parties may withdraw all depositions
and exhibits filed herein;
- (3) that all allegations and responses filed
herein are withdrawn;
- (4) that this ^{Complaint & Action} cause is dismissed with prejudice
to any further suit.

DATED this 21 day of November, 1973.

191 Allen E. Barrow

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
 Plaintiff,)
)
 vs.)
)
 180.00 Acres of Land, More or)
 Less, Situate in Nowata County,)
 State of Oklahoma, and Wiser)
 Oil Company, et al., and)
 Unknown Owners,)
)
 Defendants.)

CIVIL ACTION NO. 70-C-174

Tract Nos. 812M-1 and 812M-2

Lessor Interest (1/8 of 8/8)
and
Overriding Royalty Interest
(1/32 of 8/8)

FILED

NOV 21 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 21 day of November, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies only to the lessor interest (1/8 of 8/8) and the overriding royalty interest (1/32 of 8/8) in the estate condemned in Tracts Nos. 812M-1, and 812M-2, as such estate and tracts are described in the Complaint filed in this action.

3.

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

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 property.

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 property

described above in paragraph 2. Pursuant thereto, on June 4, 1970, the United States of America filed its Declaration of Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the subject interests in the estate taken in the subject tracts a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 13.

7.

A pre-trial hearing in this case was held by the parties on November 8, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. Mr. Lloyd Rowland and Mr. Jack Heskett, Attorneys, appeared for the owner of the subject property.

8.

At the said pre-trial conference the Plaintiff advised that in the event of a trial its evidence as to compensation would be presented by testimony of J. M. Wanenmacher, Sr., and would be in the amount of \$1,440.00. The owner of subject property advised that in the event of trial its evidence as to compensation would be presented by testimony of Jay Robertson, and would be in the amount of \$3,600.00. Neither party requested a trial. Based upon the pre-trial statements of the parties, the Court concludes that a trial is not necessary or advisable and that the sum of \$2,300.00 should be adopted as the award of just compensation for the subject interests.

9.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the subject interests in the estate taken in subject tracts and the amount

fixed by the Court as just compensation, and a sum of money sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 13.

10.

The defendant named in paragraph 13 as the owner of the (1/8 of 8/8) lessor interest and the (1/32 of 8/8) overriding royalty interest in the estate taken in the subject tracts is the only defendant asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendant is the owner of such property, as of the date of taking and, as such, is entitled to receive the just compensation awarded by this judgment.

11.

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 subject tracts, as they are described in the Complaint filed herein, and such property, to the extent of the lessor interest and the overriding royalty interest in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of June 4, 1970, and all defendants herein and all other persons are forever barred from asserting any claim to such interest.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owner of the (1/8 of 8/8) lessor interest and the (1/32 of 8/8) overriding royalty interest in the estate taken herein in subject tracts was the defendant whose name appears below in paragraph 13 and the right to receive the just compensation awarded by this judgment is vested in the party so named.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$2,300.00 hereby is adopted as the award of just compensation for the lessor interest and the overriding royalty interest in the estate taken in subject tracts, as shown by the following schedule:

TRACTS NOS. 812M-1 and 812M-2

(1/8 of 8/8) Lessor Interest

and

(1/32 of 8/8 Overriding Royalty
Interest Only

OWNER:

The Wiser Oil Company

Award of just compensation pursuant to Court's findings -----	\$2,300.000	\$2,300.00
Deposited as estimated compensation ---	288.00	
Disbursed to owner -----		<u>288.00</u>
Balance due to owner -----		\$2,012.00
Deposit deficiency -----	\$2,012.00	

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owner the deposit deficiency shown in paragraph 13 above, in the total amount of \$2,012.00, and such sum shall be placed in the deposit for the subject tracts in this civil action.

Upon receipt of such deficiency deposit the Clerk of this Court shall disburse from the deposit for the subject tracts as follows:

To - The Wiser Oil Company ----- the sum of \$2,012.00.

15/ Allen E. Barrow
UNITED STATES DISTRICT JUDGE

APPROVED:

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

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
 Plaintiff,)
)
 vs.)
)
 40.92 Acres of Land, More or)
 Less, Situate in Rogers County,)
 State of Oklahoma, and Harold)
 Wilcox, et al., and Unknown)
 Owners,)
)
 Defendants.)
)

CIVIL ACTION NO. 70-C-173
Tract No. 536M
(5/32 of 7/8) Overriding
Royalty Interest Only

FILED

NOV 21 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 21 day of November, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies only to the overriding royalty interest (5/32 of 7/8) in the estate condemned in Tract No. 536M, as such estate and tract are described in the Complaint filed in this action.

3.

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

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 property.

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 property

described above in paragraph 2. Pursuant thereto, on June 4, 1970, the United States of America filed its Declaration of Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the overriding royalty interest in the estate taken in the subject tract a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 13.

7.

A pre-trial hearing in this case was held by the parties on November 8, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. Mr. Lloyd Rowland and Mr. Jack Heskett, Attorneys, appeared for the owner of the subject property.

8.

At the said pre-trial conference the Plaintiff advised that in the event of a trial its evidence as to compensation would be presented by testimony of J. M. Wanenmacher, Sr., and would be in the amount of \$41.00. The owner of subject property advised that in the event of trial its evidence as to compensation would be presented by testimony of Jay Robertson, and would be in the amount of \$100.00. Neither party requested a trial. Based upon the pre-trial statements of the parties, the Court concludes that a trial is not necessary or advisable and that the sum of \$41.00 should be adopted as the award of just compensation for the subject interest.

9.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the overriding royalty interest in the estate taken in subject tract and the

amount fixed by the Court as just compensation, and a sum of money sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 13.

10.

The defendant named in paragraph 13 as the owner of the (5/32 of 7/8) overriding royalty interest in the estate taken in the subject tract is the only defendant asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendant is the owner of such property, as of the date of taking and, as such, is entitled to receive the just compensation awarded by this judgment.

11.

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 subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the overriding royalty interest in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of June 4, 1970, and all defendants herein and all other persons are forever barred from asserting any claim to such interest.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owner of the (5/32 of 7/8) overriding royalty interest in the estate taken herein in subject tract was the defendant whose name appears below in paragraph 13 and the right to receive the just compensation awarded by this judgment is vested in the party so named.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$41.00 hereby is adopted as the award of just compensation for the overriding royalty interest in the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 536M
((5/32 of 7/8) Overriding
Royalty Interest Only)

OWNER:

The Wiser Oil Company

Award of just compensation pursuant to Court's findings -----	\$41.00	\$41.00
Deposited as estimated compensation -----	16.00	
Disbursed to owner -----		<u>16.00</u>
Balance due to owner -----		\$25.00
Deposit deficiency -----	\$25.00	

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owner the deposit deficiency shown in paragraph 13 above, in the total amount of \$25.00, and such sum shall be placed in the deposit for the subject tract in this civil action.

Upon receipt of such deficiency deposit the Clerk of this Court shall disburse from the deposit for the subject tract as follows:

To - The Wiser Oil Company ----- the sum of \$25.00.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
 Plaintiff,)
)
 vs.) CIVIL ACTION NO. 70-C-172
)
 20.70 Acres of Land, More or) Tract No. 535M
 Less, Situate in Rogers)
 County, State of Oklahoma,) (5/32 of 7/8) Overriding
 and Jay T. Phillips, et al.,) Royalty Interest Only
 and Unknown Owners,)
)
 Defendants.)

FILED

NOV 21 1973

J U D G M E N T

Jack C. Silver, Clerk
U. S. DISTRICT COURT

1.

NOW, on this 21 day of November, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies only to the overriding royalty interest (5/32 of 7/8) in the estate condemned in Tract No. 535M, as such estate and tract are described in the Complaint filed in this action.

3.

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

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 property.

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 property described above in paragraph 2. Pursuant thereto, on June 4,

1970, the United States of America filed its Declaration of Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the overriding royalty interest in the estate taken in the subject tract a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 12.

7.

A pre-trial hearing in this case was held by the parties on November 8, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. Mr. Lloyd Rowland and Mr. Jack Heskett, Attorneys, appeared for the owner of the subject property.

8.

At the said pre-trial conference the Plaintiff advised that in the event of a trial its evidence as to compensation would be presented by testimony of J. M. Wanenmacher, Sr., and would be in the amount of \$13.00. The owner of subject property advised that in the event of trial its evidence as to compensation would be presented by testimony of Jay Robertson, and would be in the amount of \$75.00. Neither party requested a trial. Based upon the pre-trial statements of the parties the Court concludes that a trial is not necessary or advisable and that the sum of \$17.00 should be adopted as the award of just compensation for the subject interest.

9.

The defendant named in paragraph 12 as the owner of the (5/32 of 7/8) overriding royalty interest in the estate taken in the subject tract is the only defendant asserting any interest in such property. All other defendants having either disclaimed or

defaulted, the named defendant is the owner of such property, as of the date of taking and, as such, is entitled to receive the just compensation awarded by this judgment.

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 subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the overriding royalty interest in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of June 4, 1970, and all defendants herein and all other persons are forever barred from asserting any claim to such interest.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owner of the (5/32 of 7/8) overriding royalty interest in the estate taken herein in subject tract was the defendant whose name appears below in paragraph 12 and the right to receive the just compensation awarded by this judgment is vested in the party so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$17.00 hereby is adopted as the award of just compensation for the overriding royalty interest in the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 535M

((5/32 of 7/8) Overriding
Royalty Interest Only)

OWNER:

The Wiser Oil Company

Award of just compensation pursuant to Court's findings -----	\$17.00	\$17.00
Deposited as estimated compensation -----	17.00	
Disbursed to owner -----		<u>\$17.00</u>
Balance due to owner -----		None
Deposit deficiency -----	None	

151 Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

151 Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
 Plaintiff,)
)
 vs.)
)
 20.00 Acres of Land, More or)
 Less, Situate in Nowata County,)
 State of Oklahoma, and Florence)
 Hutchison, et al., and Unknown)
 Owners,)
)
 Defendants.)

CIVIL ACTION NO. 70-C-114
Tract No. 1133M
(5/64 of 8/8) Overriding
Royalty Interest Only

FILED

NOV 21 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 21 day of November, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies only to the overriding royalty interest (5/64 of 8/8) in the estate condemned in Tract No. 1133M, as such estate and tract are described in the Complaint filed in this action.

3.

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

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 property.

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 property described above in paragraph 2. Pursuant thereto, on April 13,

1970, the United States of America filed its Declaration of Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the overriding royalty interest in the estate taken in the subject tract a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 13.

7.

A pretrial hearing in this case was held by the parties on November 8, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. Mr. Lloyd Rowland and Mr. Jack Heskett, Attorneys, appeared for the owner of the subject property.

8.

At the said pre-trial conference the Plaintiff advised that in the event of a trial its evidence as to compensation would be presented by testimony of J. M. Wanenmacher, Sr., and would be in the amount of \$107.00. The owner of subject property advised that in the event of trial its evidence as to compensation would be presented by testimony of Jay Robertson, and would be in the amount of \$763.00. Neither party requested a trial. Based upon the pre-trial statements of the parties the Court concludes that a trial is not necessary or advisable and that the sum of \$350.00 should be adopted as the award of just compensation for the subject interest.

9.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the overriding royalty interest in the estate taken in subject tract and the amount fixed by the Court as just compensation, and a sum of money

sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 13.

10.

The defendant named in paragraph 13 as the owner of the (5/64 of 8/8) overriding royalty interest in the estate taken in the subject tract is the only defendant asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendant is the owner of such property, as of the date of taking and, as such, is entitled to receive the just compensation awarded by this judgment.

11.

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 subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the overriding royalty interest in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of April 13, 1970, and all defendants herein and all other persons are forever barred from asserting any claim to such interest.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owner of the (5/64 of 8/8) overriding royalty interest in the estate taken herein in subject tract was the defendant whose name appears below in paragraph 13 and the right to receive the just compensation awarded by this judgment is vested in the party so named.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$350.00 hereby is adopted as the award of just compensation for the overriding royalty interest in the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 1133M
((5/64 of 8/8) Overriding
Royalty Interest Only)

OWNER:

The Wiser Oil Company

Award of just compensation pur-		
suant to Court's findings -----	\$350.00	\$350.00
Deposited as estimated compensation -----	123.00	
Disbursed to owner -----		<u>\$123.00</u>
Balance due to owner -----		\$227.00
Deposit deficiency _____	\$227.00	

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owner the deposit deficiency shown in paragraph 13 above, in the total amount of \$227.00, and such sum shall be placed in the deposit for the subject tract in this civil action.

Upon receipt of such deficiency deposit the Clerk of this Court shall disburse from the deposit for the subject tract as follows:

To - The Wiser Oil Company ----- the sum of \$227.00.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/S/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
 Plaintiff,)
)
 vs.) CIVIL ACTION NO. 70-C-112
)
 98.00 Acres of Land, More or) Tract No. 1049M
 Less, Situate in Nowata County,)
 State of Oklahoma, and Violet) (5/64 of 8/8) Overriding
 Rinehart, et al., and Unknown) Royalty Interest Only
 Owners,)
)
 Defendants.)

FILED

NOV 21 1973

J U D G M E N T

Jack C. Silver, Clerk
U. S. DISTRICT COURT

1.

NOW, on this 21 day of November, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment fixing just compensation in this matter. After having examined the files in this action and being advised by counsel, the Court finds:

2.

This judgment applies only to the overriding royalty interest (5/64 of 8/8) in the estate condemned in Tract No. 1049M, as such estate and tract are described in the Complaint filed in this action.

3.

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

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 property.

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 property described above in paragraph 2. Pursuant thereto, on April 13,

1970, the United States of America filed its Declaration of Taking of such property, and title thereto should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the overriding royalty interest in the estate taken in the subject tract a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 13.

7.

A pre-trial hearing in this case was held by the parties on November 8, 1973. Due notice of such hearing was given to all of the parties. The Plaintiff, United States of America, appeared at such hearing by Hubert A. Marlow, Assistant United States Attorney for the Northern District of Oklahoma. Mr. Lloyd Rowland and Mr. Jack Heskett, Attorneys, appeared for the owner of the subject property.

8.

At the said pre-trial conference the Plaintiff advised that in the event of a trial its evidence as to compensation would be presented by testimony of J. M. Wanenmacher, Sr., and would be in the amount of \$260.00. The owner of subject property advised that in the event of trial its evidence as to compensation would be presented by testimony of Jay Robertson, and would be in the amount of \$4,083.00. Neither party requested a trial. Based upon the pre-trial statements of the parties the Court concludes that a trial is not necessary or advisable and that the sum of \$700.00 should be adopted as the award of just compensation for the subject interest.

9.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the overriding royalty interest in the estate taken in subject tract and the amount fixed by the Court as just compensation, and a sum of money

sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 13.

10.

The defendant named in paragraph 13 as the owner of the (5/64 of 8/8) overriding royalty interest in the estate taken in the subject tract is the only defendant asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendant is the owner of such property, as of the date of taking and, as such, is entitled to receive the just compensation awarded by this judgment.

11.

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 subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the overriding royalty interest in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of April 13, 1970, and all defendants herein and all other persons are forever barred from asserting any claim to such interest.

12.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owner of the (5/64 of 8/8) overriding royalty interest in the estate taken herein in subject tract was the defendant whose name appears below in paragraph 13 and the right to receive the just compensation awarded by this judgment is vested in the party so named.

13.

It Is Further ORDERED, ADJUDGED and DECREED that the sum of \$700.00 hereby is adopted as the award of just compensation for the overriding royalty interest in the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 1049M
((5/64 of 8/8) Overriding
Royalty Interest Only)

OWNER:

The Wiser Oil Company

Award of just compensation pur-		
suant to Court's Findings -----	\$700.00	\$700.00
Deposited as estimated compensation ----	34.00	
Disbursed to owner -----		<u>34.00</u>
Balance due to owner -----		<u>\$666.00</u>
Deposit deficiency -----	\$666.00	

14.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owner the deposit deficiency shown in paragraph 13 above, in the total amount of \$666.00, and such sum shall be placed in the deposit for the subject tract in this civil action.

Upon receipt of such deficiency deposit the Clerk of this Court shall disburse from the deposit for the subject tract as follows:

To - The Wiser Oil Company ----- the sum of \$666.00.

/s/ Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney

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

SANDRA ROBBINS,

Plaintiff,

vs.

TULSA PUBLIC SCHOOLS and INDEPENDENT
SCHOOL DISTRICT NO. 1 OF TULSA COUNTY,
OKLAHOMA, and DR. GORDON CAWELTI and
KENNETH J. BAYS,

Defendants.

NO. 73-C-73

FILED

NOV 19 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

The Court has for consideration herein the Motion to Dismiss filed by the Defendant, Independent School District No. 1 of Tulsa County, Oklahoma, the briefs in support and in opposition thereto, and being fully advised in the premises, FINDS:

The designation Tulsa Public Schools is a layman's term of convenience and it is incorporated within and it is not an entity recognized separate and apart from Independent School District No. 1 of Tulsa County, Oklahoma; and, therefore, the Tulsa Public Schools is not a proper party to this cause of action and should be dropped as a party Defendant.

The Plaintiff is a schoolteacher and has filed this action seeking a declaratory judgment and damages on grounds that she has been denied by the Defendants compensation rightfully due her in violation of her constitutional right to equal protection of the laws. She asserts that she left work on or about April 23, 1973, in order to have a baby, and that she was absent from work 22 days, for which she was not compensated because the Defendants invoked the personnel regulation providing, "accumulated sick leave may not be used for maternity reasons." She alleges that she demanded on or about May 22, 1973, compensation from the Defendants for such 22 days sick leave accrued to her pursuant to the established sick leave policy governing Tulsa Public School teachers, and such compensation has been denied by the Defendants. She now seeks in this Court an Order declaring that said personnel regulation violates her civil rights in that it is discriminatory because of sex. She further seeks the

Court's Order enjoining the enforcement of the maternity leave regulation against her, and thereby allowing her to use her accumulated sick leave to have a baby; awarding damages in the amount of all sick-leave compensation withheld for each day of absence from work for maternity reasons; and for her costs in this action, including a reasonable attorney's fee, and for such other and further relief to which she is entitled in law and equity.

The Court, in applying the two-step test required when the question of Eleventh Amendment immunity from suit in Federal Court exists, as set forth in Ford Motor Co. v. Department of Treasury of Indiana, et al., 323 U. S. 459 (1945); and the criteria established in Harris v. Tooele County School District, 471 F.2d 218 (10th Cir. 1973), finds, upon an investigation of Oklahoma State law, that in Oklahoma school districts are not separate and distinct entities, but rather they are political subdivisions of the State, organized and existing for the purpose of fulfilling the governmental function of providing public education to citizens of the State. Okla. Const. art. XIII, § 1; Tryon Independent School District v. Currier, 474 P.2d 131 (Okla. 1970); Appeal of Wickstrum, 454 P.2d 131 (Okla. 1969); Dahl v. Hughes, 347 P.2d 208 (Okla. 1959). Furthermore, any money judgment rendered by the Court against the school district could be paid, at least partially, out of State funds. 70 O.S.A. § 18-101, et seq. Further, although suits against school districts are authorized by State Statute, 70 O.S.A. § 5-105, it is well settled that a State's waiver of immunity from suit in its own Courts does not constitute waiver of immunity from suits brought in Federal Courts unless a clear intent to that effect appears. Harris, supra.; Brennan v. University of Kansas, 451 F.2d 1287 (10th Cir. 1971). The Court has found no clear intent by the State of Oklahoma to waive sovereign immunity which would authorize suits against the State in Federal Court.

Therefore, the Court finds that the present action is an action against the State of Oklahoma in that its school districts are political subdivisions of the State and they are not separate and distinct entities

from the State; that any money judgment could be paid, at least partially, out of State funds; and, that the State of Oklahoma has not consented to be sued in Federal Courts. Additionally, the Court finds that such immunity extends to suits brought pursuant to the Civil Rights Act. Bennett v. People of State of California, 406 F.2d 36 (9th Cir. 1960) cert. den. 394 U. S. 966; Morey v. Independent School District No. 492, 312 F.Supp. 1257 (D.C.Minn. 1969) aff'd. 429 F.2d 428 (8th Cir. 1970).

The Court further finds that Plaintiff has not shown the exhaustion of her procedures available before State of Oklahoma and local agencies, or the Federal Equal Employment Opportunities Commission for the alleged violations of Title VII of the Civil Rights Act of 1964, other than to claim that such procedures would be futile because of statements made by counsel for Defendants. This is insufficient and constitutes a failure by Plaintiff to satisfy the jurisdictional prerequisites for the maintenance of an action under 42 U.S.C. § 2000(e).

Based on the foregoing, the Court finds that the Motion to Dismiss filed by the Defendant Independent School District No. 1 of Tulsa County, Oklahoma, should be sustained and the complaint and cause of action should be dismissed as to said Defendant.

IT IS, THEREFORE, ORDERED that Tulsa Public Schools is not a proper party to this cause of action and said Tulsa Public Schools be and it is hereby dropped as a party Defendant.

IT IS FURTHER ORDERED that the Motion to Dismiss filed by the Defendant Independent School District No. 1 of Tulsa County, Oklahoma, be and it is hereby sustained and the complaint and cause of action is dismissed as to said Defendant.

Dated this 11th day of November, 1973, at Tulsa, Oklahoma.



CHIEF JUDGE, 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 and)
RONNIE L. MORRIS, an officer)
of the Internal Revenue Service,)
)
) Petitioners,)
)
vs.)
) Civil No. 73-C-359
)
DOTTY J. BEAN,)
)
) Respondent.)

FILED
NOV 19 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER DISCHARGING RESPONDENT
AND DISMISSAL

On this 19th day of November, 1973, Petitioners' Motion To Discharge Respondent And For Dismissal came for hearing and the Court finds that Respondent has now complied with the Internal Revenue Service Summons served upon her July 2, 1973, that further proceedings herein are unnecessary and that the Respondent, Dotty J. Bean, should be discharged and this action dismissed upon payment of \$43.40 costs by Respondent.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED BY THE COURT that the Respondent, Dotty J. Bean, be and she is hereby discharged from any further proceedings herein and this action is hereby dismissed upon payment of \$43.40 costs by said Respondent.



UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Jack M. Short

JACK M. SHORT
Assistant United States Attorney

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

UNITED STATES OF AMERICA and
RONNIE L. MORRIS, an officer
of the Internal Revenue Service,

Petitioners,

vs.

EMMETT E. BEAN,

Respondent.

Civil No. 73-C-358

FILED

NOV 19 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER DISCHARGING RESPONDENT
AND DISMISSAL

On this 19th day of November, 1973, Petitioners' Motion To Discharge Respondent And For Dismissal came for hearing and the Court finds that Respondent has now complied with the Internal Revenue Service Summons served upon him July 2, 1973, that further proceedings herein are unnecessary and that the Respondent, Emmett E. Bean, should be discharged and this action dismissed upon payment of \$42.80 costs by Respondent.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED BY THE COURT that the Respondent, Emmett E. Bean, be and he is hereby discharged from any further proceedings herein and this action is hereby dismissed upon payment of \$42.80 costs by said Respondent.


UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Jack M. Short

JACK M. SHORT
Assistant United States Attorney

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

CLARK EQUIPMENT COMPANY,)
)
 Plaintiff,)
)
 v.) Civil Action No. 73-C-313
)
 CLARK EQUIPMENT & CONSTRUCTION)
 COMPANY, INC.; CLARK EQUIPMENT)
 SALES CORP.; SOUTHWESTERN BELL)
 TELEPHONE COMPANY; HAROLD D.)
 CLARK; NEWTON WEISSE; and)
 SAM DRYER,)
)
 Defendants.)

FILED

NOV 16 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

FINAL JUDGMENT AND CONSENT DECREE

The Plaintiff, Clark Equipment Company, and the Defendants, Clark Equipment & Construction Company, Inc., Clark Equipment Sales Corp., Harold D. Clark and Sam Dryer, having represented to this Court that they have settled the matters and issues between them and in accordance therewith the Court enters the following findings:

1. This action arises under the trademark laws of the United States, the law of Unfair Competition and the trademark laws of the State of Oklahoma. This court has jurisdiction under 28 U.S.C. §1338(a) and pendent jurisdiction over the claims of unfair competition and violations of the laws of Oklahoma under 28 U.S.C. §1338(b). The court has jurisdiction under 28 U.S.C. §1332(a) by reason of diversity of citizenship between Plaintiff and Defendants and because the matter in controversy exceeds, exclusive of interest and cost, the sum of Ten Thousand Dollars. Venue lies in this court under 28 U.S.C. §1391(b) and (c). Service was not obtained upon the Defendant, Newton Weisse; this action is therefore dismissed as against him. Upon agreement of the parties, this action is dismissed as against Southwestern Bell Telephone Company.

2. Plaintiff, Clark Equipment Company (hereinafter called "Clark Equipment"), is a Delaware corporation having its principal place of business at 324 East Dewey Avenue, Buchanan, Michigan 49107. Plaintiff, Clark Equipment, does not have a place of business in the Northern District of Oklahoma.

3. Defendants Clark Equipment & Construction Company, Inc. and Clark Equipment Sales Corp. (hereinafter together called "Clark Companies") are Oklahoma corporations having their principal places of business in the Northern District of Oklahoma.

4. Defendant Harold D. Clark is a citizen of the United States and a resident of Oklahoma. Defendant Harold D. Clark is president of Defendants Clark Companies.

5. Defendant Sam Dryer is a citizen of the United States and a resident of Oklahoma. Defendant Sam Dryer is an officer or director or both of Defendants Clark Companies.

6. Plaintiff, Clark Equipment, and its predecessors and subsidiaries have used the name CLARK in interstate and foreign commerce both as a trademark and a trade name in the business of manufacturing and selling a variety of products at least since 1917. Plaintiff, Clark Equipment, and its consolidated subsidiaries employ more than 28,000 persons and operate offices and sales and manufacturing facilities throughout the United States and worldwide. Plaintiff's products include, inter alia, fork trucks, towing tractors and other material handling equipment; loaders, rubber tired bulldozers, power shovels, cranes and other items of construction machinery; and freight trailers and truck bodies. Service and parts for Plaintiff's products are offered nationwide and worldwide. Plaintiff's products and parts are sold principally through independent dealers and distributors. Plaintiff, Clark Equipment, has expended large sums of money each year in advertising and promoting the name CLARK as a trademark, service mark and trade name. Plaintiff's common stock is listed on the New York Stock Exchange. Plaintiff has approximately 12,000 shareholders and more than 13 million shares of stock outstanding.

7. By reason of long continued and extensive use, advertising, promotion and publicizing of the name CLARK in connection with Plaintiff and its goods, Plaintiff has acquired and has long enjoyed a very valuable reputation and goodwill symbolized by the CLARK name. The purchasing public has long recognized and relied upon and does recognize and rely upon the name CLARK as identifying and distinguishing Plaintiff and its goods and the name CLARK has achieved secondary meaning as a trademark and a service mark of Plaintiff.

8. In 1971, Plaintiff, Clark Equipment, had worldwide sales amounting to approximately 742 million dollars. Sales for 1972 were approximately 898 million dollars. Sales of over one billion dollars are projected for 1973.

9. Plaintiff has the following franchised dealers in Tulsa, Oklahoma:

Bert Smith Road Machinery Inc.
8820 East Admiral Place
P.O. Box 15566
Tulsa, Oklahoma 74114

Shields Supply Company
4442 South 74th East Avenue
Tulsa, Oklahoma

Arst Equipment Company
8118 East 44th Street
Tulsa, Oklahoma 74145

Fifth Wheel Inc.
10306 East 47th Place
Tulsa, Oklahoma 74145

Tulsa Trailer & Body, Inc.
1301 South Sheridan Road
Tulsa, Oklahoma 74112

Plaintiff Clark Equipment's goods have been sold in the Northern District of Oklahoma since 1935.

10. Plaintiff, Clark Equipment, owns and Plaintiff and its predecessor have continuously used during the period of their registration the following registered U.S. trademarks and service mark. Each of such registrations is valid and subsisting.

<u>No.</u>	<u>Mark</u>	<u>Registered</u>	<u>Goods/Services</u>
507,796	CLARK	March 22, 1949	Power operated industrial material handling trucks used merely to transport goods
512,742	CLARK	July 26, 1949	Power operated gas engine and electric battery powered industrial material handling tractors for use in local plant operations

<u>No.</u>	<u>Mark</u>	<u>Registered</u>	<u>Goods/Services</u>
716,772	CLARK EQUIPMENT	June 13, 1961	Trailers, semi-trailers, cargo vans, shipping containers for interchangeable use on vehicles, truck bodies and parts
642,533	CLARK EQUIPMENT	March 12, 1957	Power operated industrial lift trucks, towing tractors, tractor shovels, straddle carriers and power shovels and cranes
660,744	CLARKLIFT	April 22, 1958	Power operated industrial lift trucks
800,602	CLARK	Dec. 21, 1965	Freight trailers and truck bodies, and parts therefor
864,515	CLARK EQUIPMENT	Feb. 4, 1969	Logging machines
864,516	CLARK	Feb. 4, 1969	Logging machines
939,080	CLARK RENTAL SYSTEM	July 25, 1972	Renting of material handling equipment, earth moving and loading machinery and truck trailers

11. Each of Plaintiff's aforesaid registrations, except the last three, have become incontestable under the provision of Title 15 U.S.C. §1065.

12. Plaintiff, Clark Equipment, in addition to the U.S. trademark registrations recited above, owns and Plaintiff and its predecessor have continuously used the following trademarks registered in Oklahoma. Each of such registrations is valid and subsisting.

<u>No.</u>	<u>Mark</u>	<u>Registered</u>	<u>Goods/Services</u>
10,527	CLARK	April 19, 1965	Industrial lift trucks, towing tractors and front end loaders
10,528	CLARK EQUIPMENT	April 19, 1965	Industrial machinery
13,123	CLARK EQUIPMENT & DESIGN	June 19, 1973	Freight trailers, truck bodies, and parts therefor
13,325	CLARK	July 18, 1973	Freight trailers, truck bodies, and parts therefor

13. Prior to commencing the acts complained of by Plaintiff, Defendants Clark Companies, Harold D. Clark, and Sam Dryer were aware of

the use as aforesaid of the trademark and trade name CLARK by Plaintiff, Clark Equipment, and knew that Plaintiff enjoyed a valuable goodwill symbolized by said trademark and trade name.

14. Defendants Clark Companies, Harold D. Clark and Sam Dryer commenced on or about June, 1972, to adopt and use the name CLARK in connection with the advertising, promotion and sale of many of the same products as those of Plaintiff, Clark Equipment.

15. Defendant Clark Equipment & Construction Company, Inc. was incorporated in Oklahoma on June 19, 1972. Defendant Clark Equipment Sales Corp. was incorporated in Oklahoma on May 8, 1973.

16. Defendants Clark Companies, Harold D. Clark and Sam Dryer use in advertising the name of CLARK has occurred in interstate commerce without the consent of Plaintiff, Clark Equipment.

17. On June 1, 1973, after learning of the existence of Defendants, Plaintiff sent a representative to investigate the Defendants' practices and use of Plaintiff's trademarks CLARK and CLARK EQUIPMENT. After learning of the improper uses of its trademarks, Plaintiff sent Defendant Harold D. Clark a letter by registered mail demanding change of the Clark Companies names and demanding discontinuance of further use of the names "Clark" or "Clark Equipment" in any way on or in connection with the manufacture, rental, leasing and/or sale of material handling equipment, construction machinery or truck trailer products which are the same or similar to any of those for which Plaintiff has trademark registrations. Plaintiff has made additional written demands on Defendants Clark Companies through their attorney that use of the Plaintiff's trademarks by Defendants cease, but said Defendants have refused such demands.

18. Use of the trademarks CLARK and CLARK EQUIPMENT and the corporate names Clark Equipment & Construction Company, Inc. and Clark Equipment Sales Corp. in commerce constitutes a reproduction, counterfeit, copy and colorable imitation of Plaintiff's aforesaid U.S. registered trademarks and service mark, which use is likely to cause confusion, to cause mistake and to deceive. The acts complained of by Plaintiff have been committed by

Defendants with knowledge that their imitation of Plaintiff's registered U.S. trademarks and service mark is intended to be used to cause confusion, to cause mistake and to deceive.

19. Defendants Clark Companies, Harold D. Clark and Sam Dryer have caused Southwestern Bell Telephone Company to include in its alphabetical and directory assistance listings the listing "Clark Equipment and Construction Inc.". Defendants Clark Companies, Harold D. Clark and Sam Dryer have caused Southwestern Bell Telephone Company to include in its Yellow Pages directory listings and advertisements the listing "Clark Equipment & Construction, Inc." and, in large bold-faced script, the word "Clark" all for the purpose of trading on the goodwill of Plaintiff.

20. By Defendants' said acts, Defendants have infringed Plaintiff's aforesaid registered U.S. trademarks and service mark and have traded upon the goodwill and reputation symbolized by said marks to the irreparable injury of Plaintiff. By reason of such infringement, Plaintiff has suffered permanent and irreparable loss and damage and Plaintiff will suffer continuing loss and irreparable injury unless Defendants are enjoined against further infringement of Plaintiff's rights.

21. By virtue of the aforementioned acts Defendants Clark Companies, Harold D. Clark and Sam Dryer have falsely described and designated the source or origin of their goods and are continuing to do so. Plaintiff's dealers are doing business in the same locality as said Defendants and as a result Plaintiff has been and will continue to be damaged by the use of said false description and designation.

22. By reason of these acts, Plaintiff has suffered permanent and irreparable loss and damage, and Plaintiff will suffer continuing loss and irreparable injury unless Defendants are enjoined against further violation of Plaintiff's rights.

23. Defendants have without consent of Plaintiff used a reproduction, copy and colorable imitation of one or more of Plaintiff's registered Oklahoma trademarks in connection with the sale, offering for

sale and advertising of Defendants Clark Companies' goods and services and such use is likely to cause confusion or mistake or to deceive as to the source of origin of such goods and services.

24. Defendants have applied a reproduction, copy and colorable imitation of one or more of Plaintiff's registered Oklahoma trademarks to labels, signs, stationery, advertising, etc. intended to be used upon or in conjunction with the sale or distribution in Oklahoma of Defendants' goods and services.

25. The Defendants have committed the aforesaid acts with knowledge that such are intended to be used to cause confusion and mistake and to deceive.

26. By reason of these acts, Plaintiff has suffered permanent and irreparable loss and damage and Plaintiff will suffer continuing loss and irreparable injury unless Defendants are enjoined from further violation of Plaintiff's rights.

27. Defendants have passed off the goods and services of Clark Companies as those of Plaintiff by the use of a reproduction, copy and colorable imitation of one or more of Plaintiff's registered trademarks in connection with the sale, offering for sale and advertising of Defendants' goods and services and such use is likely to cause confusion or mistake or to deceive as to the source or origin of such goods and services.

28. The Defendants have committed the aforesaid acts with knowledge that such are intended to be used to cause confusion and mistake and to deceive.

29. By reason of these acts, Plaintiff has suffered permanent and irreparable loss and damage and Plaintiff will suffer continuing loss and irreparable injury unless Defendants are enjoined from further violation of Plaintiff's rights.

30. Plaintiff, Clark Equipment Company, has numerous wholly owned subsidiaries, some of which are owned directly and others indirectly, including, inter alia, Clark Equipment Credit Corporation (a corporation of Michigan), Clark Leasing Corporation (a corporation of Delaware) and Clark Rental Corporation (a corporation of Delaware), and the named subsidiary corporations participate in the sale, lease, rental and other disposition of products manufactured by Plaintiff.

31. Defendants Harold D. Clark and Sam Dryer with prior knowledge of the existence of Plaintiff and many of its products and with the intention of trading on the goodwill of Plaintiff in Oklahoma and elsewhere deliberately deceived the Secretary of State of the State of Oklahoma into believing that Defendants had the sole and exclusive right to the Clark corporate name in Oklahoma.

32. By reason of these acts, Plaintiff has suffered permanent and irreparable loss and damage, and Plaintiff will suffer continuing loss and irreparable injury unless Defendants are enjoined against further violation of Plaintiff's rights.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Clark Equipment & Construction Company, Inc., Clark Equipment Sales Corp., Harold D. Clark and Sam Dryer, their agents, employees and attorneys, and all persons in active concert and participation with them be, and they hereby are, permanently enjoined and restrained from:

1. Using either CLARK alone or CLARK EQUIPMENT as a trademark, service mark or trade or corporate name, as in Clark Equipment & Construction Company, Inc., Clark Equipment Sales Corp. or Clark Equipment Company, in connection with the sale, rental, leasing or servicing of fork trucks, towing tractors and other material handling equipment, loaders, rubber tired bulldozers, power shovels, cranes and other items of construction machinery, and freight trailers and truck bodies.

2. Doing or commencing to do any further business, including advertising, under any of the names Clark Equipment & Construction Company, Inc., Clark Equipment Sales Corp. or Clark Equipment Company in connection with fork trucks, towing tractors and other material handling equipment, loaders, rubber tired bulldozers, power shovels, cranes and other items of construction machinery, and freight trailers and truck bodies; and

3. Placing or printing any advertising copy containing CLARK alone or CLARK EQUIPMENT in any telephone directory, including the classified or "Yellow Pages" thereof in connection with the sale, rental, leasing or servicing of fork trucks, towing tractors and other material handling equipment, loaders, rubber tired bulldozers, power shovels, cranes and other items of construction machinery, and freight trailers and truck bodies.

4. Registering or continuing the registration or attempting to reserve with the Secretary of State for their use in the State of Oklahoma the corporate name Clark Equipment & Construction Company, Inc., or Clark Equipment Sales Corp. or any other name which indicates "Clark" or "Clark Equipment".

5. Informing any person, firm or corporation that the Defendants Clark Equipment & Construction Company, Inc., Clark Equipment Sales Corp., Harold D. Clark or Sam Dryer, or any of them, are "Clark Equipment", whether by answering the telephone or otherwise.

IT IS FURTHER ORDERED:

1. That Defendants Clark Companies, Harold D. Clark and Sam Dryer shall within a reasonable time after the entry of this Order change the corporate names of Clark Equipment & Construction Company, Inc. and Clark Equipment Sales Corp. by filing appropriate amendments to the Articles of Incorporation of said corporations with the Secretary of State of the State of Oklahoma.

2. That Defendants Clark Companies furnish to Clark Equipment and any of its subsidiaries or affiliates upon request a consent to use of similar name for the Secretary of State of the State of Oklahoma in order that Clark Equipment or any of its subsidiaries or affiliates may domesticate in the State of Oklahoma.

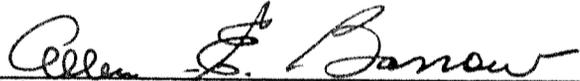
3. That Defendants Clark Companies, Harold D. Clark and Sam Dryer shall within a reasonable time after the entry of this Order change and obliterate all signs and other advertisements on, about or in their places of business and the places of business of Clark Companies and remove the word "Clark" alone therefrom when used in connection with the sale or service of any products the same as or similar to any of Plaintiff's products and to change all such telephone listings and advertising to remove the word "Clark" alone therefrom.

4. That Defendants Clark Companies, Harold D. Clark and Sam Dryer shall within a reasonable time after the entry of this Order deliver up for destruction all advertising material, literature and other business supplies in their possession or under their control which contain the word "Clark" alone in connection with the sale or service of any products the same as or similar to any of Plaintiff's products.

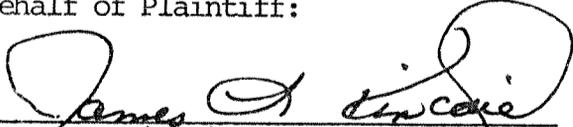
5. That Defendants Harold D. Clark and Sam Dryer may hereafter do business under the name of "Harold Clark Machinery Company" or any reasonable facsimile thereof so long as, and only so long as, the word "Clark" is used only when it is preceded by the name "Harold" and that the words "Clark Equipment" may not be used.

6. That all parties hereto shall bear their own costs, with no costs or attorneys fees awarded to any party.

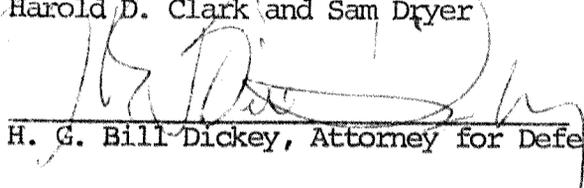
ENTERED this 16th day of November, 1973, at Tulsa, Oklahoma.


Chief United States District Judge for the
Northern District of Oklahoma

Consented to and approved on
behalf of Plaintiff:


James L. Kincaid, Attorney for Plaintiff

Consented to and approved on
behalf of Defendants Clark
Equipment & Construction Company,
Inc., Clark Equipment Sales Corp.,
Harold D. Clark and Sam Dryer

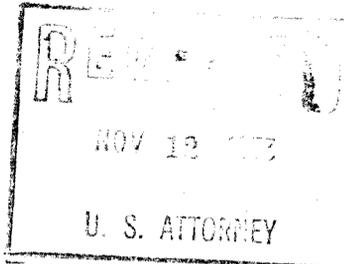

H. G. Bill Dickey, Attorney for Defendants in this Court.

United States District Court)
Northern District of Oklahoma) ss

I hereby certify that the foregoing
is a true copy of the original on file

Jack C. Silver, Clerk
By 
Deputy

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



UNITED STATES OF AMERICA,)
)
) Plaintiff,)
vs.)
)
) EDWARD L. CHERRY, JR., et al.,)
)
) Defendants.)

CIVIL ACTION No. 73-C-240

FILED

NOV 16 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 15th day of October, 1973, the plaintiff appearing by Robert P. Santee, Assistant United States Attorney, and the defendants, County Treasurer and Board of County Commissioners, Tulsa County, appearing by their attorney, Gary J. Summerfield, Assistant District Attorney, the defendant, Premier Pontiac, Inc., appearing by its attorney, Thomas G. Marsh, the defendant, Oklahoma Tire & Supply Co., appearing by its attorney, Jerry L. Goodman, the defendant, Edward L. Cherry, Jr., appearing by his attorney, Phyllis L. Zimmerman, and the defendant, Onita Cherry, appearing not, and

The Court being fully advised and having examined the file herein finds that Edward L. Cherry, Jr., was served with Summons and Complaint on August 16, 1973; that Onita Cherry was served with Summons and Complaint on September 18, 1973; that Oklahoma Tire & Supply Co. and Premier Pontiac, Inc., were served with Summons and Complaint on August 2, 1973; that County Treasurer and Board of County Commissioners, Tulsa County, were served with Summons and Complaint on July 3, 1973; and

It appearing that Edward L. Cherry, Jr., has filed his Answer and Disclaimer herein on September 4, 1973; that Oklahoma Tire & Supply Co. has filed its Answer herein on August 16, 1973; that Premier Pontiac, Inc. has filed its Answer herein on August 9, 1973, and its Amended Answer on August 10, 1973; that County Treasurer has filed its Answer herein on August 23, 1973; that Board of County Commissioners has filed its Answer herein

on August 22, 1973; and that Onita Cherry has failed to answer herein and that default has been entered by the Clerk of this Court.

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 and that the following described real property is located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Three (3), Block Eleven (11), Amended Plat of Blocks Ten (10) thru Sixteen (16), OAK RIDGE ADDITION to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof.

THAT the defendants, Edward L. Cherry, Jr., and Onita Cherry, did, on the 22nd day of July, 1970, execute and deliver to Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$14,200.00 with 8 1/2 percent interest per annum, and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that the defendants, Edward L. Cherry, Jr., and Onita Cherry, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$13,906.44 as unpaid principal, with interest thereon at the rate of 8 1/2 percent interest per annum from June 22, 1972, until paid, plus the cost of this action accrued and accruing.

The Court further finds that there is due and owing to the County of Tulsa, State of Oklahoma, from Edward L. Cherry, Jr., and Onita Cherry the sum of \$54.88 for personal property taxes for the years 1971 and 1972 and that Tulsa County should have judgment for said amount, but that such judgment is subject to and inferior to the first mortgage lien of the plaintiff herein.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Edward L. Cherry, Jr., and Onita Cherry, in personam, for the

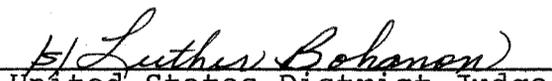
sum of \$13,906.44 with interest thereon at the rate of 8 1/2 per-
cent interest per annum from June 22, 1972, plus the cost of
this action accrued and accruing, plus any additional sums
advanced or to be advanced or expended during this foreclosure
action by plaintiff by taxes, insurance, abstracting, or sums
for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
County of Tulsa have and recover judgment against the defendants,
Edward L. Cherry, Jr., and Onita Cherry, for the sum of \$54.88
as of the date of this judgment plus interest thereafter accord-
ing to law, but that such judgment is subject to and inferior to
the first mortgage lien of the plaintiff herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
plaintiff have and recover judgment, in rem, against the defendants,
Oklahoma Tire & Supply Co. and Premier Pontiac, Inc.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
upon the failure of said defendants to satisfy plaintiff's
money judgment herein, an Order of Sale shall be issued to
the United States Marshal for the Northern District of Oklahoma,
commanding him to advertise and sell, with appraisement the
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, all of 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.

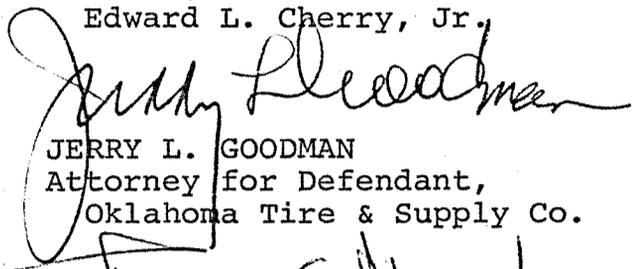

United States District Judge

APPROVED.

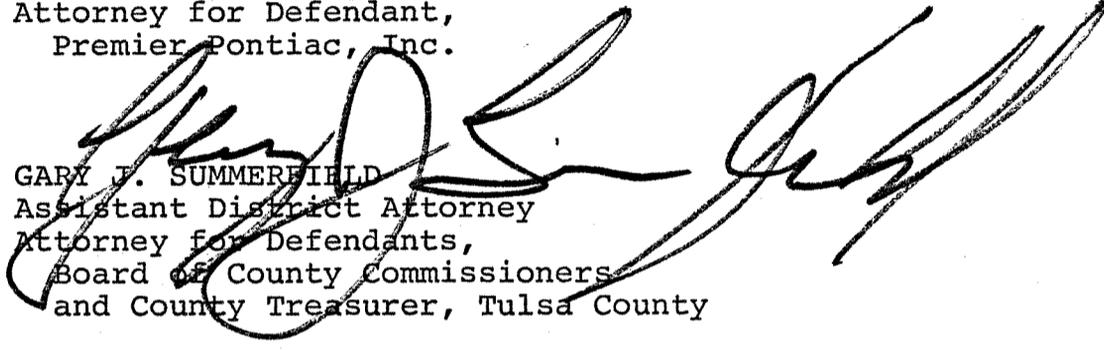


ROBERT P. SANTEE
Assistant United States Attorney


PHYLLIS L. ZIMMERMAN
Attorney for Defendant,
Edward L. Cherry, Jr.


JERRY L. GOODMAN
Attorney for Defendant,
Oklahoma Tire & Supply Co.


THOMAS G. MARSH
Attorney for Defendant,
Premier Pontiac, Inc.


GARY J. SUMMERFIELD
Assistant District Attorney
Attorney for Defendants,
Board of County Commissioners
and County Treasurer, Tulsa County

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

FILED
NOV 17 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

CHARLES W. SCHERTLE,)
)
Plaintiff,)
vs.)
)
CECIL O. FIELDS,)
)
Defendant.)

No. 73-C-114 ✓

DISMISSAL WITH PREJUDICE

Comes now the plaintiff, Charles W. Schertle, and dismisses the above styled and numbered cause of action with prejudice to the bringing of a future action.

Dated this 31 day of October, 1973.

Charles W. Schertle
X Plaintiff

GREER & GREER

By Jefferson R. Greer
Attorneys for Plaintiff

Comes now the defendant, by and through his counsel of record, and consents to the dismissal of the above styled and numbered cause of action with prejudice to the bringing of any future action.

JONES, GIVENS, BRETT, GOTCHER, DOYLE & ATKINS

By James K. Brett
Attorneys for Defendant

IT IS HEREBY ORDERED that the above styled and numbered cause be dismissed with prejudice.

Carroll E. Barron
United States District Judge

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

THE PETROLEUM PUBLISHING COMPANY,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

)
)
) Civil
) No. 72-C-432
)
)

) FILED
)

) NOV 14 1973
)

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER DISMISSING

The Court has for consideration the Stipulation of Dismissal signed by all parties to this litigation, and being fully advised in the premises, finds:

That said cause of action and complaint should be dismissed with prejudice, each party to bear its own costs.

IT IS THEREFORE ORDERED that the cause of action and complaint be and the same is hereby dismissed.

ENTERED this 14 day of Nov, 1973.

FRED DAUGHERTY

UNITED STATES DISTRICT JUDGE

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

THE B. F. GOODRICH COMPANY,)
)
 Plaintiff,)
)
 -vs-)
)
 HENRY FRELICK, et al.,)
)
 Defendants.)

No. 73-C-272

FILED

NOV 13 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

Now on this 13 day of November,
1973, the Court being regularly in session the above
entitled cause came on for hearing on the written
stipulation of all of the parties hereto filed herein
and the Court being well and fully advised in the
premises finds that said stipulation should be and
the same is hereby approved.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED,
that:

1. Plaintiff is hereby granted permission
to withdraw its prayer for damages contained in its
Complaint and the same shall be considered withdrawn.
2. Defendants are hereby granted leave to
withdraw their notice of appeal heretofore filed.
3. The permanent injunction entered by the
Court on the 21st day of September, 1973, is hereby
amended by substituting therefor the following, to-wit:

"Based on Findings of Fact and Conclusions
of Law filed September 21, 1973, IT IS
ORDERED that the Defendants, and each of
them, are permanently enjoined from continu-
ing the unlawful strike.

IT IS ORDERED that the Defendants, and each
of them, are permanently enjoined from further
violation of the 1970 Uniform Agreement and
May 31, 1973 Settlement Memorandum by attempt-
ing to negotiate those items in dispute con-
cerning standards which are subject to arbitra-
tion.

IT IS FURTHER ORDERED that in accordance with the terms of the contract, the Defendant Local Union, through its officers, advise each member of said Local Union that said Local Union is no longer on strike."

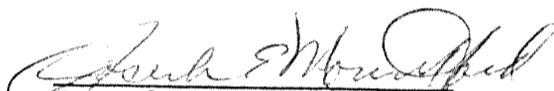
4. Said stipulation is further approved in all other respects.

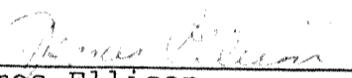

Chief Judge
United States District Court

Approved:

WALLACE AND OWENS

By 
Attorneys for Plaintiff


Joseph E. Mountford


James Ellison

Attorneys for Defendants

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

CAROLYN J. GLASS; MARY E. GLASS, as
Mother and Next of Kin of KENNETH
ELDON GLASS, Minor.

Plaintiffs,

vs.

UNITED STATES OF AMERICA,

Defendant and Third-Party
Plaintiff,

vs.

REBECCA FRANCES GLASS,

Third-Party Defendant.

71-C-145 ✓

E I L E D

NOV 13 1973 *af.*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

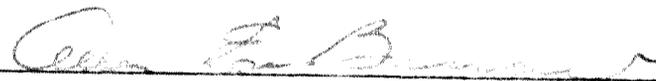
JUDGMENT

Based on the Findings of Fact and Conclusions of Law, Judgment is entered in favor of the Plaintiffs and against the Defendant in the sum of \$10,000.00, and the Veterans Administration shall pay ten per cent of the amount recovered to the plaintiffs' attorneys, which amount the Court finds to be a reasonable fee to be allowed for their services.

28 U.S.C.A. Section 784(g).

Judgment is further entered in favor of their-party defendant and against the defendant and third-party plaintiff.

ENTERED this 13th day of November, 1973.


CHIEF UNITED STATES DISTRICT JUDGE

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

CAROLYN J. GLASS: MARY E. GLASS,
as Mother and Next of Kin of
KENNETH ELDON GLASS, Minor,
Plaintiffs,

vs.

UNITED STATES OF AMERICA,

Defendant
and Third-Party
Plaintiff,

vs.

REBECCA FRANCES GLASS,

Third-Party Defen-
dant.

No. 71-C-145 ✓

FILED

NOV 13 1973

Jack C. Silver, Clerk
U.S. DISTRICT COURT

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Parties having agreed to submit this case on briefs, and the Court having carefully perused the entire file, and, being fully advised in the premises, makes the following Findings of Fact and Conclusions of Law.

STATEMENT OF THE CASE

This case was commenced by the Plaintiffs, who were contingent beneficiaries of a National Service Life Insurance Policy in the amount of \$10,000.00. The Veterans Administration, under the provisions of the policy paid the \$10,000.00 to the primary beneficiary, third-party Defendant herein, Rebecca Frances Glass. The propriety of this is now being controverted by the Plaintiffs.

FINDINGS OF FACT

1. That on April 9, 1967, Elliott M. Glass died as a result of a gunshot wound.
2. That at the time of his death, Elliott M. Glass had in

full force and effect a National Service Life Insurance Policy in the amount of \$10,000.00

3. That under the terms of the policy, his wife, Rebecca Frances Glass, third-party Defendant herein, was named as primary beneficiary. That the Plaintiffs, who were the children of the decedent, were named as contingent beneficiaries sharing equally.

4. That on May 8, 1967, the Veterans Administration received a claim from the widow for the proceeds of the policy in question herein, together with a Death Certificate showing that the insured's death was the result of homicide.

5. That on June 19, 1967, a Grand Jury of Tarrant County, Texas, by indictment, charged the primary beneficiary, Rebecca Frances Glass, with the murder of Elliott M. Glass.

6. On July 3, 1967, the Veterans Administration received a letter from the District Attorney's Office of Tarrant County, Texas, advising the Veterans Administration that the primary beneficiary was charged with the murder of Elliott M. Glass.

7. That after a field examination was made by the Veterans Administration on February 7, 1968, an administrative decision was rendered in favor of the widow. No notice was given to any of the secondary beneficiaries for any hearing.

8. The Veterans Administration, in the instant case, either made a determination not to, or failed to file an interpleader action.

9. Notwithstanding the prior notice of the pending criminal charge, on February 21, 1968, the Veterans Administration paid the proceeds of the policy to Rebecca Frances Glass.

10. On June 17, 1968, the primary beneficiary, Rebecca Frances Glass, was found guilty of murder without malice of the insured, Elliott M. Glass.

11. On October 11, 1968, a formal claim was filed by the contingent beneficiaries for the proceeds of the policy.

12. On June 12, 1970, the Veterans Administration denied the claim of the contingent beneficiaries.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Court makes the following Conclusions of Law:

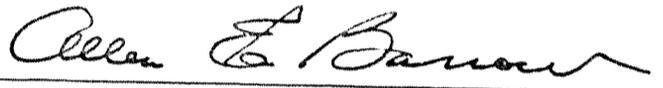
1. This court has full jurisdiction of this suit, and the parties, and the subject matter under 28 U.S.C., 1958 ed., Sec. 784(a).
2. This Court has the full power and authority, unaffected by said administrative decision, to decide the controversy de novo. *Phillips v. United States of America* (USDC, S.D. Miss, Jackson Division, 1970) 332 F.Supp. 601; affirmed (5th Cir.) 440 F.2d 993.
3. Although the National Service Life Insurance Act of 1940, as amended (54 Stat. 1008, 38 U.S.C. Sec. 801-824) makes no provision for the situation where the designated beneficiary kills the insured, public policy founded upon the equitable principle that no person should be permitted to profit from his own wrongdoing intervenes to prevent such beneficiary from taking the proceeds of the insurance. *Shoemaker v. Shoemaker* (6th CCA, 1959) 263 F.2d 931; *Austin v. United States* (7th CCA, 1942) 125 F.2d 817; *United States v. Kwasniewski* (USDC, ED Michigan, S.D., 1950) 91 F.Supp. 847; 46 C.J.S. Insurance, Section 1171; *United States v. Wainer* (7th CCA, 1954) 211 F.2d 669; *United States v. Silliman* (3rd CCA, 1948) 167 F.2d 607; *Palma v. Powers* (USDC, N.D. Ill. E.D., 1969) 295 F.Supp. 924 at 933.
4. The Court finds that in the reported cases concerning a situation such as exists here, the Veterans Administration and/or insurance company normally files an interpleader action. *McDuffie v. Aetna Life Insurance Company* (USDC, E.D. Michigan, S.D., 1957) 160 F.Supp. 541, affirmed 273 F.2d 609.
5. That the judgment of conviction in the prior criminal case is properly admissible in this case, to be duly considered by this Court with the entire file. *Palma v. Powers* (USDC, N.D. Ill., E.D. 1969) 295 F.Supp 924 at 933; *Austin v. United States* (7th CCA, 1942) 125 F.2d 817.
6. Ordinarily payment made by the insurance policy to the person entitled to the proceeds, in good faith, and without

knowledge of facts vitiating his claim will protect the insurer and will discharge the insurer of all further liability; but payment made, voluntarily, with full knowledge of that facts, or notice, putting it on inquiry will not allow an insurance company to recover proceeds paid. 46 C.J.S., Section 1198, 1202, 1203, Insurance.

7. The Court, concludes, as a matter of law, based on the foregoing Findings of Fact and Conclusions of Law, that the Plaintiffs are entitled to recover the insurance proceeds from the Defendant.

8. The Court further finds, as a matter of law, that the Defendant is not entitled to judgment over against the third-party Defendant.

ENTERED this 13 day of November, 1973.



ALLEN E. BARROW
Chief United States District Judge

UNITED STATES DISTRICT COURT

DISTRICT OF OKLAHOMA

THE TELEX CORPORATION and
TELEX COMPUTER PRODUCTS, INC.,

Plaintiffs,

vs.

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Defendant.

No. 72-C-187
No. 72-C-89
(Consolidated)

NOV 10 1973
J. C. Silver, Clerk
U.S. DISTRICT COURT

AMENDMENT JUDGMENT AND DECREE

The issues having been fully tried to the court, findings of fact, conclusions of law and judgment and decree having been entered and entered on September 17, 1973, timely motions to amend such findings of fact, conclusions of law and judgment and decree having been filed, argued and considered by the court, and the court having made certain amendments and supplements to its findings of fact and conclusions of law; now, accordingly,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That plaintiffs, The Telex Corporation and Telex Computer Products, Inc., have and recover judgment of and from the defendant International Business Machines Corporation in the sum of \$259.5 million, after the found actual damages have been trebled as required by law, together with attorneys' fees in the sum of \$1.2 million, and stipulated costs of court in accordance with the agreement of the parties heretofore entered on the record.

2. IBM is hereby enjoined for a period of three years from the date of this judgment from entering into or enforcing any contractually specified termination charges or liquidated damages which it otherwise might be entitled to collect because of termination of any long term lease agreement entered into between IBM and any of its end-user customers, with respect to IBM EDP peripheral products that are cable connected to any IBM CPU or its channel.

3. IBM is enjoined and required in good faith to make available on request, at the time of first customer shipment of an IBM CPU or its channel, information describing the design of the electronic interface for such product (including the details necessary to describe the characteristics, timing and sequencing of all signals to be interchanged, together with the function of such signals and the expected response to such signals transferred at the interface between such IBM CPU or its channel and the EDP peripheral products cable connected to it) and, in the event that a subsequently shipped IBM EDP peripheral product changes that interface, IBM shall make changes in the above information available at the time such product is shipped.*

4. IBM is enjoined and required to continue to price separately those System 370 memories which are not a single product

* The parties and the Court shall use, as an aid in construction of this provision, the IBM Manual GA 22-6794-1: IBM System/360 and System/370 I/O Interface Channel to Control Unit Original Equipment Manufacturers' Information.

with the central processing unit.**

5. IBM is enjoined and required to price separately its separate EDP products, including but not limited to CPU's, memories (as set forth in paragraph 4), tape products and their controllers, disk products and their controllers, printer products and their controllers, and communication controllers.

6. Where it offers a separate EDP peripheral product cable connected to an IBM CPU or channel in a separate box and a substantially equivalent version made from substantially common parts integrated into another product, IBM is enjoined and required to continue to price the integrated version separately from the product into which it is integrated, and is further enjoined and required to make a good faith effort to set its prices for both such versions with a substantially equivalent profit objective, and with cost and profit objectives being measured on an equivalent basis.

7. Neither paragraph 4, 5, nor 6 hereof is intended to require the separate pricing of anything which would not be regarded as a separate product pursuant to Section 3 of the Clayton Act and provided further in this connection that the court does not intend to inhibit technological changes which may alter the definition of what today may be a separate product.

8. IBM is enjoined from adopting, implementing or carrying out predatory pricing, leasing or other acts, practices

** See Findings 110, 111 and Conclusion 31.

or strategies with intent to obtain or maintain an illegal monopoly in a relevant market for EDP peripheral equipment plug compatible to its CPU's, or any relevant submarkets thereof, in violation of Section 2 of the Sherman Act.

9. The foregoing injunctions are intended to be effective only within the United States. They and any changes, modifications or amendments thereof may be enforced, construed or considered only upon motion duly made by The Telex Corporation, Telex Computer Products, Inc., or International Business Machines Corporation, or their successors in interest, and such motions shall be made on at least twenty days' written notice.

10. International Business Machines Corporation shall have and recover from Telex Corporation and Telex Computer Products, Inc., the total sum of \$21,913,776, made up as by the conclusions of law shown, together with attorneys' fees for the adjudged copyright infringement in the sum of \$3,000, and costs in accordance with the stipulation heretofore made of record.

11. The Telex Corporation and Telex Computer Products, Inc., are enjoined and required:

a. To return to IBM all IBM documents and all Telex documents containing IBM confidential information which are in Telex's custody or under its control, and to destroy all copies of Telex manuals under its control or in its custody which infringe IBM copyrighted manuals.

b. To refrain from hiring or soliciting any IBM

employee for a period of two years without approval from the court.

c. To refrain from copying any IBM copyrighted materials.

d. To refrain from soliciting or using any IBM confidential or proprietary information.

e. To refrain from assigning any former IBM employee employed now or in the future by Telex to the development or manufacture of products functionally equivalent or similar to those on which such employee worked at IBM for a period of not less than two years following the termination of his employment with IBM.

12. Notwithstanding the undetermined claims relating to foreign markets, the court, pursuant to Rule 54(b) Fed. R. Civ. P., hereby determines that there is no just cause for delay in the entry of this judgment, and the Clerk is hereby directed to enter final judgment in accordance with the foregoing, subject to immediate appeal. A stay of execution is hereby granted subject to disposition of defendant's motion of September 26, 1973, pursuant to Rule 62(d) of the Federal Rules of Civil Procedure for an order suspending injunctive relief against defendant pending appeal or, in the alternative, for an order requiring plaintiffs to provide security in the amount deemed appropriate by the court, and subject to the disposition of other

motions, if any, for stay or supersedeas in connection with an appeal of this judgment by any party.

13. Against the possibility that it should be determined that reserved claims with reference to foreign markets are not sufficiently separate as to permit the invocation of Rule 54(b), Fed. R. Civ. P., and that despite the provisions of 28 U.S.C. § 1292(a)(1) with reference to appeal of interlocutory injunctions, the antitrust and trade secret damage awards herein otherwise would not be subject to immediate appeal, the court hereby finds and states:

That it is its opinion that all of the provisions of the foregoing orders and judgment, including the question of antitrust and trade secret damages, as well as the injunctions, involve controlling question of law as to which there is substantial ground for differences of opinion, and that an immediate appeal from said orders and the foregoing judgment as a whole, and each part thereof, may materially advance the ultimate determination of this litigation; that the reserved claim as to foreign markets likely will involve questions concerning damages as well as injunctions the same as, or similar to, those which would be decided in an appellate review of the foregoing judgment, and that unless and until all such questions are decided on appeal from this judgment there likely would be great extra expense and the expenditure of extended time and effort in discovery concerning, and adjudication of, the foreign market claim much

of which may be rendered either more certain and expeditious,
or needless, if the foregoing judgment is reviewed in its entirety.

Dated this 9th day of November, 1973.



A. Sherman Christensen
Senior United States District Judge
(Assigned)

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

UNITED STATES OF AMERICA AND)
BILL LEWIS, Internal Revenus)
Officer, Internal Revenue Service,)
)
) Petitioners,)
)
vs.)
)
BERT BROWN,)
)
) Respondent.)

Civil No. 73-C-323 ✓

FILED

NOV 7 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER DISCHARGING RESPONDENT
AND DISMISSAL

On this 7th day of November, 1973, Petitioners' Motion To Discharge Respondent And For Dismissal came for hearing and the Court finds that Respondent has now complied with the Internal Revenue Service Summons served upon him June 19, 1973, that further proceedings herein are unnecessary and that the Respondent, Bert Brown, should be discharged and this action dismissed upon payment of \$72.16 costs by Respondent.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED BY THE COURT that the Respondent, Bert Brown, be and he is hereby discharged from any further proceedings herein and this action is hereby dismissed upon payment of \$72.16 costs by said Respondent.

Allen E. Baran
UNITED STATES DISTRICT JUDGE

APPROVED:

Jack M. Short
JACK M. SHORT
Assistant United States Attorney

Robert G. Scott
ROBERT G. SCOTT
Attorney for Respondent

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

UNITED STATES OF AMERICA,
Plaintiff,

vs.

WAYNE K. MCFEE and
SHERRY JOLENE MCFEE,
Defendants.

CIVIL ACTION NO. 73-C-169

FILED

NOV 2 - 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 2nd day
of November, 1973, the plaintiff appearing by Robert P. Santee,
Assistant United States Attorney, and the defendants, Wayne K.
McFee and Sherry Jolene McFee, appearing not.

The Court being fully advised and having examined
the file herein finds that Wayne K. McFee and Sherry Jolene
McFee were served with Summons and Complaint on July 20, 1973,
both as appears from the Marshal's Return of Service herein, and

It appearing that the said defendants have failed
to answer herein and that default has been entered by the
Clerk of this Court.

The Court further finds that this is a suit based
upon a promissory note dated February 21, 1963, from George
E. Stewart and Betty Stewart to Abilene Savings Association,
Abilene, Texas. Said note was given by the Stewarts, along
with a real estate mortgage on certain property located in
Taylor County Texas, which property was sold by George E.
Stewart and Betty Stewart to James Q. Pickens and Glenda Pickens,
the latter persons assuming the indebtedness thereto.

The Court further finds that the defendants, Wayne
K. McFee and Sherry Jolene McFee, assumed said promissory
note and became liable thereby by virtue of a General Warranty
Deed dated September 28, 1964, which deed conveyed the Taylor
County property, particularly described in the complaint,
and which deed was accepted by Wayne K. McFee and Sherry Jolene
McFee.

The Court further finds that due to default in the payment of the monthly installments of said promissory note, the Veterans Administration paid the holder of said note to the extent of its liability in accordance with the provisions of § 506 of the cited act, 38 USC 1816; that thereafter the instrument was endorsed without recourse to the order of the Administrator of Veterans Affairs, who became subrogated to the rights of the holder to the extent of such payment; that after all credits have been applied, including the foreclosure sale of the Taylor County property, Wayne K. McFee and Sherry Jolene McFee are indebted to the United States of America in the amount of \$1,157.78, plus interest in the amount of \$335.38 as of March 1, 1973, plus interest thereafter at the rate of 4 percent per annum until paid.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Wayne K. McFee and Sherry Jolene McFee, in personam, for the sum of \$1,157.78, plus interest in the amount of \$335.38 as of March 1, 1973, plus interest thereafter at the rate of 4 percent per annum until paid.



United States District Judge

APPROVED.



ROBERT P. SANTEE
Assistant U.S. Attorney

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

DUNCAN MILLER,

Plaintiff,

vs

ADJUDICATIVE OFFICERS OF THE U.S.
GEOLOGICAL SURVEY, TULSA, OKLAHOMA
and THE ADJUDICATIVE OFFICERS OF
THE BUREAU OF LAND MANAGEMENT,

Defendants.

No. 73-C-96 ✓

FILED

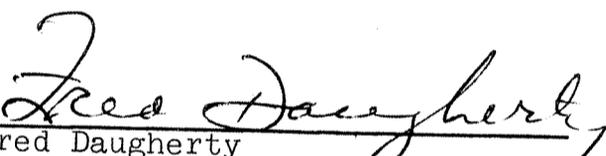
NOV 2 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

Plaintiff's action herein is dismissed with prejudice for failure of Plaintiff to comply with the Order of the Court entered herein on September 18, 1973, as further explained in the Court's Order filed herein October 2, 1973. 15 ALR F., page 412; 15 ALR F., page 430; 4 ALR2d, pages 350 and 352; Meeker v. Rizley, 324 F2d 269.

IT IS SO ORDERED THIS 2^d DAY OF NOVEMBER, 1973.


Fred Daugherty
United States District Judge

United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION FILE NO. 72-C-257

DEAN ZILAR,

Plaintiff,

vs.

FRANK GRAYSON, GEORGE HUSONG and
BOB GREEN,

Defendants.

JUDGMENT

This action came on for trial before the Court and a jury, Honorable Fred Daugherty, United States District Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict, in favor of the defendants above named and against the plaintiff.

It is Ordered and Adjudged that the plaintiff take nothing and that this action is dismissed as to the defendants, Frank Grayson, George Husong and Bob Green.

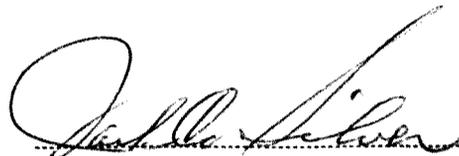
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NOV 2 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Dated at Tulsa, Oklahoma
of November , 19 73.

, this 2nd day


Clerk of Court

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

UNITED STATES OF AMERICA,)
)
) Petitioner,)
)
vs.)
)
) ROBERT ARTHUR POYHONEN,)
)
) Patient.)

NO. 73-C-2

FILED

NOV 2 - 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT *h.*

O R D E R

Upon review of the file herein and the findings and recommendation of the magistrate, the Court finds that the Patient should be discharged and the case dismissed.

IT IS, THEREFORE, ORDERED that the Patient, Robert Arthur Poyhonen, be and he is hereby discharged and this case be and it is hereby dismissed.

Dated this 2nd day of November, 1973, at Tulsa, Oklahoma.

Allen E. Barrow

CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

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

Dean Zilar,

Plaintiff,

vs.

No. 72-C-257

Frank Grayson,
George Husong,
Bob Green and
Bob Hughes,

Defendants.

FILED

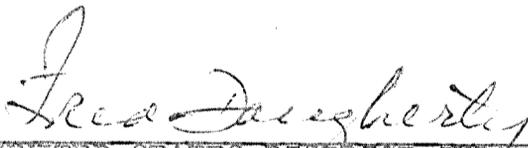
NOV 1 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

The above case came on for trial before the Court and a jury, Honorable Fred Daugherty, United States District Judge, presiding, and all parties having rested, the defendant, Bob Hughes moves for dismissal for failure of plaintiff to sustain its burden of proof against him, and the plaintiff having no objections,

IT IS ORDERED AND ADJUDGED that the Motion to Dismiss as to defendant, Bob Hughes, is sustained and the action is hereby dismissed as to defendant Bob Hughes, this 1st day of November, 1973.


UNITED STATES DISTRICT JUDGE

FILED

NOV - 1 1973

Jack C. Silver, Clerk
U. S. DISTRICT COURT

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

UNITED STATES OF AMERICA, and)
SPECIAL AGENT JOHN D. HEENEY,)
INTERNAL REVENUE SERVICE,)
)
Petitioners,)
)
vs.)
)
LORENE C. BILLINGSLEY,)
)
Respondent.)

Civil No. 71-C-147 ✓

JUDGMENT AND ORDER

This matter came on for hearing on October 2, 1973, on remand from the United States Court of Appeals for the Tenth Circuit (469 F.2d 1108). The parties were present by counsel, evidence was presented, argument was had, due consideration was given, and findings of fact and conclusions of law were made by the Court.

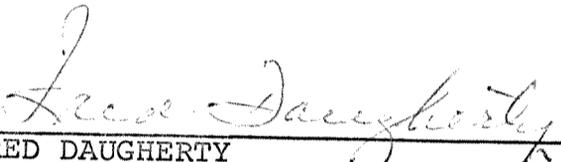
IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED BY THE COURT that the Petitioners, the United States of America and Special Agent John D. Heeney, were acting in good faith in issuing the summonses of March 16 and March 17, 1971 to the Respondent, Lorene C. Billingsley, and have continued to act in good faith to the present in attempting to obtain compliance with those summonses; and it is further

ORDERED, ADJUDGED, AND DECREED that no new developments or intervening events have occurred since December 15, 1971, the date of the Notice of Appeal filed herein, which would render the summonses unenforceable; and it is further

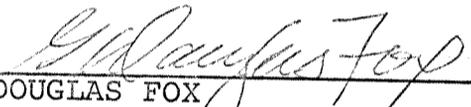
ORDERED, ADJUDGED, AND DECREED that the Petitioners, the United States of America and Special Agent John D. Heeney, have judgment against the Respondent, Lorene C. Billingsley; and it is further

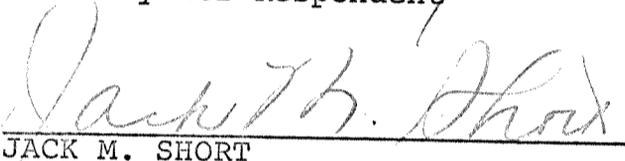
ORDERED, ADJUDGED, AND DECREED that the Respondent, Lorene C. Billingsley, appear before Special Agent John D. Heeney or any other duly authorized officer of the Internal Revenue Service at 11:00 a.m., on December 3, 1973, at Room 305, 522 South Boston Street, Tulsa, Oklahoma, then and there to testify as required by the summonses served upon her on March 16 and March 17, 1971.

Entered this 1ST day of November, 1973, at Tulsa, Oklahoma.


FRED DAUGHERTY
United States District Judge

Approved as to form:


G. DOUGLAS FOX
Attorney for Respondent


JACK M. SHORT
Assistant United States Attorney
Attorney for Petitioners