

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

FILED

JAN 31 1978

110

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

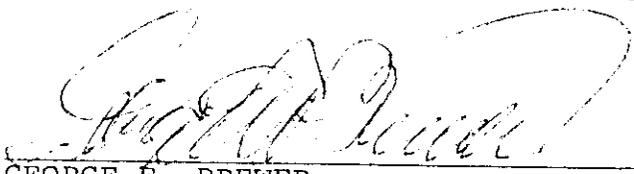
BATTLE RIVER WOOD MILLS, INC., )  
a Minnesota corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
LUMBERMEN'S UNDERWRITING )  
ALLIANCE, a Missouri corpo- )  
ration; FRANK V. ONGARO, )  
Commissioner, DEPARTMENT OF )  
IRON RANGE RESOURCES AND )  
REHABILITATION OF THE STATE )  
OF MINNESOTA and IRON )  
RANGE RESOURCES AND REHABILI- )  
TATION BOARD OF THE STATE OF )  
MINNESOTA, )  
 )  
Defendants. )

No. 77-C-524-B ✓

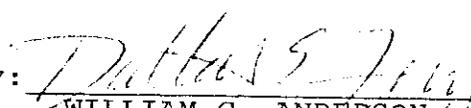
NOTICE OF DISMISSAL OF  
ACTION AS TO CERTAIN DEFENDANTS

COMES NOW the plaintiff Battle River Wood Mills, Inc., and pursuant to the provisions of Rule 41(a)(1) of the Federal Rules of Civil Procedure, provides this notice that the above-entitled action is hereby dismissed insofar as it pertains to and is directed against defendants FRANK V. ONGARO, Commissioner of the Department of Iron Range Resources and Rehabilitation of the State of Minnesota; DEPARTMENT OF IRON RANGE RESOURCES AND REHABILITATION OF THE STATE OF MINNESOTA; and IRON RANGE RESOURCES AND REHABILITATION BOARD OF THE STATE OF MINNESOTA.

You are further notified that this Notice of Dismissal does not pertain to or affect the above-entitled action insofar as it names LUMBERMEN'S UNDERWRITING ALLIANCE as a defendant, and such action remains pending against said LUMBERMEN'S UNDERWRITING ALLIANCE.

  
\_\_\_\_\_  
GEORGE E. BREWER

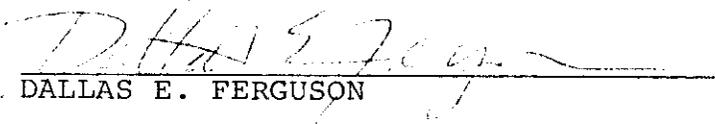
DOERNER, STUART, SAUNDERS,  
DANIEL & LANGENKAMP

By:   
\_\_\_\_\_  
WILLIAM C. ANDERSON  
DALLAS E. FERGUSON

Attorneys for Plaintiff

CERTIFICATE OF MAILING

I, DALLAS E. FERGUSON, hereby certify that on this 31st day of January, 1978, I mailed a true and correct copy of the above and foregoing Notice of Dismissal of Action as to Certain Defendants to Dale I. Larson, Robins, Davis & Lyons, 33 South Fifth, Minneapolis, Minnesota 55402, Attorney for Lumbermen's Underwriting Alliance; George W. Owens, Eagleton, Eagleton & Owens, Inc., 1606 First National Bank Building, Tulsa, Oklahoma 74103, Attorney for Frank V. Ongaro, Department of Iron Range Resources and Rehabilitation of the State of Minnesota and Iron Range Resources and Rehabilitation Board of the State of Minnesota; and R. A. Blake, Assistant General Counsel, Lumbermen's Underwriting Alliance, 900 North Federal Highway, Boca Raton, Florida 33432; and Mark Suby, Assistant Attorney General for the State of Minnesota, 515 Transportation Building, John Ireland Boulevard, St. Paul, Minnesota 55155, with postage prepaid thereon to entitle the same to due passage in the United States mail.

  
DALLAS E. FERGUSON

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

MOHAWK STEEL COMPANY, INC., )  
an Oklahoma Corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
THE HOME INSURANCE COMPANY, an )  
Insurance Corporation, )  
 )  
Defendant. )

No. 77-C-221-C

FILED

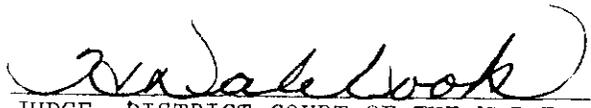
JAN 31 1978

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

ORDER OF DISMISSAL

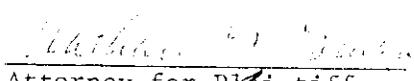
ON this 31<sup>st</sup> day of January, 1978, upon the written application of the parties for a Dismissal with Prejudice of the Complaint and all causes of action, the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

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

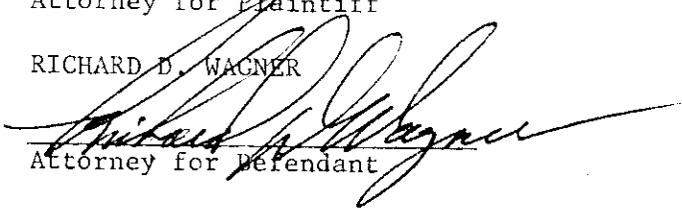
  
JUDGE, DISTRICT COURT OF THE UNITED  
STATES, NORTHERN DISTRICT OF OKLAHOMA

APPROVAL:

NATHAN G. GRAHAM

  
Attorney for Plaintiff

RICHARD D. WAGNER

  
Attorney for Defendant

FEDERAL BUREAU OF INVESTIGATION

MEMORANDUM FOR THE DIRECTOR

TO: SAC, [illegible]  
FROM: [illegible]  
SUBJECT: [illegible]

RECORDED ✓

FILED

JAN 31 1978 <sup>6</sup>

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

On [illegible] at [illegible], and review this  
matter to determine if [illegible] cause a motion with prejudice.

*[Signature]*  
[illegible]  
[illegible]

*D. C. Johnston Jr. by [illegible]*

FILED

JAN 31 1978 <sup>K</sup>

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

[illegible]  
[illegible] 3/27 [illegible] January 1978  
[illegible]

\* complaint  
are

*Allen F. Benson*

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

LOVECO, INC., an Oklahoma )  
corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
TELLEPSEN CONSTRUCTION )  
COMPANY, a foreign )  
corporation licensed to do )  
business in Oklahoma, )  
 )  
Defendant. )

No. 77-C-425-B

FILED

JAN 31 1978

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

ORDER

THIS MATTER comes on for consideration pursuant to the Joint Stipulation of Settlement of Plaintiff and Defendant herein. Having reviewed said stipulations and the pleadings filed herein and the memoranda and points of authority submitted, the Court finds that this matter should be dismissed with prejudice to either party filing again.

IT IS THEREFORE ORDERED that this cause be and it is hereby dismissed as against both the Plaintiff and the Defendant herein with prejudice to their filing again.

*Allen E. Barrow*

ALLEN E. BARROW, CHIEF  
JUDGE OF THE DISTRICT COURT

APPROVED AS TO FORM:

*John S. Athens*  
John S. Athens,  
Attorney for Defendant

*Richard W. Riddle*  
Richard W. Riddle,  
Attorney for Plaintiff

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

WHITE SEWING MACHINE COM- )  
PANY, a corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
MARVIN DOYLE RUMBAUGH, an )  
individual, d/b/a WHITE )  
SEWING MACHINE SALES, INC., )  
a/k/a RUMBAUGH'S WHITE )  
SEWING CENTER, and COLUM- )  
BUS LEE JONES, an indivi- )  
dual, and WHITE SEWING )  
MACHINE SALES, INC., an )  
Oklahoma corporation, )  
 )  
Defendants. )

No. 76-C-222-B

**FILED**

JAN 30 1978

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

DECREE OF INJUNCTION AND JUDGMENT

This cause came on to be heard on the 30<sup>th</sup> day of January, 1978, upon agreement of the plaintiff and defendant Columbus Lee Jones. The plaintiff appeared by and through its attorney, Michael Minnis. Defendant Columbus Lee Jones appeared by and through his attorney, Lawrence Johnson. The Court having considered the verified complaint of the plaintiff together with the exhibits attached thereto, the affidavits attached to plaintiff's Motion for Preliminary Injunction, the affidavits attached to plaintiff's Motion for Summary Judgment, the admissions, interrogatories and depositions on file, and having heard the statements, arguments and stipulations of counsel, makes the following:

FINDINGS OF FACT

1. Plaintiff, White Sewing Machine Company, is a corporation duly organized, existing under and by virtue of the laws of the State of Delaware. It is a citizen thereof and has its principal place of business in Cleveland, Ohio.

2. Defendant, Columbus Lee Jones, is a citizen of the State of Oklahoma, residing in Tulsa County, Oklahoma, and all times mentioned hereinafter was an employee of or successor to

defendant's Marvin Doyle Rumbaugh or White Sewing Machine Sales, Inc. and/or both.

3. Jurisdiction of the suit arises under the trademark laws of the United States, including 15 U.S.C. §1121 and 28 U.S.C. and §1338. In addition thereto, the matter in controversy exceeds, exclusive of interest and costs, the sum of \$10,000.00; a diversity of citizenship exists between the plaintiff and the defendant, so this Court had jurisdiction, pursuant to the provisions of 28 U.S.C. §1332.

4. The plaintiff, and its predecessors, have for over one hundred (100) years, marketed and sold sewing machines throughout the United States. In order to distinguish and identify their sewing machines, plaintiff adopted, inter alia, as six of its trademarks for its products, the words or letters "White", "White Sewing Machine Company", "White Sewing Machines since 1876" "Dressmaster", "Sewmaster", and "W". These trademarks are now being used and have continuously been used to identify the products of the plaintiff's. They are widely known to the public as indicating the machines and products of plaintiff. Plaintiff has used the "W" as a trademark on sewing machines since June of 1958 and has acquired common law trademark rights to same with respect to its sewing machine from and after 1958. Application to formally seek federal registration of "W" as plaintiff's trademark was filed March 21, 1975.

5. The plaintiff and its predecessors registered the following trademarks under the laws of the United States on the dates indicated:

	<u>TRADEMARK</u>	<u>NUMBER</u>	<u>DATE</u>
1.	"WHITE"	699,234	Nov. 4, 1958
2.	"WHITE SEWING MACHINE CO."	57,903	Dec. 4, 1906
3.	"WHITE sewing machines since 1876"	822,334	Jan. 17, 1967
4.	"DRESSMASTER"	375,786	Feb. 27, 1940
5.	"SEWMASTER"	375,786	Feb. 27, 1940
6.	"W"	1,028,460	Dec. 30, 1975

These registrations are now operative and in full force and effect and now owned by the plaintiff.

6. Since adopting the trademarks first above mentioned, plaintiff has marketed its products in large quantities in most of the states of the United States of America. Plaintiff has expended large sums in the ethical promotion of its machines and trademarks. Plaintiff's machines have long been widely and favorably known to the public within the United States and a large demand has and does exist for the machines of the plaintiff throughout the United States. Plaintiff has long had and presently has a large and valuable good will in connection with its machines and in connection with the registered trademarks heretofore mentioned. The trademarks identify the plaintiff's machines and the plaintiff's products.

7. By reason of the high quality and dependability of the products sold under the trademarks hereinbefore mentioned, plaintiff's products enjoyed a high reputation with wholesalers and retailers of sewing machines in this country which allowed plaintiff to create a desirable mercantile outlet for its machines.

8. Plaintiff's machines are warranted by it and its warranty or guarantee backing the machines bearing plaintiff's trademark or trademarks is a factor of great value to plaintiff in the marketing of its machines.

9. The retail sewing machine business operated by defendants is in direct competition with other dealers in the Tulsa area who are authorized or franchised dealers of plaintiff.

10. The defendant, Columbus Lee Jones has offered for sale and sold to the public sewing machines which he represented to customers to be machines, manufactured, distributed, warranted or guaranteed by plaintiff, but which, in fact, were not manufactured, distributed, warranted, guaranteed or connected in any fashion with plaintiff.

11. Further, the defendant, Columbus Lee Jones attached labels to non-plaintiff machines which labels contain one or more of the trademarks of the plaintiff and were used to create the impression that these non-plaintiff machines were, in fact, plaintiff machines. These labels included, inter alia, the label "Stitch - W - Master". These machines were purchased or otherwise acquired from sources other than the plaintiff and offered for sale to the public as if plaintiff machines.

12. Further, the defendant, Columbus Lee Jones placed new plaintiff sewing machines in conspicuous display positions throughout the "Rumbaugh's White Sewing Center" and conspicuously advertised products of the plaintiff were sold there when he did not intend to sell products of the plaintiff.

13. The above described acts of defendant, Columbus Lee Jones, were done with full knowledge that the sewing machines offered and sold were not manufactured, distributed, warranted, guaranteed or connected in any fashion with plaintiff.

14. The acts of defendant, Columbus Lee Jones hereinbefore set forth constitute trademark infringement of plaintiff's trademarks pursuant to and in violation of 15 U.S.C.A. §1114 et seq., and constitute willful and wanton torts by reason of the disregard of the said defendant for plaintiff's vested rights in these trademarks. By reason of the foregoing acts of infringement and willful torts by this defendant, plaintiff has suffered and will suffer irreparable damage and loss, and will continue to suffer damage and loss until the defendant is restrained by this Court.

15. Plaintiff has suffered damages in an amount not less than Ten Thousand Dollars (\$10,000.00) for which it should recover against defendant Columbus Lee Jones.

On the basis of the foregoing, the Court makes the following:

CONCLUSIONS OF LAW

1. Defendant has infringed upon the trademarks of the plaintiff.
2. Defendant has committed acts of unfair competition

against the plaintiff.

3. Plaintiff is entitled to treble damages under 15 U.S.C.A §1117.

ORDERED

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the defendant, Columbus Lee Jones, an individual, his assigns, successors, agents, servants and employees and all persons in active concert and participation with him, be, and they are hereby permanently and perpetually restrained and enjoined from:

- (a) Misrepresenting the sewing machines or products of others as being manufactured, distributed, warranted, guaranteed or in any fashion connected with plaintiff;
- (b) Using the name of "White" or any trademark of plaintiff in any manner in his business;
- (c) Selling or offering for sale new "White" machines;
- (d) Advertising the sale, of new "White" machines or advertising or holding himself out to be a factory representative of or factory trained by plaintiff;
- (e) Using the name "White" or any trademark of White Sewing Machine Company for any advertising purposes whatsoever.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the said defendant shall deliver up for destruction, free from any charge to plaintiff, all items or materials of every type and nature bearing the trademark of plaintiff or bearing the name of "White" including, but not limited to, all "Stich-W-Master" labels, one red, blue and white paper sign containing the word "White Sewing Machines for the Best in Sewing Since 1876", one red and white paper sign containing lettering the same as previously set forth, and two red, white, and black paper signs containing lettering "Here now! Famous White Sewing Machines Greatest Value", and all business cards, sales receipts, warranty cards or other documents containing the word "White" or any other trademarks of plaintiff.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff's damages in the amount of Ten Thousand Dollars (\$10,000.00) be trebled and that judgment in the amount of Thirty Thousand Dollars (\$30,000.00) be awarded plaintiff, with interest thereof from the date of judgment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff is awarded reasonable attorney's fees in the amount of \$5,000.00.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff be awarded its costs of this action.

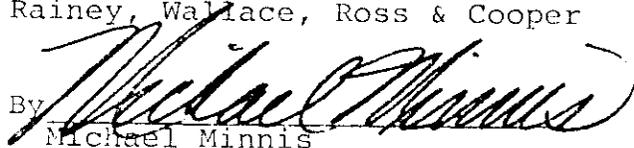
  
UNITED STATES DISTRICT JUDGE

APPROVAL OF COUNSEL:

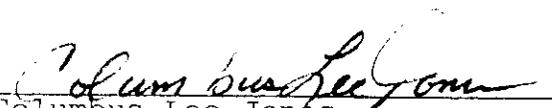
Farmer, Woolsey, Tips & Gibson

By   
Lawrence Johnson  
Attorneys for Defendant,  
Columbus Lee Jones

Rainey, Wallace, Ross & Cooper

By   
Michael Minnis  
Attorney for Plaintiff

I have read and approved this Decree of Injunction and Judgment this 10 day of January, 1978.

  
Columbus Lee Jones

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

TULSA ADJUSTMENT BUREAU, INC., )  
a Corporation, )

Plaintiff, )

vs. )

Civil Action No. 77-C-499-B

FRED WELLS and MARY WELLS, )

Defendants, )

and )

UNITED STATES POSTAL SERVICE, )

Garnishee. )

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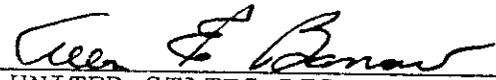
JAN 30 1978

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

ORDER

NOW, on this 30<sup>th</sup> day of January, 1978, there came on for consideration the Stipulation for Dismissal. The Court finds this action, based upon the Stipulation for Dismissal, should be dismissed.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that this <sup>copy of and complaint</sup> action be and the same is hereby dismissed without prejudice.



UNITED STATES DISTRICT JUDGE

JAMES H. WATLINGTON and MATILDA C. WATLINGTON, )  
Plaintiffs )

vs. )

FEDERAL INSURANCE COMPANY, a New Jersey Corporation, )  
Defendant )

No. 77-C-509-B ✓

**F I L E D**

O R D E R

JAN 30 1978 K

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

The foregoing Stipulation came before the Court on  
January 30, 1978. After considering the Stipulation, the  
statement of counsel, and being fully advised, the Court  
finds and IT IS HEREBY ORDERED as follows:

CAPTIONED CASE IS HEREBY DISMISSED WITH PREJUDICE.

*Allen J. Barrow*

UNITED STATES DISTRICT JUDGE

APPROVED:

*Harvey A. Rotman*  
HARVEY A. ROTMAN  
ATTORNEY FOR PLAINTIFFS

*Mickey James*  
MICKEY JAMES  
of Green And James  
ATTORNEYS FOR DEFENDANT

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

BASIL GEORGES,

Plaintiff,

v.

JAMES JACKSON, BEN HOLZHAUER,  
DENSEL L. WILLIAMS, and  
PLAZA DEVELOPMENT COMPANY,  
an Oklahoma corporation,

Defendants.

No. 77-C-192-B

**F I L E D**

**JAN 30 1978**

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

ORDER OF DISMISSAL WITH PREJUDICE

The Plaintiff and Defendants, having filed with this Court their Joint Application for Dismissal of each and every claim for relief asserted herein, whether asserted by Plaintiff or Defendants, stating that this cause may be dismissed with prejudice, each party to bear its or his own costs, and the Court being fully advised, IT IS ORDERED that this cause of action and complaint be and the same are hereby dismissed with prejudice to the bringing of a future action thereon and each party hereto shall bear its or his own costs.

DATED this 30<sup>th</sup> day of January, 1978.

(Signed) Allen E. Barrow

UNITED STATES DISTRICT JUDGE

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

HOWARD LUNDGREN,

Plaintiff,

v.

CONTINENTAL INDUSTRIES, INC.,  
an Oklahoma corporation,

Defendant.

No. 75-C-233-B

FILED

JAN 30 1978

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

ORDER OF DISMISSAL  
WITH PREJUDICE

In accordance with the stipulation of the parties entered herein  
this date, it is Ordered that this <sup>Case of and Complaint are</sup> ~~action~~ hereby dismissed with  
prejudice, each party to bear its respective costs and expenses herein.

Dated this 30<sup>th</sup> day of January, 1978.

  
Allen E. Barrow  
Chief United States District Judge

FILED

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

JAN 30 1978

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FARRIS L. DOWNING and )  
 VINITA FINANCE COMPANY, )  
 a Corporation, )  
 )  
 Defendant. )

Civil Action No. 77-C-292-B

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 30<sup>th</sup>  
day of January, 1978, the Plaintiff appearing by Robert P.  
Santee, Assistant United States Attorney; the Defendant, Vinita  
Finance Company, a Corporation, appearing by its attorney,  
George P. Pitcher; and the Defendant, Farris L. Downing, appearing  
not.

The Court being fully advised and having examined  
the file herein finds that Defendant, Farris L. Downing, was served  
with Summons, Complaint, and Amendment to Complaint on July 14,  
1977, and September 30, 1977, respectively, and that Defendant,  
Vinita Finance Company, was served with Summons, Complaint, and  
Amendment to Complaint on July 14, 1977, and September 30, 1977,  
respectively, both as appear from the U.S. Marshals Service  
herein.

It appearing that Defendant, Vinita Finance Company,  
has duly filed its Separate Answer and Cross-Claim herein on  
July 20, 1977, and it appearing the said Defendant, Farris L.  
Downing, 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 Craig County, Oklahoma, within the  
Northern Judicial District of Oklahoma:

Lot 7 in Block 107 in the City of Vinita, Oklahoma, according to the United States Government Survey and approved plat thereof.

THAT the defendant, Farris L. Downing, did on September 23, 1975, execute and deliver to the United States of America, acting through the Farmers Home Administration, his mortgage and promissory note in the sum of \$18,400.00, with 8-1/8 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that the Defendant, Farris L. Downing, made default under the terms of the aforesaid promissory note by reason of his failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendant is now indebted to the Plaintiff in the sum of \$19,460.69 as unpaid principal, with interest thereon at the rate of 8-1/8 percent per annum from August 23, 1977, until paid, plus the cost of this action accrued and accruing.

The Court further finds that the Defendant, Vinita Finance Company, a Corporation, is entitled to judgment against Farris L. Downing by reason of a Second Real Estate Mortgage in the amount of \$2,843.56, plus interest at the rate of 18 percent per annum from January 1, 1976, plus attorney's fees in the amount of \$350.00, plus accrued Court costs, but that such judgment would be 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 the Defendant, Farris L. Downing, in personam, for the sum of \$19,460.69, with interest thereon at the rate of 8-1/8 percent per annum from August 23, 1977, 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 for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Vinita Finance Company, a Corporation, have and recover judgment against the Defendant, Farris L. Downing, by reason of a Second Real Estate Mortgage, in the amount of \$2,843.56, plus interest at the rate of 18 percent per annum from January 1, 1976, plus attorney's fees in the amount of \$350.00, plus accrued Court costs, 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.

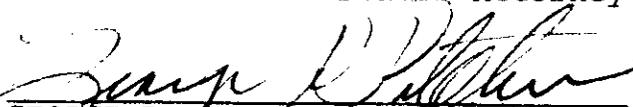
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant to satisfy Plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property and apply the proceeds thereof in satisfaction of Plaintiff's judgment and secondly to the judgment of Vinita Finance Company, a Corporation. The residue, if any, shall 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  
GEORGE P. PITCHER  
Attorney for Defendant,  
Vinita Finance Company, a Corporation

JAN 30 1978

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

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

IN THE MATTER OF	)	In Proceedings for the	
	)	Reorganization of a	73-B-922
HOME-STAKE PRODUCTION CO.,	)	Corporation Under the	
	)	Provisions of Chapter X	
Debtor	)		
UNITED STATES OF AMERICA,	vs	ROYCE H. SAVAGE, TRUSTEE FOR	
Appellant		HONE-STAKE PRODUCTION COMPANY,	
		Appellee	

ORDER

75-C-427-B

Royce H. Savage, the duly appointed and acting Trustee of the above-named Debtor, submitted an application to this Court dated December 13, 1974, for an Order authorizing him to execute and deliver an assignment to each participant in the Home-Stake 1966 Mississippi Gas Program of his interest in the mineral leases subject to the Program and for other relief.

Appearing in the proceeding were:

For the Trustee:	A. F. Ringold and Gene L. Mortensen of Rosenstein, Fist & Ringold
For the United States:	Francis P. Dicello
For various participants:	Ralph B. Kelley and Jeffrey A. Arouh of Gilbert, Segall and Young

The Court entered into an Order on February 11, 1975, referring the Trustee's application to William E. Rutledge as Bankruptcy Judge and/or Special Master. The United States filed written objections to the Trustee's application. Rosenstein, Fist & Ringold and Gilbert, Segall and Young filed memoranda in support of the Trustee's application.

After a hearing, the Bankruptcy Judge filed his Findings of Fact and Conclusions of Law dated July 14, 1975, and Supplement to and Amendment of Findings of Fact and Conclusions of Law of the Bankruptcy Judge dated August 6, 1975, and Order dated August 13, 1975.

The United States appealed to the District Court from the Order of the Bankruptcy Judge on August 21, 1975. The District Court entered an Order approving and affirming the Order and Findings of Fact and Conclusions of Law and Supplement thereto on September 29, 1975.

On October 9, 1975, the United States filed a motion for rehearing. The Court entered an Order dated June 9, 1976, overruling the Motion for Rehearing and directing the Trustee to comply with the August 13, 1975, Order of the Bankruptcy Judge.

On August 5, 1976, the United States filed an appeal to the United States Court of Appeals for the Tenth Circuit from the District Court's Order entered on June 9, 1976.

On December 31, 1977, the parties filed with the Court of Appeals a Joint Motion to (1) Vacate the District Court's Order of June 9, 1976, (2) Dismiss the appeal without prejudice and remand to the District Court for consideration of the Joint Motion which is the subject matter of this Order.

On January 16, 1978, the United States Court of Appeals for the Tenth Circuit entered its Order granting this Motion.

The substance of the Joint Motions filed by the parties with the Court of Appeals and with this Court is that the financial condition of the debtor has substantially improved since June 9, 1976, and the United States is willing to withdraw its objections to the Trustee's application if the Conclusions of Law filed by the Bankruptcy Judge are eradicated as a legal precedent. In effect, therefore, all of the parties concerned have agreed to a settlement of the entire controversy presented here and the only impediment to the implementation of this settlement is an Order of this Court vacating the Conclusions of Law filed by the Bankruptcy Judge.

ACCORDINGLY, IT IS HEREBY ORDERED ADJUDGED AND DECREED, as follows:

1. The Conclusions of Law set forth in the Findings of Fact and Conclusions of Law dated July 14, 1975, and Supplement to and Amendment of Findings of Fact and Conclusions of Law dated August 6, 1975, and incorporated by reference in the Order of the Bankruptcy Judge dated August 13, 1975, are hereby vacated.

2. The Trustee shall execute and deliver an assignment to each participant in the Home-Stake 1966 Mississippi Gas Program covering his interest in the mineral leases subject to such Program.

3. The Trustee shall pay over to each such participant his share of the accumulated net income of the Program.

4. The Trustee is authorized to discontinue performance of accounting responsibilities with respect to the Program upon acceptance of such responsibility by James W. Harris Production Company.

5. The Trustee shall require from each participant in the Program a waiver of all claims in connection with the transaction against the estate of Home-Stake Production Company, the Home-Stake 1966 Mississippi Gas Program and the Trustee, including, without limitation, claims concerning funds received to date by the debtor corporation and the Trustee, and all unliquidated claims and all claims against the Trustee in connection with the transaction.

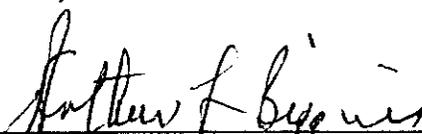
(Signed) Allen E. Barrow

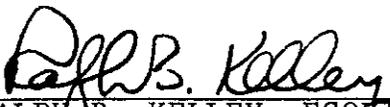
ALLEN E. BARROW  
United States District  
Judge

January 30, 1978

APPROVED AS TO FORM:

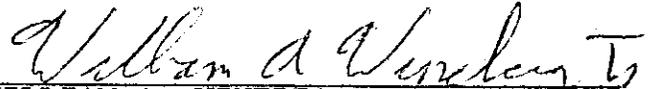
  
A. F. RINGOLD, ESQUIRE  
Attorney for Trustee  
Suite 300  
525 South Main Street  
Tulsa, Oklahoma 74103

  
ARTHUR L. BIGGINS  
Special Assistant  
Tax Division  
Department of Justice  
Washington, D.C. 20530

  
RALPH B. KELLEY, ESQUIRE  
Gilbert, Segall and Young  
430 Park Avenue  
New York, New York 10022  
Attorney for Certain Participants

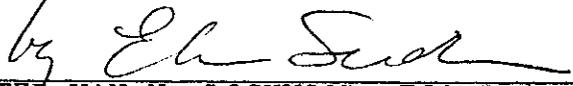


R. DOBIE LANGENKAMP, ESQUIRE  
Doerner, Stuart, Saunders,  
Daniel & Langenkamp  
1200 Atlas Life Building  
Tulsa, Oklahoma 74103  
Attorney for Certain Participants



WILLIAM A. WINEBERG, JR., ESQUIRE  
Broad, Khourie & Schulz  
One California Street  
San Francisco, California 94111  
Attorney for Certain Participants

*Peter Van N. Lockwood*



PETER VAN N. LOCKWOOD, ESQUIRE  
Caplin & Drysdale  
1101 17th Street, N.W.  
Washington, D.C. 20037  
Attorney for Certain Participants

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

DALE E. JOHNSTON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
GENERAL PORTLAND, INC.,	)	
a Delaware corporation,	)	
	)	
Defendant,	)	No. 76-C-515-B
	)	
and	)	
	)	
D & R COAL COMPANY, a	)	
Partnership or Joint Venture,	)	
DALE DALTON and BILL RILEY,	)	
Personally and as Partners	)	
or Joint Venturers,	)	
	)	
Third Party Defendants.)		

**FILED**  
JAN 30 1978  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

O R D E R

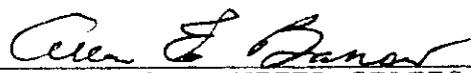
The Court has for consideration the Motion To Transfer To The Eastern District For Forum Non Conveniens And Lack Of Venue Under 28 U.S.C.A. §1391 (a) filed herein by Defendant General Portland, Inc. Having reviewed the file, including the depositions, Affidavits, exhibits, motions, and briefs of record, and Plaintiff and the Third Party Defendants having entered no objection to said motion, and being fully advised in the premises, the Court finds that Defendant's Motion to Transfer to the Eastern District of Oklahoma should be sustained for the convenience of the parties and witnesses, and in the interest of justice.

The Court finds that neither Plaintiff nor Defendant are residents of the Northern District or the Eastern District, while the Third Party Defendants are residents, or had their last known addresses, in the Eastern District, and they and their partnership performed all their acts relevant to this transaction in the Eastern District. This controversy is localized in the Eastern District, where all the basic acts

in question occurred; the real property from which some or all the coal in question apparently came is located in the Eastern District and is available there for viewing; a number of key witnesses reside in the Eastern District and would be available for compulsory process, while few if any are in the Northern District. The inconvenience of transferring this case for trial to the Eastern District is minimal to the parties and their counsel, and is outweighed by considerations of cost, convenience, and ease of access to witness and proof. The Court further finds that this action was not properly maintainable in the Northern District under 28 U.S.C.A. §1391(a), but that the Eastern District of Oklahoma has venue under that statute, and transfer to The Eastern District is therefore proper.

In view of the Court's ruling on this motion, the Court does not rule upon Defendant's Application for Leave To Amend Answer and Motion For Joinder Of Indispensable Parties And Dismissal filed herein on September 15, 1977. Such motions are referred to the United States District Court for the Eastern District of Oklahoma for decision.

Dated this 30<sup>th</sup> day of January 1978 ~~December, 1977.~~

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

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

HESS OIL VIRGIN ISLANDS  
CORP., a United States  
Virgin Islands corporation;  
FEDERAL INSURANCE COMPANY,  
a New Jersey corporation;  
and INSURANCE COMPANY OF  
NORTH AMERICA, a Pennsylvania  
corporation,

Plaintiffs,

vs.

UOP, INC., a Delaware  
corporation; ROAD INDUSTRIAL  
PIPE FABRICATING INC., an  
Oklahoma corporation; and  
FISHER CONTROLS COMPANY, a  
subsidiary of Monsanto  
Corporation, a Delaware  
corporation,

Defendants,

vs.

THE BITUMIN CORPORATION,  
a corporation,

Third Party  
Defendant,

vs.

HESS OIL VIRGIN ISLANDS  
CORP., a United States  
Virgin Islands corporation;  
FEDERAL INSURANCE COMPANY,  
a New Jersey corporation;  
and INSURANCE COMPANY OF  
NORTH AMERICA, a Pennsylvania  
corporation.

UOP, INC., a Delaware  
corporation,

Cross-  
Complainant,

vs.

FISHER CONTROLS COMPANY,  
a subsidiary of Monsanto  
Corporation, a Delaware  
corporation, and ROAD  
INDUSTRIES PIPE FABRICATING,  
INC., an Oklahoma Corporation,

Cross-  
Defendants.

FILED

JAN 30 1978

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

No. 75-C-383-C

ORDER

On the motion of Word Industries Pipe Fabricating, Inc., and there being no objection thereto by the Third Party Defendant, the Third Party Complaint by Word Industries Pipe Fabricating, Inc., against The Litwin Corporation is dismissed by the Court, without prejudice.

Entered this 30<sup>th</sup> day of January, 1978.

H. Dale Cook

H. Dale Cook  
District Judge

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

**FILED**

JAN 27 1978

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JIMMY WAYNE AMES, THELMA J. )  
 AMES, and COMMERCIAL CREDIT )  
 CORPORATION, )  
 )  
 Defendants. )

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

Civil Action No. 77-C-469-B

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 27th  
day of January, 1978, the Plaintiff appearing by Robert P.  
Santee, Assistant United States Attorney; and the Defendants,  
Jimmy Wayne Ames, Thelma J. Ames and Commercial Credit Cor-  
poration, appearing not.

The Court being fully advised and having examined  
the file herein finds that Defendant, Jimmy Wayne Ames, was  
served with Summons and Complaint on November 30, 1977, that  
Defendant, Thelma J. Ames, was served with Summons and Complaint  
on November 15, 1977, and that Defendant, Commercial Credit  
Corporation was served with Summons and Complaint on November 16, 1977,  
all as appear from the United States Marshals Service herein.

It appearing that the Defendants, Jimmy Wayne Ames,  
Thelma J. Ames, and Commercial Credit Corporation, 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 upon the following described real  
property located in Tulsa County, Oklahoma, within the Northern  
Judicial District of Oklahoma:

Lot Three Hundred Forty-Seven (347), Block  
Twenty-Seven (27) TULSA HEIGHTS ADDITION to  
the City of Tulsa, Tulsa County, Oklahoma,  
according to the recorded plat thereof.

THAT the Defendants, Jimmy Wayne Ames and Thelma J. Ames, did, on the 14th day of April, 1972, execute and deliver to the Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$7,500.00, with 7-1/2 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendants, Jimmy Wayne Ames and Thelma J. Ames, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the sum of \$7,159.90, as unpaid principal with interest thereon at the rate of 7-1/2 percent per annum from April 1, 1977, 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, Jimmy Wayne Ames and Thelma J. Ames, in personam, for the sum of \$7,159.90, with interest thereon at the rate of 7-1/2 percent per annum from April 1, 1977, 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 for 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 Defendant, Commercial Credit Corporation.

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, shall 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, specifically including any lien for personal property taxes which may have been filed during the pendency of this action.

(Signed) Allen E. Barrow

UNITED STATES DISTRICT JUDGE

APPROVED

  
\_\_\_\_\_  
ROBERT P. SANTEE  
Assistant United States Attorney

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JAN 27 1978

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

United States of America,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO. 76-C-328-C ✓
	)	
vs.	)	This action applies only to
	)	the Gas Leasehold Interest
2.95 Acres of Land, More or	)	in the estate taken in:
Less, Situate in Osage County,	)	
State of Oklahoma, and Rickel-	)	Tracts Nos. 401ME-1 and
son Oil and Gas Company, et	)	401ME-2
al., and Unknown Owners,	)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #401-2)

J U D G M E N T

1.  
 NOW, on this 27<sup>th</sup> day of January, 1978, this matter comes on for disposition on application of Plaintiff, United States of America, for entry of judgment on stipulations agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds:

2.  
 This judgment applies to the entire estate condemned in the tracts listed in the caption hereof, as such estate and tracts are described in the Complaint filed in this action.

3.  
 The Court has jurisdiction of the parties and subject matter of this action.

4.  
 Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of 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 in said Complaint. Pursuant thereto, on June 24, 1976, the United States of America filed its Declaration of Taking of a certain estate in such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing said Declaration of Taking.

6.

Simultaneously with filing the Declaration of Taking, there was deposited in the Registry of the Court as estimated compensation for the taking of a certain estate in subject property a certain sum of money and none of this deposit has been disbursed, as set out below in paragraph 11.

7.

On the date of taking in this action, the owners of the estate taken in subject property were the defendants whose names are shown below in paragraph 11. Such named defendants are the only persons asserting any interest in the estate taken in such tracts. All other persons having either disclaimed or defaulted, such named defendants are entitled to receive the just compensation awarded by this judgment.

8.

All of the owners of the subject property, except Phillips Petroleum Company, and the United States of America have executed and filed herein Stipulations As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject property is in the amount shown as compensation in paragraph 11 below, and such Stipulations should be approved.

Phillips Petroleum Company, the remaining owner of some interest in the subject property, has executed and filed herein on January 19, 1978, a Stipulation, whereby it agrees that all compensation to be paid for the taking of the subject property may be paid in its entirety to Rickelson Oil and Gas Company, or its legal assignees, and such Stipulation should be approved.

9.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the property particularly described in the Complaint filed herein; and such property, to the extent of the estate described in such Complaint; is condemned, and title to such described estate is vested in the United States of America as of June 24, 1976, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such property.

10.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking the owners of the estate condemned herein in subject property were the defendants whose names appear below in paragraph 11 and the right to receive the just compensation for the estate taken herein in this property is vested in the parties so named, in the manner as shown in such paragraph.

11.

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

TRACTS NOS. 40LME-1 and 40LME-2

OWNERS:

1. Of all interests except the leasehold interest in a gas purchase contract covering subject tracts.
  - A. Working Interest: (.9569791 of the lease)
    - C. R. Rittenberry and Associates, Inc. ---- 3/4
    - Southland Drilling and  
Production Corporation ----- 1/4
  - B. Overriding Royalty Interest:
    - Ray L. Constant and )
    - Nadine B. Constant ) ----- .03 of the lease
    - Robert P. Clinton ----- .0130209 of the lease

2. Leasehold interest in a gas purchase contract covering subject tracts.

Phillips Petroleum Company

NOTE: This owner has stipulated that the entire award may be paid to Rickelson Oil and Gas Company, or its legal assignees, which assignees are as shown in A and B immediately above.

AWARDS of just compensation and allocation of awards, pursuant to stipulation:

A. Total award for Working Interest -----	\$47.85
Allocation to owners:	
C. R. Rittenberry and Associates, Inc. ----	\$35.89
Southland Drilling and Production Corporation -	\$11.96
B. Total award for overriding Royalty Interest -----	\$ 2.15
Allocation to owners:	
Ray L. Constant and Nadine B. Constant, jointly -	\$1.50
Robert P. Clinton -----	\$0.65
C. Total award for all interests -----	\$50.00
Deposited as estimated compensation -----	\$50.00
Disbursed to owners -----	<u>None</u>
Balance due to all owners, combined -----	\$50.00

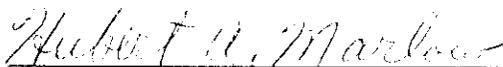
12.

It Is Further ORDERED, ADJUDGED and DECREED that the Clerk of this Court now shall disburse the deposit in the Registry of this Court for the subject property, as follows, to:

C. R. Rittenberry and Associates, Inc. -----	\$35.89
Southland Drilling and Production Corporation	11.96
Ray L. Constant and Nadine B. Constant, jointly -----	1.50
Robert P. Clinton -----	0.65.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant United States Attorney

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FLOYD F. BRITTAIN, FRANCES L.  
BRITTAIN, OKLAHOMA NATURAL GAS  
COMPANY, a Corporation, UNITED  
FIRST MORTGAGE CORPORATION,  
BETTY LACY, a/k/a BETTY JEAN  
LACY, now STEWART, CALVIN  
DeBOES, and GLORIA DeBOES,

Defendants.

CIVIL ACTION NO. 77-C-11-B

FILED

JAN 27 1978

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

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 27<sup>th</sup>  
day of January, 1978, the Plaintiff appearing by Robert  
P. Santee, Assistant United States Attorney; the Defendant, Betty  
Lacy, a/k/a Betty Jean Lacy, now Stewart, appearing by her attorney,  
R. R. Linker; the Defendant, Oklahoma Natural Gas Company, a  
Corporation, appearing by its attorney, John M. Sharp; and the  
Defendants, Floyd F. Brittain, Frances L. Brittain, United First  
Mortgage Corporation, Calvin DeBoes, and Gloria DeBoes, appearing  
not.

The Court being fully advised and having examined the  
file herein finds that Defendants, Calvin DeBoes and Gloria DeBoes,  
were served by publication, as appears from the Proof of Publication  
filed herein; that Defendant, Floyd F. Brittain, was served with  
Summons and Complaint on March 29, 1977; that Defendant, Frances L.  
Brittain, was served with Summons and Complaint on January 11, 1977;  
that Defendant, Oklahoma Natural Gas Company, a Corporation, was  
served with Summons and Complaint on January 12, 1977; that De-  
fendant, United First Mortgage Corporation, was served with Summons  
and Complaint on January 19, 1977; and that Defendant, Betty Lacy,  
a/k/a Betty Jean Lacy, now Stewart, was served with Summons and  
Complaint on March 16, 1977, all as appears from the U.S. Marshals  
Service herein.

It appearing that Defendant, Betty Lacy, a/k/a Betty Jean Lacy, now Stewart, has duly filed her Disclaimer herein on February 25, 1977; that Defendant, Oklahoma Natural Gas Company, has duly filed its Answer and Cross-Claim herein on February 1, 1977; that Defendants, Floyd F. Brittain, Frances L. Brittain, United First Mortgage Corporation, Calvin DeBoes, and Gloria DeBoes, 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 Twenty-six (26), Block Four (4), ROBINWOOD ADDITION, a sub-division to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

THAT the Defendants, Floyd F. Brittain and Frances L. Brittain, did, on the 15th day of October, 1971, execute and deliver to the Administrator of Veterans Affairs, their mortgage and mortgage note in the sum of \$12,900.00 with 7 1/2 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendant, Betty Lacy, a/k/a Betty Jean Lacy, now Stewart, was the grantee in a deed from Defendants, Floyd F. Brittain and Frances L. Brittain, dated September 27, 1972, filed October 2, 1972, in Book 4037, Page 67, records of Tulsa County, wherein Defendant, Betty Lacy, a/k/a Betty Jean Lacy, now Stewart, assumed and agreed to pay the mortgage indebtedness being sued upon herein.

The Court further finds that Defendants, Floyd F. Brittain, Frances L. Brittain, and Betty Lacy, a/k/a Betty Jean Lacy, now Stewart, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff

in the sum of \$12,383.84 as unpaid principal with interest thereon at the rate of 7 1/2 percent per annum from March 1, 1976, until paid, plus the cost of this action accrued and accruing.

The Court further finds that Oklahoma Natural Gas Company, a Corporation, is entitled to judgment against Floyd F. Brittain, Frances L. Brittain, and Betty Lacy, a/k/a Betty Jean Lacy, now Stewart, in the amount of \$1143.35, plus attorneys' fees, plus accrued Court costs, but that such judgment would be 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, Floyd F. Brittain, Frances L. Brittain, and Betty Lacy, a/k/a Betty Jean Lacy, now Stewart, in personam, for the sum of \$12,383.84, with interest thereon at the rate of 7 1/2 percent per annum from March 1, 1976, 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 for taxes, insurance, abstracting, or sums for the preservation of the subject property.

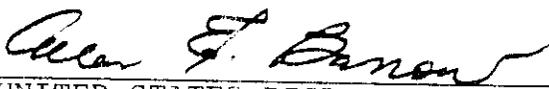
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Oklahoma Natural Gas Company, a Corporation, have and recover judgment against the Defendants, Floyd F. Brittain, Francis L. Brittain, and Betty Lacy, a/k/a Betty Jean Lacy, now Stewart, in the amount of \$1143.35, plus attorneys' fees, plus accrued Court costs, as of the date of this judgment, 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 Defendants, Calvin DeBoes, Gloria DeBoes and United First Mortgage Corporation.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant 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

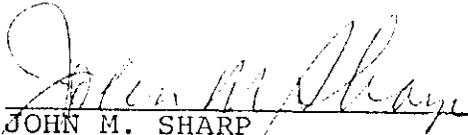
and apply the proceeds thereof in satisfaction of Plaintiff's judgment. The residue, if any, shall be deposited with the Clerk of the Court to await further order of the Court.

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, specifically including any lien for personal property taxes which may have been filed during the pendency of this action.

  
UNITED STATES DISTRICT JUDGE

APPROVED

  
ROBERT P. SANTEE  
Assistant United States Attorney

  
JOHN M. SHARP  
Attorney for Defendant and Cross-  
Claimant Oklahoma Natural Gas  
Company

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

ROBERT RANDALL ZIEGLER, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 PETE SILVA and LES EARL, JR., )  
 )  
 Defendants. )

No. 77-C-529-C

**FILED**

JAN 27 1978

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

O R D E R

This action was dismissed by an Order of the Court dated January 10, 1978. The Court there found that plaintiff's claims were frivolous and that therefore dismissal was proper pursuant to 28 U.S.C. § 1915(d). Plaintiff now moves the Court to reconsider this order. Because the Federal Rules of Civil Procedure make no provision for such a motion, the Court will treat it as a Motion for Relief from Judgment or Order pursuant to Rule 60.

The basis for plaintiff's motion, if any, is found in Rule 60(b)(1) or (2), which subsections provide:

"On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b). . ."

The plaintiff begs the Court's indulgence of the fact that he is a layman. He then proceeds to elaborate certain facts which he failed to include in his complaint. He states that "the defendant" failed to give him proper legal representation because he wished to incur the favor of the District Attorney's office. "The defendant" had apparently been offered a position as an Assistant District Attorney.

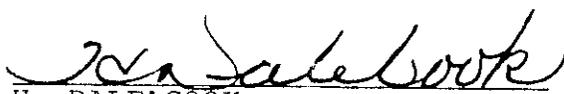
Because the plaintiff has made no showing that these new facts are "newly discovered evidence," the Court is

satisfied that the plaintiff may not be granted relief from its order under Rule 60(b)(2). Under Rule 60(b)(1), plaintiff's failure to include these facts in his complaint may indeed be excusable neglect when the fact that he is a layman is taken into consideration. However, the Court could not vacate its order for this reason because the law would mandate dismissal by the Court under these new facts just as it did under the facts as originally alleged.

As an alternative to relief from the Court's order of dismissal, plaintiff moves the Court to allow him to take an appeal of the order in forma pauperis to the United States Court of Appeals for the Tenth Circuit. The Court may not rule on this motion at this time. Rule 24(a) of the Federal Rules of Appellate Procedure requires that such a motion be accompanied by an affidavit showing the appellant's "inability to pay fees and costs or to give security therefor, his belief that he is entitled to redress, and a statement of the issues which he intends to present on appeal." Plaintiff has not prepared such an affidavit. Proper forms for such an affidavit may be obtained from the District Court Clerk.

For the foregoing reasons, plaintiff's Motion to Reconsider, here treated as a Motion for Relief from Judgment or Order, is therefore overruled.

It is so Ordered this 27<sup>th</sup> day of January, 1978.

  
H. DALE COOK  
United States District Judge

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

MARK TIMOTHY BURNS and )  
TENNIE BLANCHE BURNS, )  
 )  
Plaintiffs, )  
 )  
-VS- )  
 )  
A. H. ROBINS CO., INC., et al )  
 )  
Defendants. )

No. 75-C-478

**FILED**

**JAN 27 1978**

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

O R D E R

FOR GOOD CAUSE SHOWN by all parties hereto, this ~~cause~~ <sup>Cause of action</sup> ~~is~~ <sup>complaint</sup> ~~is~~  
HEREBY ORDERED to be dismissed with prejudice as to the plaintiffs and the  
parties are HEREBY ORDERED to request the Multi-District Litigation Court  
to return the file to this Court for final disposition. *Entered Jan 27, 1978.*

*Allen D. Brown*  
UNITED STATES DISTRICT JUDGE

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

KENNETH S. RICHARDS, )  
 )  
 Plaintiff, )  
 )  
 vs. ) No. 77-C-510-C ✓  
 )  
 OPERATION AND MAINTENANCE )  
 SERVICE, INC., )  
 )  
 Defendant. )

**FILED**

JAN 26 1978 *[Signature]*

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

O R D E R

Plaintiff in this action alleges that he was deprived of unemployment insurance benefits as the result of certain misrepresentations made by the defendant. Jurisdiction is based upon diversity and amount in controversy. Now before the Court is the defendant's Motion to Dismiss for lack of jurisdiction over the person, pursuant to Rule 12(b)(2) of the Federal Rules of Civil Procedure. Defendant has also filed objections to interrogatories submitted to it by the plaintiff. Because these interrogatories are directed to the discovery of matters that the plaintiff believes to be relevant to the Court's consideration of defendant's Motion to Dismiss, defendant's objections thereto will also be considered at this time.

On December 6, 1974, plaintiff was employed by the defendant as a diesel operator/mechanic for the Dewline Project at Thule, Greenland. On August 31, 1975, plaintiff was laid off. Plaintiff alleges that his being laid off was a result of the defendant's loss of its contract with the United States Air Force to operate and maintain the Ballistic Missile and Dewline System at Thule. Thereafter, plaintiff returned to the United States and applied for unemployment insurance benefits in the State of Colorado, where defendant's main offices were then located. Plaintiff was denied these benefits. He alleges that this denial resulted from false

statements furnished to the Colorado Department of Labor by agents of the defendant to the effect that plaintiff had voluntarily left the defendant's employ.

Defendant submits that under these facts the Court may not exercise personal jurisdiction over it. It takes the position that plaintiff has not shown sufficient "minimum contacts" between defendant and the State of Oklahoma to satisfy the requirements of Oklahoma's "long-arm" statutes, 12 O.S. §§ 187, and 1701.03, and the requirements of constitutional due process.

Title 12 O.S. § 187 provides in part:

"(a) any person, firm, or corporation other than a foreign insurer licensed to do business in the State of Oklahoma whether or not such party is a citizen or resident of this State and who does, or who has done, any of the acts hereinafter enumerated, whether in person or through another, submits himself, or shall have submitted himself, and if an individual his personal representative, to the jurisdiction of the courts of this State as to any cause of action arising, or which shall have arisen, from the doings of any of said acts:

(1) the transaction of any business with this STATE. . ."

Title 12 O.S. § 1701.03 provides in part:

(a) A court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action or claim for relief arising from the person's:

(1) transacting any business in this state. . ."

Plaintiff takes the position that the defendant was "doing business" in Oklahoma and therefore had sufficient contacts with this state because it solicited plaintiff's employment, and the employment of numerous other employees, through an Oklahoma employment agency. The interrogatories submitted to the defendant by the plaintiff were aimed at establishing these facts. Defendant has objected to these interrogatories on the ground that they are irrelevant to the jurisdictional issues presented by its motion to dismiss. The Court finds these objections to be well taken. When a defendant has moved for dismissal for lack of jurisdiction, the parties should be allowed discovery on the factual

issues raised, and the Court is vested with broad discretion as to whether it should grant or deny such discovery. See Budde v. Ling-Temco-Vought, Inc., 511 F.2d 1033, 1035 (10th Cir. 1975); H. L. Moore Drug Exchg., Inc. v. Smith, Kline, & French Labs., 384 F.2d 97 (2nd Cir. 1967). However, it has been held that a denial of discovery where the motion to dismiss raises no issue of fact is not an abuse of discretion. H. L. Moore, supra. As will follow in more detail, the Court finds no issue of fact raised by defendant's motion to dismiss.

Plaintiff's alleged cause of action is tortious in nature. He claims that the defendant made a misrepresentation to the Colorado Department of Employment and Labor in regard to the reason for the termination of plaintiff's employment, which misrepresentation resulted in a wrongful denial of unemployment insurance benefits due the plaintiff. But the Court finds one fact to be particularly relevant to its consideration of the question of defendant's contacts with the State of Oklahoma. That is, the alleged wrongful denial of plaintiff's unemployment benefits occurred subsequent to plaintiff's period of employment with the defendant.

As was earlier mentioned, plaintiff contends that defendant has submitted itself to the jurisdiction of this Court by "doing business" in this State. This business was allegedly the solicitation of employees through an employment agency located in this State. But it has been well established that for personal jurisdiction to attach under Oklahoma's "long-arm" statutes and consistent with due process, a plaintiff's cause of action must "arise from" the acts asserted as a basis for jurisdiction. See George v. Strick Corp., 496 F.2d 10, 12, 13 (10th Cir. 1974); Precision Polymers, Inc. v. Nelson, 512 P.2d 811 (Okla. 1973). Even assuming that plaintiff had been able to establish the solicitation of employees by way of the interrogatories submitted to defendant, plaintiff's cause of action could

not have arisen from such solicitation, because all of the events giving rise to plaintiff's cause of action occurred after his employment with the defendant had ended. It is ridiculous to suppose that plaintiff's cause of action could have arisen from the solicitation of other employees. Personal jurisdiction is authorized by Oklahoma's "long-arm" statutes "to the outer limits of due process when and only when the asserted cause of action arises from the defendant's activities within the State." George, supra, at p.13.

Plaintiff has failed to conclusively establish any other activities of the defendant in the State of Oklahoma that would bring the defendant within the purview of the earlier cited subsections of Oklahoma's "long-arm" statutes or any other subsections thereof. The Court is therefore satisfied that it may not exercise personal jurisdiction over the defendant.

For the foregoing reasons it is therefore ordered that defendant's objections to plaintiff's interrogatories be sustained.

It is further ordered that defendant's motion to dismiss for lack of personal jurisdiction be sustained.

It is so Ordered this 26<sup>th</sup> day of January, 1978.

  
H. DALE COOK  
United States District Judge

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

NATHANIEL GOODMAN, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 77-C-249-C  
 )  
GEORGE PLATT d/b/a, et al., )  
 )  
Defendant. )

**FILED**

JAN 24 1978

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

O R D E R

Plaintiff in this action accuses defendants of certain discriminatory housing practices and seeks injunctive, declaratory, and monetary relief therefore pursuant to 42 U.S.C. §§ 1982, 3610, and 3612. Now before the Court is the joint motion of the defendants George Platt, Paragon Homes, Inc., and Stephen B. Platt, to dismiss plaintiff's claims under 42 U.S.C. §§ 3610, and 3612 (Title VIII of the Civil Rights Act of 1968) for want of subject matter jurisdiction, or, alternatively, for partial summary judgment on these same claims.

These defendants take the position that plaintiff's Title VIII claims are barred by the time limitations found in 42 U.S.C. §§ 3610(d), and 3612(a). Since plaintiff admits that he is barred from proceeding under Section 3612, the Court will confine its discussion to Section 3610.

Title 42 U.S.C. § 3610(d) provides in pertinent part:

"If within thirty days after a complaint is filed with the Secretary or within thirty days after expiration of any period of reference under subsection (c) of this section, the Secretary has been unable to obtain voluntary compliance with this subchapter, the person aggrieved may, within thirty days thereafter, commence a civil action in any appropriate United States district court, against the respondent named in the complaint, to enforce the rights granted or protected by this subchapter, insofar as such rights relate to the subject of the complaint. . . ."

The District Courts have expressed differing views as to the proper application of the time limitations in Section 3610(d).

A minority of these courts have read into Section 3610(d) a new requirement for bringing suit in the district courts. Section 3610(a) provides that the Secretary shall give notice to the complainant within thirty (30) days of filing whether he intends to resolve the complaint. In an apparent attempt to harmonize Section 3610(a) with Section 3610(d), these courts have held that the second thirty (30) day period provided for in Section 3610(d) does not begin to run until the Section 3610(a) notice is received by the complainant. See Logan v. Richard E. Carmack & Assoc., 368 F.Supp. 121 (E.D. Tenn. 1973); Brown v. Ballas, 331 F.Supp. 1033 (N.D. Tex. 1971). In Logan, the Court supports its holding by analogizing to the limitations provisions of the Fair Employment Practices Act (FEPA). It reasoned that since FEPA has a notice provision similar to that in Section 3610(a), the period of limitations in Section 3610(d) should begin to run from the date this notice is received as is specifically provided for in FEPA (42 U.S.C. §§ 2000e-5 et seq).

This analogy is not apt. Title 42 U.S.C. § 2000e-5(f)(1) specifically provides that a complainant thereunder will be given notice to sue when, among other things, the voluntary compliance efforts of the administrative agency have failed. The complainant is then specifically given ninety (90) days from his receipt of notice in which to file a civil action. Section 3610(a) provides that the Secretary shall give notice as to whether he intends to resolve the complaint. Section 3610(d), like Section 1000e-5(f)(1) refers to failure of voluntary compliance in regard to the running of the period of limitations, even though notice of this fact is not provided for. Section 3610(d) makes reference to matters which are completely unrelated to the notice required by Section 3610(a). These Sections cannot be

harmonized, as the courts above have attempted to do. On the other hand, Section 2000e-(f)(1) creates an absolute and unavoidable relationship between notice and the running of the period of limitations.

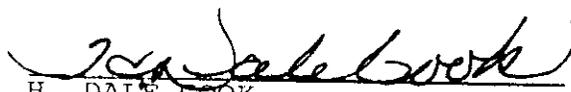
Furthermore, using this analogy so as to contravene the clear and unambiguous language of Section 3610(d) is an unwarranted invasion of the province of Congress. Section 3610(d) provides that suit must be filed in the district court between thirty-one (31) and sixty (60) days from the date the complaint is filed with the Secretary. The complainant does not and cannot wait until he has received notice from the Secretary. Notice is not even mentioned in this Section. In fact, Section 3610(f) obviously contemplates that the Secretary's efforts at conciliation will coincide to some extent with the district court action, for it provides that "the Secretary shall immediately terminate all efforts to obtain voluntary compliance" when but not until the Section 3610 action comes to trial.

This Court's literal interpretation of Section 3610(d) is supported by the weight of authority. See Tatum v. Myrick, 425 F.Supp. 809 (M.D. Fla. 1977); Sumlin v. Brown, 420 F.Supp. 78 (N.D. Fla. 1976); Brown v. Blake & Bane, Inc., 402 F.Supp. 621 (E.D. Va. 1975); Young v. AAA Realty Co., 350 F.Supp. 1382 (M.D.N.C. 1972).

Plaintiff filed his complaint with the Secretary of Housing and Urban Development on August 24, 1976. This action was not filed until June 17, 1977. Plaintiff clearly filed after the period of limitations had run.

For the foregoing reasons, it is therefore ordered that the joint motion of the defendants George Platt, Paragon Homes, Inc., and Stephen B. Platt, to dismiss plaintiff's Title VIII claims be, and the same is hereby sustained.

It is so Ordered this 24<sup>th</sup> day of January, 1978.

  
H. DALE COOK  
United States District Judge

# United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION FILE NO. 76-C-135-B ✓

Home Insurance Company, A Corporation, vs.	Plaintiff;
International Harvester Company, Inc., a Foreign Corporation,	Defendant.

## JUDGMENT

This action came on for trial before the Court and a jury, Honorable Robert S. Rizley, Magistrate, United States ~~Courthouse~~, presiding, and the issues having been duly tried and the jury having duly rendered its verdict.

It is Ordered and Adjudged that judgment is entered for the Defendant and against the Plaintiff on the Plaintiff's complaint.

**FILED**  
**JAN 24 1978**  
 Jack C. Silver, Clerk  
 U. S. DISTRICT COURT

Dated at Tulsa, Oklahoma, this 24th day of January, 19 78.

Approved as to form:

*Robert S. Rizley*  
 \_\_\_\_\_  
 ROBERT S. RIZLEY  
 U.S. Magistrate

*Jack C. Silver*  
 \_\_\_\_\_  
 Clerk of Court  
 JACK C. SILVER

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

NATIONAL SYSTEMS, INC. and  
IRA J. ALLIGOOD, JR.,

Plaintiffs,

v.

BOB SMITH, d/b/a DELCO  
MANUFACTURING COMPANY

Defendant.

NATIONAL SYSTEMS, INC. and  
IRA J. ALLIGOOD, JR.,

Plaintiffs.

v.

OKIE MANUFACTURING COMPANY, INC.,  
CARROLL L. SMITH and FAYBRESS SMITH

Defendants.

No. 76-C-465-C ✓

**FILED**

**JAN 23 1978**

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

No. 76-C-466-C

STIPULATED ORDER OF DISMISSAL

By stipulation and agreement of the plaintiffs  
and defendants herein, this action is dismissed without  
prejudice as to defendant FAYBRESS SMITH.

SO ORDERED:

January 23, 1978  
DATE

W. Dale Cook  
UNITED STATES DISTRICT JUDGE

Jan 23, 1978  
DATE

James H. Clegg  
Attorney for Plaintiffs  
Head, Johnson & Chafin, P.A.  
212 Beacon Building  
Tulsa, OK 74103  
(918) 584-4187

Jan 20, 1978  
DATE

Robert R. Keegan  
Attorney for Defendants  
Robert R. Keegan  
34 East Center Street  
Fayetteville, AR 72701  
(501) 521-4412

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

NATIONAL SYSTEMS, INC. and  
IRA J. ALLIGOOD, JR.,

Plaintiffs,

v.

BOB SMITH, d/b/a DELCO  
MANUFACTURING COMPANY,

Defendant.

NATIONAL SYSTEMS, INC. and  
IRA J. ALLIGOOD, JR.,

Plaintiffs.

v.

OKIE MANUFACTURING COMPANY, INC.,  
CARROLL L. SMITH, FAYBRESS SMITH  
and NATHANIEL MOSBY,

Defendants.

No. 76-C-465-C

FILED

JAN 23 1978

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

No. 76-C-466-C

JUDGMENT BY CONSENT

In a spirit of settlement and compromise, and by consent and agreement of the plaintiffs and the defendants herein,

IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. United States Design Letters Patent No. 214,083 was issued to plaintiff Ira J. Alligood, Jr. The said Ira J. Alligood, Jr. is the owner of the entire right, title and interest in and to said Design Letters Patent and the right to bring suit and collect for past infringement.

2. Since the issuance of said Design Letters Patent and prior to the commencement of this suit, defendants have

infringed said patent by manufacturing and/or selling coin-operated automobile vacuum cleaners of the design shown in Exhibits A and B attached hereto.

3. The defendants, their respective officers, agents, servants, employees and representatives, and those in active concert or participating with them, are hereby permanently enjoined from manufacturing vacuum cleaners of the design shown in Exhibits A or B attached hereto after three (3) months subsequent to the date of execution of this order and consent and from selling vacuum cleaners of the design shown in Exhibits A or B after six (6) months subsequent to the date of execution of this order and consent. Plaintiffs waive all claim against and grant an immunity respecting all use of vacuum cleaners of the design shown in Exhibits A or B except any which may be manufactured or sold in violation of the above-stated injunction.

4. The coin-operated vacuum cleaners shown in the illustrations attached hereto as Exhibits 1 and 2 do not infringe United States Design Letters Patent No. 214,083, and the injunction issued pursuant hereto does not apply to the manufacture, use or sale of vacuum cleaners of the design shown in the attached Exhibits 1 or 2.

5. The plaintiffs' cause of action for patent infringement set forth in the Complaint and the defendants' cause of action for declaratory judgment set forth in the Answer and Counterclaim are hereby dismissed without prejudice except as provided herein. This order and consent does not constitute an adjudication, admission, or determination respecting the validity or invalidity of the patent in suit.

6. No payment of damages, other payment or award of attorneys' fees or costs shall be made in favor of any of the parties to this judgment by consent, and no appeal shall be taken therefrom.

January 23, 1978  
DATE

W. Dale Book  
UNITED STATES DISTRICT JUDGE

APPROVED AND CONSENTED TO:

Jan. 19, 1978  
DATE

James H. Chasin  
Attorney for Plaintiffs

Jan 30, 1978  
DATE

Robert R. Keegan  
Attorney for Defendant Bob Smith,  
d/b/a Delco Manufacturing Company

Jan 30, 1978  
DATE

Robert R. Keegan  
Attorney for Defendants Okie  
Manufacturing Company, Inc.,  
Carroll Lee Smith, and Faybress Smith  
RHK, 1-30-78

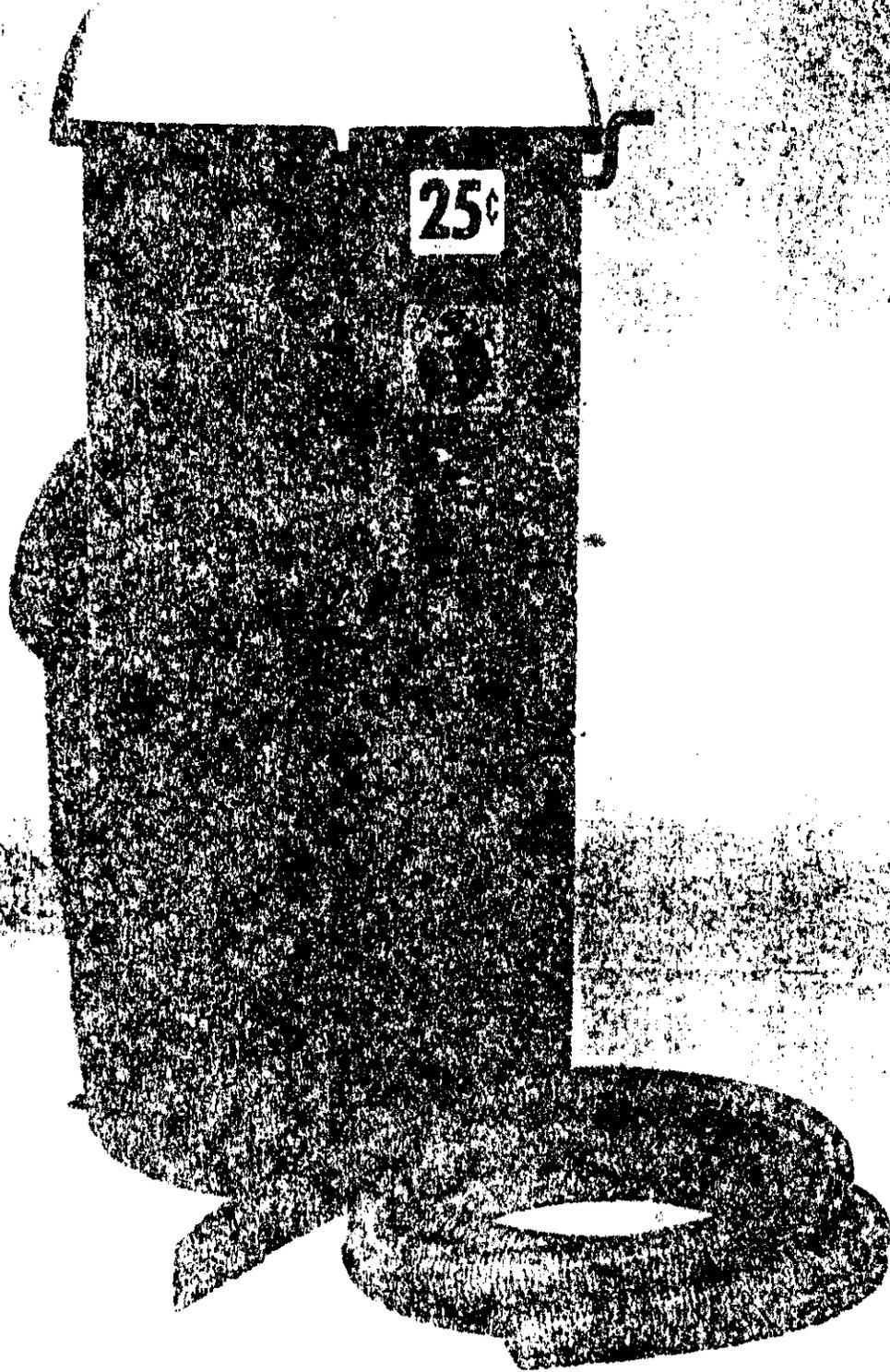


EXHIBIT - A

THE

# PROFIT MAKER

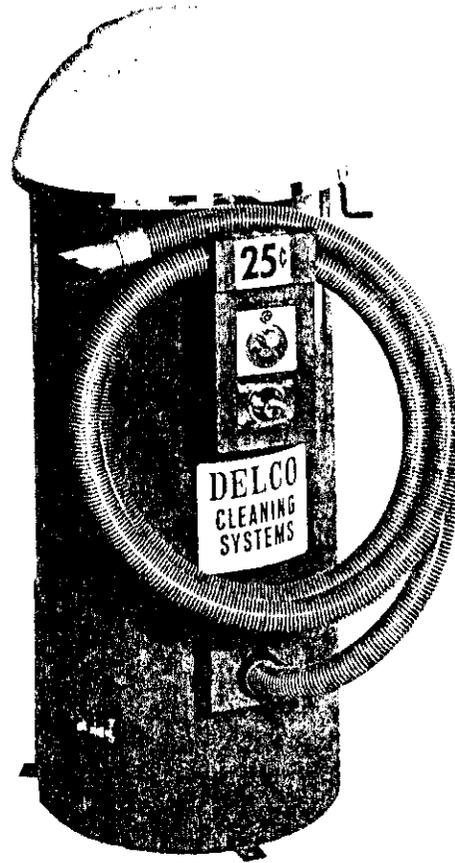


EXHIBIT B

THE SUPER TWIN 290

by

# DELCO

**DELCO**  
MANUFACTURING  
COMPANY

BOX 69 • SILOAM SPGS., AR 72761

DELCO introduces the sturdiest coin-op vacuum cleaner available today. The DELCO Super Twin 290 with its combination of high impact plastic, stainless steel, and triple coated 14 gauge steel is designed to give operators an almost maintenance free exterior.

\* Dual 1.7 H.P. bypass motors supply the needed suction demanded by todays car wash customers.



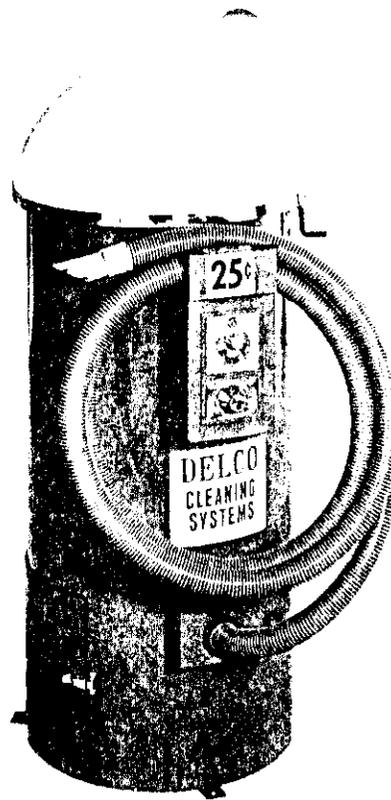
\* The four nylon vac bay system is easily cleaned with its crank-bag shaker method.



\* A reliable coin acceptor is protected by a double wall of sheet steel welded solidly to the vacuum tank.



\* A full 6 months warrantee covers everything except the hose and nozzle if returned through an authorized DELCO Distributor.



### SPECIFICATIONS

- \* 2 - 1.7 H.P. Motors, 115/60 cy/1 ph. 15 amps required
- \* 15 foot - 1 1/2" crushproof vac hose
- \* 5 Minutes for 25c
- \* Width 21" Height 53"
- \* Shipping Weight 170 Lbs.

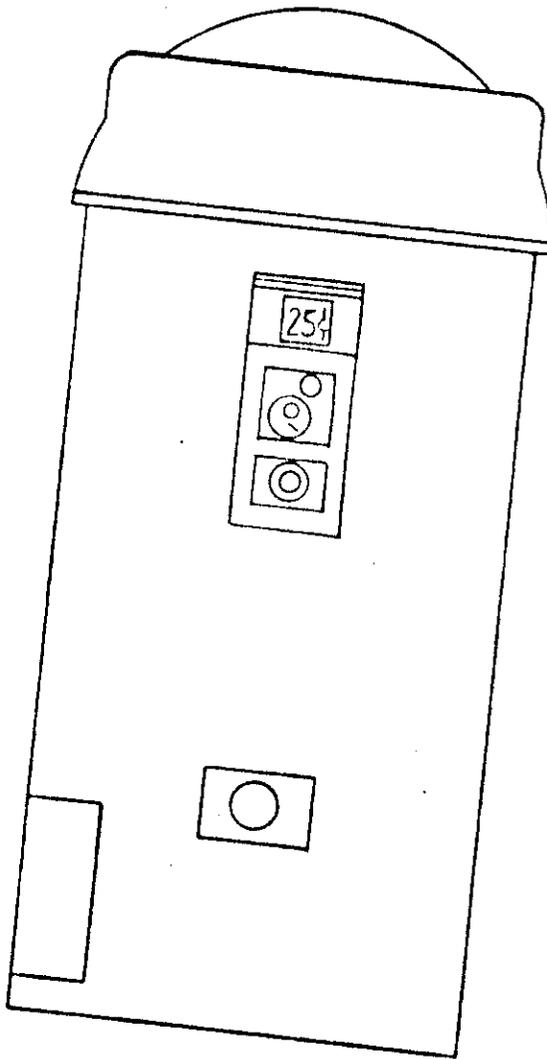
### Options Available

- \* Super Twin 290 without coin meter
- \* Wheel kit for Super Twin 290
- \* Other option times available

The DELCO Super Twin 290 was designed to offer low maintenance and high profits.

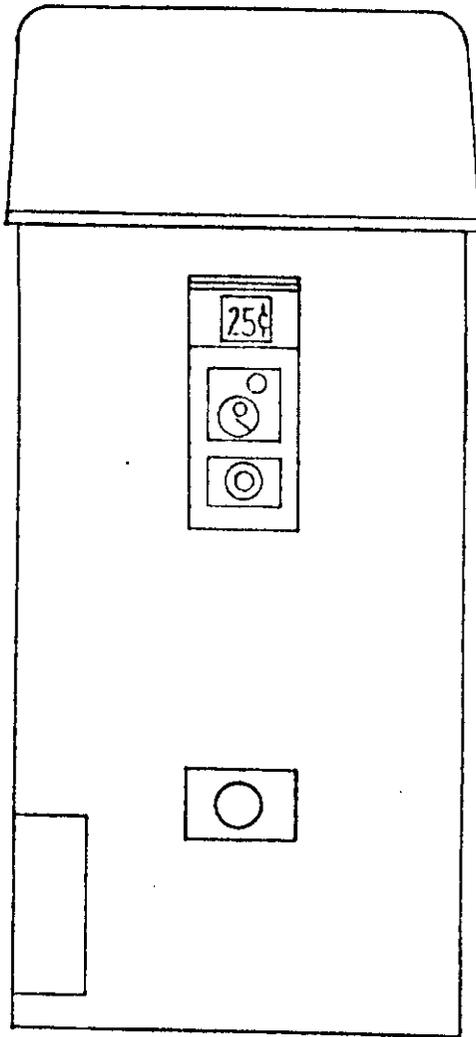
NOTE: Specifications are subject to change without notice.

EXHIBIT 1



VAC	
DRAWN BY: O. SMITH	DATE: 1-9-77
SCALE: 3/4"	

EXHIBIT 2



VAC	
DWN BY: D. SMITH	DATE: 1-9-77
SCALE: 3/32" = 1"	APP. BY:
DELCO MANUFACTURING CO.	

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

**FILED**

**JAN 23 1970**

Jack C. Sh... Clerk  
U. S. DISTRICT COURT

M. LEVENIA JENKINS,  
Plaintiff  
v.  
UNITED STATES OF AMERICA,  
Defendant

CIVIL ACTION  
NO. 76-C-498-C

STIPULATION OF DISMISSAL

IT IS HEREBY STIPULATED AND AGREED that the  
above-entitled action be dismissed with prejudice, each  
party to bear its own costs.

MORREL, HERROLD & WEST, INC.

BY Barry G. West  
BARRY G. WEST  
Attorney for plaintiff.

HUBERT H. BRYANT  
United States Attorney

BY John F. Murray  
JOHN F. MURRAY  
Chief, Civil Trial Section  
Southern Region  
Tax Division  
Department of Justice  
Attorney for defendant.

4/15  
cc to  
110  
Be

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

FILED

DARRELL RAY TUCKER, # 77222 )  
 )  
Petitioner, )  
 )  
v. )  
 )  
MACK H. ALFORD, ET AL., )  
 )  
Respondents. )

No. 77-C-473-C

JAN 19 1978

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

ORDER

This is a proceeding brought pursuant to the provisions of Title 28 U.S.C. § 2254 by a state prisoner confined at the Stringtown Vocational Training Center, Stringtown, Oklahoma. Petitioner attacks the validity of the judgment and sentence rendered and imposed on December 21, 1968 in the District Court of Tulsa County, State of Oklahoma, in Case No. 23,283.

Petitioner demands his release from custody and as grounds therefor claims that he is being deprived of his liberty in violation of his rights under the Constitution of the United States of America. In particular, petitioner claims "double jeopardy" and states that he was "charged on two (2) separate (sic) informations sheets with the crime of (1) Robbery With Firearms AFCE, and (2) Kidnapping AFCE, both charges arose out of a single act, (the robbery of T. Roy Barnes Pharmacy Tulsa, Okla.) two (2) separate (sic) trials were held and two (2) separate (sic) sentences were imposed. Each and every detail of evidence concerning both crimes were used at both trials. As a matter of fact the transcript of both trial are identical, (one could be exchanged for the other and still support either case), with the exception of the two (2) separate (sic) information sheets."

Petitioner appealed his conviction to the Oklahoma Court of Criminal Appeals which affirmed the District Court but modified the judgment and sentence from punishment of

not less than 20 and not more than 60 years' imprisonment to a term of not less than 10 nor more than 30 years' imprisonment. Tucker v. State, Okl.Cr., 481 P.2d 167 (1971).

In Tucker, the Court stated:

The defendant's first proposition alleges that 'the State cannot obtain separate punishments under separate statutes for a single transaction involving a single criminal objective and intent, act, or course of conduct.' He contends that since the defendant had previously been convicted for the crime of Armed Robbery, it is double punishment to carve two crimes out of the same course of conduct. We cannot agree with such a contention. We are of the opinion that the Armed Robbery was completed when the defendant left the store. The elements of Armed Robbery and those of Kidnapping are quite dissimilar. The proof required to prove the Armed Robbery and the proof required to prove the Kidnapping are completely different. See Ryan v. State, Okl.Cr., 473 P. 2d 322. We, therefore, find this proposition to be without merit."

In Bell v. State of Kansas, 452 F.2d 783 (10th Cir. 1971) Cert. Den. 92 S.Ct. 2421, 406 U.S. 974, the Court stated:

" \* \* \* for the double jeopardy provision to apply, the offense charged and tried in the first case and the offense charged in the second case must be identical in fact and law."

The Court also stated:

"The double jeopardy provision of the Fifth Amendment was made applicable to the states through the Fourteenth Amendment. (Citations omitted)

The double jeopardy provision applies when the offense to which it is interposed is the same as the former offense on which an individual was tried and convicted or acquitted." (Citations omitted)

Since the elements of the crimes in the two cases are separate, distinct and unique, jeopardy did not attach in the second case in which the Petitioner was convicted of Kidnapping. Ash v. Swenson, 397 U.S. 436, 25 L.Ed.2d 469, 90 S.Ct. 1189 (1970); Blockburger v. U.S., 284 U.S. 299, 52 S.Ct. 180, 76 L.Ed. 306 (1932).

For the reasons stated herein, the Petition for Writ of Habeas Corpus should be and is hereby dismissed.

It is so Ordered this 19<sup>th</sup> day of January, 1978.

  
H. DALE COOK  
UNITED STATES DISTRICT JUDGE



denied by Order dated June 16, 1977. The Order by the District Court was appealed to the Oklahoma Court of Criminal Appeals, Case No. PC-77-477. On July 13, 1977, the Oklahoma Court of Criminal Appeals affirmed the District Court's Order Denying Post-Conviction Relief.

The transcript of sentencing on October 27, 1976, reveals that Petitioner advised the Court that he wanted to be sentenced immediately, instead of waiting two days. Tr. 3. Additionally at Page 4 of the transcript the following exchange between the Court and the petitioner is found:

"THE COURT: I want to advise him on the record.

If you wish to appeal, there are certain things that you must have done. You must have your petition filed with the Court of Criminal Appeals to review the case within six months. You must also file with this Court in writing - within ten days, a motion for a new trial; do you understand?

MR. ALEXANDER: Yes

THE COURT: Do you understand both of these things?

MR. ALEXANDER: Yes

THE COURT: If you wish to appeal and you cannot afford a lawyer or pay the court costs, then upon your proving to the Court that you are a pauper, I will appoint a lawyer for you; do you understand?

MR. ALEXANDER: Yes.

THE COURT: You will have to make a written request for a lawyer to be appointed otherwise; do you understand?

MR. ALEXANDER: Yes."

The record in this case contains no written or oral request by the defendant for court-appointed counsel. The Court did allow the privately-retained counsel for the defendant to withdraw from the case on November 3, 1976, of which petitioner was fully aware.

Petitioner claims that the record of the trial court will reflect that at final sentencing, he informed the Court that he intended to appeal and that his attorney verbally informed the Court of his intention to perfect petitioner's appeal. An examination of the transcript of sentencing

shows the contrary. At final sentencing, petitioner never informed the Court that he intended to appeal. Also, there is no statement made by petitioner's trial counsel informing the Court of his intent to perfect petitioner's appeal.

Nowhere in the record is there any mention that Petitioner's counsel would perfect his appeal. As the appearance docket shows the petitioner was present and in court when his attorney announced that he was withdrawing from the case as counsel for the petitioner. Petitioner knew as of November 3, 1976, that his retained counsel would not represent him on appeal. The only time that petitioner has made any effort towards an appeal is reflected by the appearance docket which shows that on April 28, 1977, he filed a Notice of Intent to Appeal, more than six months after his conviction. Consequently, petitioner's allegations that he made a diligent effort to have his case presented to the Appellate Court and that he was abandoned on appeal are totally without merit.

Habeas Corpus will not be granted on petitioner's claim that he was denied the right of appeal, when the record establishes that the appeal was not perfected because of petitioner's failure to make suitable arrangements. Schechter v. Waters, 199 F.2d 318 (10th Cir. 1952). Where a defendant is represented at trial by retained counsel, there is no duty of the trial court to appoint counsel for an appeal unless and until petitioner makes known to the Court that he is indigent and no longer has counsel. Harris v. Beto, 392 F.2d 191 (5th Cir. 1968). Even if the petitioner had counsel during the time of his appeal, the failure of retained counsel to perfect an appeal is neither a denial of due process nor ground for federal habeas relief. Plaskett v. Page, 439 F.2d 770 (10th Cir. 1971). In Plaskett, as in the case before this Court, Plaskett did not claim to have been

without funds during the six months appeal time. Plaskett did not request the appointment of other counsel, nor did the State impose an impediment to his appeal. At Page 771 the Court said:

"The failure of the Oklahoma Court to appoint a lawyer to represent Plaskett on his out-of-time appeal or in his state habeas petition is no ground for relief. No substantial federal constitutional question was raised. A habeas petitioner is not entitled to appointed counsel as an absolute right." Ratley v. Crouse, 365 F.2d 320, 321 (10th Cir. 1966)

Accordingly, for the reasons stated herein, the Petition for Writ of Habeas Corpus should be denied.

It is so Ordered this 19<sup>th</sup> day of January, 1978.

  
H. DALE COOK  
UNITED STATES DISTRICT JUDGE

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

JAN 19 1978

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 BRENDA JOYCE WOODARD and )  
 FIRST NATIONAL BANK AND TRUST )  
 COMPANY OF TULSA, a National )  
 Banking Association, Banka- )  
 mericard Division, )  
 )  
 Defendants. )

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

Civil Action No. 77-C-476-C

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 19<sup>th</sup> day of January, 1978, the Plaintiff appearing by Robert P. Santee, Assistant United States Attorney; and the Defendants, Brenda Joyce Woodard and First National Bank and Trust Company of Tulsa, a National Banking Association, Bankamericard Division, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant Brenda Joyce Woodard was served with Summons and Complaint on November 17, 1977, and was served with Summons and Amendment to Complaint on December 22, 1977; that Defendant First National Bank and Trust Company of Tulsa, a National Banking Association, Bankamericard Division was served with Summons, Complaint and Amendment to Complaint on December 21, 1977, all as appear from the United States Marshals Service herein.

It appearing that the Defendants, Brenda Joyce Woodard and First National Bank and Trust Company of Tulsa, a National Banking Association, Bankamericard Division, 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 upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Nine (9), Block Three (3), SUBURBAN ACRES  
FOURTH ADDITION to the City of Tulsa, County  
of Tulsa, State of Oklahoma, according to the  
recorded plat thereof.

THAT the Defendant, Brenda Joyce Woodard, did, on the  
5th day of March, 1975, execute and deliver to the Administrator  
of Veterans Affairs her mortgage and mortgage note in the sum  
of \$7,600.00, with 9 percent interest per annum, and further provid-  
ing for the payment of monthly installments of principal and interest.

The Court further finds that Defendant, Brenda Joyce  
Woodard, made default under the terms of the aforesaid mortgage  
note by reason of her failure to make monthly installments due  
thereon, which default has continued and that by reason thereof  
the above-named Defendant is now indebted to the Plaintiff in  
the sum of \$7,531.99, as unpaid principal with interest thereon  
at the rate of 9 percent per annum from April 1, 1977, 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 Defendant, Brenda  
Joyce Woodard, in personam, for the sum of \$7,531.99, with interest  
thereon at the rate of 9 percent per annum from April 1, 1977,  
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 for 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 Defendant,  
First National Bank and Trust Company of Tulsa, a National Banking  
Association, Bankamericard Division.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon  
the failure of said Defendant 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, shall 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, specifically including any lien for personal property taxes which may have been filed during the pendency of this action.

/s/ A. Dale Cook  
UNITED STATES DISTRICT JUDGE

APPROVED

  
ROBERT P. SANTEE  
Assistant United States Attorney

FILED

JAN 19 1978

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

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

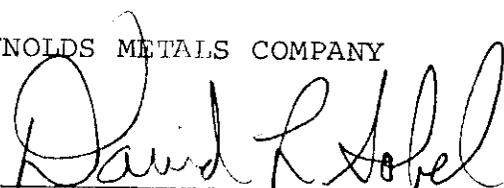
REYNOLDS METALS COMPANY, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
WOODSHAW AND ASSOCIATES, INC., )  
 )  
Defendant. )

No. 77-C-50-B

STIPULATION OF DISMISSAL  
WITH PREJUDICE

Pursuant to Rule 41(a)(i)(ii), F.R.C.P., all parties who have appeared in this action stipulate to its dismissal with prejudice for the reason that all issues of the case have been settled.

REYNOLDS METALS COMPANY

BY: 

David L. Sobel  
SOBEL, MORAN, LYSIAK & HARRAL

Attorneys for Plaintiff.

WOODSHAW AND ASSOCIATES, INC.

BY: 

J. Douglas Mann  
ROSENSTEIN, FIST & RINGOLD

Attorneys for Defendant.

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

FILED

IN RE )  
MORRIS LEE GOODRICK, )  
 )  
Bankrupt, )  
 )  
THE OKLAHOMA STATE BANK )  
OF MULHALL, )  
 )  
Plaintiff, Appellant, )  
 )  
vs. )  
MORRIS LEE GOODRICK, )  
 )  
Defendant-Appellee. )

JAN 18 1978

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

No. 77-C-504-C ✓

O R D E R

This is an appeal from the Findings of Fact and Conclusions of Law and the Judgment entered by the Bankruptcy Judge on July 25, 1977. In the bankruptcy proceedings, the appellant, The Oklahoma State Bank of Mulhall (Bank) requested a determination of the non-dischargeability of a \$9,322.30 debt owed to it by the bankrupt, Morris Lee Goodrick (Goodrick). The Bank alleged that the debt was non-dischargeable by virtue of Section 17(a)(2) of the Bankruptcy Act, 11 U.S.C. § 35(a)(2). The issues were tried by the Bankruptcy Judge, who on July 25, 1977 filed his Findings of Fact and Conclusions of Law, in which he held that the debt should be discharged. Judgment was on that date entered in favor of Goodrick.

Title 11 U.S.C. § 35(a)(2) provides in pertinent part as follows:

"(a) A discharge in bankruptcy shall release a bankrupt from all of his provable debts whether allowable in full or in part, except such as . . . (2) are liabilities for obtaining money or property on credit or obtaining an extension or renewal of credit in reliance upon a materially false statement in writing respecting his financial condition made or published or caused to be made or published in any manner whatsoever with intent to deceive.  
. . ."

In this case, the Bank alleged that it had relied upon a materially false financial statement, supplied to it on February 10, 1975 by Goodrick, in advancing to Goodrick, on October 10, 1975, the funds now in dispute. Resolving all conflicting testimony in favor of the Bank, the Bankruptcy Judge found that the statement was materially false and that it had been furnished to the Bank by Goodrick. However, the Judge found as a matter of fact from the testimony and circumstances that the Bank had not relied upon the statement when it entered into the extension of credit on October 10, 1975. The Judge therefore concluded that the Bank had failed to prove itself entitled to the benefits of Section 17(a)(2) of the Act.

The scope of this Court's review of an order of the Bankruptcy Judge is very narrow. His factual findings are binding upon this Court unless they are clearly erroneous. In re Sierra Trading Corporation, 482 F.2d 333 (10th Cir. 1973); Moran Bros., Inc. v. Yinger, 323 F.2d 699 (10th Cir. 1963); Washington v. Houston Lumber Company, 310 F.2d 881 (10th Cir. 1962). See Rule 52(a), Federal Rules of Civil Procedure.

"A finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." United States v. United States Gypsum Co., 333 U.S. 364, 395, 68 S.Ct. 525, 92 L.Ed. 746 (1948).

The Bankruptcy Judge correctly noted that the burden was upon the Bank to prove that its claim was non-dischargeable under Section 17(a)(2). Whelan v. United States Guaranty Company, 252 F.2d 851 (D.C. Cir. 1958); United States Fidelity & Guaranty Company v. Tanner, 279 F.Supp. 396 (D. Colo. 1968). The Court has carefully reviewed the record in this case and is convinced that no mistake was committed by the Bankruptcy Judge and that, consequently, his Findings of Fact are not clearly erroneous. The Court is thus bound by

the finding that the funds in issue were not loaned in reliance upon a materially false statement. Because such reliance is required by Section 17(a)(2), the Bank failed to sustain its burden of proving that its claim was non-dischargeable pursuant to that section.

For the foregoing reasons, the Findings of Fact and Conclusions of Law and the Judgment entered by the Bankruptcy Judge on July 25, 1977 are hereby affirmed.

It is so Ordered this 17<sup>th</sup> day of January, 1978.

  
H. DALE COOK  
United States District Judge

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

UNITED STATES OF AMERICA, )  
 )  
 ) Plaintiff, )  
 )  
 vs. )  
 )  
 JOHN C. ESCOE a/k/a JOHN CHARLES )  
 ESCOE a/k/a JOHN ESCOE, THOMAS B. )  
 PORTER, MRS. THOMAS B. PORTER, )  
 COHEN & STOUT OBSTETRICAL AND )  
 GYNECOLOGICAL ASSOCIATION, INC., )  
 AETNA FINANCE COMPANY, a )  
 Corporation, DR. EBB REEVES, )  
 REDDEN INVESTMENT COMPANY, a )  
 Partnership, JUANITA ESCOE, )  
 COUNTY TREASURER, TULSA COUNTY, )  
 Oklahoma, and BOARD OF COUNTY )  
 COMMISSIONERS, TULSA COUNTY, )  
 Oklahoma, )  
 )  
 Defendants. )

Civil Action No. 77-C-61-B

FILED

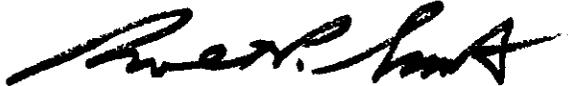
JAN 16 1978

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

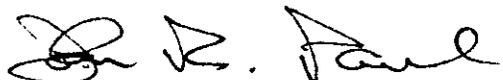
STIPULATION OF DISMISSAL

COME NOW the United States of America by and through its attorney, Robert P. Santee, Assistant United States Attorney for the Northern District of Oklahoma, John F. Cantrell, Tulsa County Treasurer and the Board of County Commissioners of Tulsa County, by and through their attorney, Andrew B. Allen, Assistant District Attorney, and Redden Investment Company, by and through its attorney, John R. Paul, and hereby stipulate and agree that this action be dismissed. The United States would show to the Court that the mortgage loan being foreclosed herein is currently up to date except for the January, 1978, installment; that the United States desires to dismiss this action and the other stipulating defendants herein join in such dismissal.

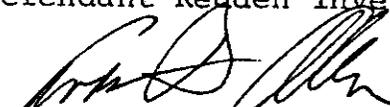
Dated this 4<sup>th</sup> day of JAN, 1978.



ROBERT P. SANTEE  
Assistant United States Attorney  
Attorney for Plaintiff



JOHN R. PAUL, Attorney for  
Defendant Redden Investment Company



ANDREW B. ALLEN, Attorney for  
Board of County Commissioners

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

GERALD BARKER, )  
 )  
 ) Plaintiff, )  
 )  
 vs. )  
 )  
 WEIR & ASSOCIATES, INC., an )  
 Oklahoma corporation, )  
 )  
 ) Defendant. )

No. 76-C-497-**FILED**

**JAN 16 1978**

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

STIPULATION FOR DISMISSAL WITH PREJUDICE

COME NOW the above named parties, by and through their respective attorneys, and stipulate and agree that the above entitled action be, and the same hereby is discontinued, and the Complaint herein dismissed with prejudice as to the Defendant, WEIR & ASSOCIATES, INC., without costs or attorney's fees to either party, for the reason that said parties have reached and entered into a settlement agreement.

ERIC E. ANDERSON  
Attorney for the Plaintiff,  
GERALD BARKER,  
424 Beacon Building  
Tulsa, Oklahoma 74103

  
Eric E. Anderson

HALL, SUBLETT & McCORMICK  
Attorneys for the Defendant,  
WEIR & ASSOCIATES, INC.,  
Suite 1776, One Williams Center  
Tulsa, Oklahoma 74103

By   
Stephen L. Andrew

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

CHARLES A. COLEY, )  
 )  
 Plaintiff, )  
 )  
 )  
 vs. )  
 )  
 DOENGES BROS. FORD, INC., )  
 an Oklahoma Corporation, and )  
 the STATE OF OKLAHOMA, ex rel )  
 OKLAHOMA TAX COMMISSION, )  
 )  
 Defendants. )

FILED

JAN 13 1978 *ph*

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

No. 77 C 382 C

ORDER

This cause coming on before me, the undersigned Judge,  
on the Motion of the plaintiff for voluntary dismissal of the  
above styled cause of action on this 13<sup>th</sup> day of January, 1978.

IT IS THEREFORE ORDERED that the above styled cause  
of action be, and the same hereby is, dismissed without prejudice.

Dated this 13<sup>th</sup> day of January, 1978.

  
Hon. H. Dale Cook  
Judge of the United States District  
Court for the Northern District of  
Oklahoma.

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

HOWARD LUNDGREN, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 CONTINENTAL INDUSTRIES, INC., )  
 an Oklahoma corporation, )  
 )  
 Defendant. )

**FILED**

No. 75-C-233-B

**JAN 13 1978**

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

STIPULATION OF DISMISSAL  
WITH PREJUDICE

The Plaintiff, Howard Lundgren, and the Defendant, Continental Industries, Inc., in consideration of the settlement of any and all claims which the Plaintiff may have against the Defendant, jointly stipulate that this action may be dismissed with prejudice, the parties to bear their own costs and expenses herein.

  
Bruce H. Harlton  
Attorney for Plaintiff

  
Judith K. Pensabene  
Attorney for Defendant

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

UNITED STATES OF AMERICA, )  
 )  
 ) Plaintiff, )  
 )  
 vs. ) CIVIL ACTION NO. 77-C-424-R  
 )  
 )  
 An article of food consisting of )  
 55/50-pound bags, more or less, )  
 labeled in part: )  
 )  
 (bag) )  
 )  
 "PEARLED BARLEY HONEYVILLE GRAIN )  
 2077 YATES AVE. 50 LB. NET" and/or )  
 )  
 (bag) )  
 )  
 "HONEYVILLE GRAIN, INC. PEARLED )  
 BARLEY NET WT. 50 LBS. HONEYVILLE )  
 GRAIN, INC. 2077 YATES AVE. LOS )  
 ANGELES, CA. 90040" )  
 )  
 )  
 Defendant. )

**FILED**

**JAN 13 1978**

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

DEFAULT DECREE OF CONDEMNATION

On October 12, 1977, a Complaint for Forfeiture against the above-described article was filed on behalf of the United States of America. The Complaint alleges that the article proceeded against is a food which was adulterated while held for sale after shipment in interstate commerce within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C., as follows:

342(a)(3) in that it consists in whole or in part of a filthy substance by reason of the presence therein of insects; and

342(a)(4) in that it has been held under insanitary conditions whereby it may have become contaminated with filth; and

342(a)(2)(C) in that it contains chlordane, a food additive, which is unsafe within the meaning of Section 348, since it and its use and its intended use are not in conformity with the regulations or exemptions in effect pursuant to Section 348(a).

Pursuant to monition issued by this Court, the United States Marshal for this District seized said article on October 28, 1977.

It appearing that process was duly issued herein and returned according to law; that notice of the seizure of the above-described article was given according to law; and that no persons have appeared or interposed a claim before the return day named in said process.

Now, therefore, on motion of Hubert H. Bryant, United States Attorney for the Northern District of Oklahoma, by Robert P. Santee, Assistant United States Attorney, for a Default Decree of Condemnation and Destruction, the Court being fully advised in the premises, it is

ORDERED, ADJUDGED AND DECREED that the default of all persons be and the same are entered herein; and it is further

ORDERED, ADJUDGED AND DECREED that the article so seized is adulterated within the meaning of said Act, as follows:

342(a)(3) in that it consists in whole or in part of a filthy substance by reason of the presence therein of insects; and

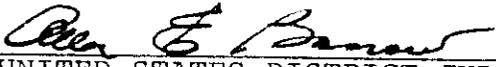
342(a)(4) in that it has been held under insanitary conditions whereby it may have become contaminated with filth; and

342(a)(2)(C) in that it contains chlordane, a food additive, which is unsafe within the meaning of Section 348, since it and its use and its intended use are not in conformity with the regulations or exemptions in effect pursuant to Section 348(a).

ORDERED, ADJUDGED AND DECREED that the article is condemned and forfeited to the United States pursuant to 21 U.S.C. 334; and it is further

ORDERED, ADJUDGED AND DECREED that the United States Marshal in and for the Northern District of Oklahoma shall forthwith destroy the seized article and make return due to this Court.

Dated this 11<sup>th</sup> day of January, 1978.

  
UNITED STATES DISTRICT JUDGE

cl

# United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION FILE NO. 75-C-155-B ✓

K-Z ENTERPRISES, INC.,

Plaintiff,

vs.

BEATRICE FOODS, INC.,

Defendant.

JUDGMENT

This action came on for trial before the Court and a jury, Honorable Robert S. Rizley  
Magistrate  
~~United States District Judge~~, presiding, and the issues having been duly tried and  
the jury having duly rendered its verdict,

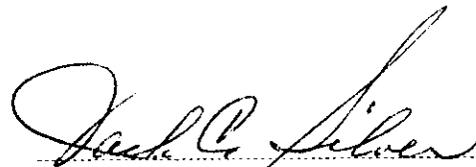
It is Ordered and Adjudged that the plaintiff, K-Z Enterprises, Inc., recover  
judgment from the defendant, Beatrice Foods, Inc., in the amount of \$20,000.00, and  
that plaintiff be awarded his costs of action.

FILED

JAN 13 1978

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

Dated at Tulsa, Oklahoma, this 13th day  
of January, 1978.



Clerk of Court

JACK C. SILVER

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

LEWIS A. BOWEN, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 DAVE FAULKNER and BUTCH HAHN, )  
 )  
 Defendants. )

No. 77-C-484-C ✓

**FILED**

JAN 12 1978 *lmc*

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

O R D E R

This action is brought pro se pursuant to 42 U.S.C. §1983 by a prisoner in the Tulsa County Jail. Plaintiff was permitted to file his complaint in forma pauperis but was advised that any further proceedings must be specifically authorized in advance by the Court. Plaintiff has named as defendants the Tulsa County Sheriff and one of his deputies, who is alleged to have responsibility for supervising plaintiff in the jail. Liberally construed, the complaint alleges violations by the defendants of plaintiff's rights under the First, Fifth, and Fourteenth Amendments to the United States Constitution. Plaintiff alleges that during his incarceration, defendants have denied him access to a law library and law books, that they have interfered with his mail and his use of the telephone, that they have placed too restrictive limitations on his visiting rights, that they have refused to remove him from segregation from the other prisoners, and that they have allowed his cell to become infested with roaches. Plaintiff asks that the Court order the immediate construction of an adequate law library to serve the jail, that prisoner mail be serviced without the intervention of jail personnel, that more liberal time limits be placed upon prisoner telephone calls and visiting rights, and that the Court further order the Tulsa County Health Department to eliminate the roaches in the jail. Plaintiff in addition requests \$25,000.00 money damages.

Title 28 U.S.C. §1915, the statute authorizing proceedings in forma pauperis, provides in subsection (d) that the "court . . . may dismiss the case if the allegation of poverty is untrue, or if satisfied that the action is frivolous or

malicious." Under this statute,

"It is preferable procedure for a federal district court to authorize the commencement and prosecution of an action without the prepayment of costs, if the requirements of §1915(a) are satisfied on the face of the papers submitted, and if the court thereafter discovers that the allegation of poverty is untrue, or if it is satisfied that the action is frivolous or malicious, then to dismiss the action."

Duhart v. Carlson, 469 F.2d 471, 473 (10th Cir. 1972), cert. denied 410 U.S. 958 (1973); Oughton v. United States, 310 F.2d 803 (10th Cir. 1962) cert. denied 373 U.S.937 (1963). Once filed, the complaint may be dismissed by the Court on its own motion, prior to the issuance of summons, if it determines that the action is frivolous. Conway v. Fugge, 439 F.2d1397 (9th Cir. 1968); Williams v. Field, 394 F.2d 329 (9th Cir. (1968)).

Because plaintiff has filed his complaint pro se, the Court must judge the sufficiency of the complaint by "less stringent standards." Haines v. Kerner, 404 U.S.519, 520 (1972). Applying a standard of liberal construction, plaintiff has alleged that certain of his constitutional rights have been violated. However, the facts which he gives in support of his allegations against the named defendants do not concern acts of the named defendants, but of other persons not made parties to this lawsuit. In addition, the relief defendant has requested in many respects is not supported by his complaint. He has alleged that he has been deprived of access to a law library and law books, not at all implying that the existing law library is inadequate. But he has requested relief for this alleged deprivation in the form of an order directing the immediate construction of an adequate law library. He has also requested an order directing that the Tulsa County Health Department rid the jail of roaches, when the Tulsa County Health Department has not been made a party to this lawsuit. Finally, he has given no facts which would support his request for monetary damages.

The Court therefore finds that plaintiff's claims as framed by his complaint are frivolous and that this action should for

this reason be dismissed under the authority of 28 U.S.C. §1951(d).

It is so Ordered this 11<sup>th</sup> day of January, 1978.

  
\_\_\_\_\_  
H. DALE COOK  
United States District Judge

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

FILED

ARLEN J. LOWRANCE, )  
 )  
 Plaintiff, )  
 )  
 -vs- )  
 )  
 R. McLAUGHLIN, J. BRYANT )  
 and THE CITY OF TULSA, )  
 TULSA, OKLAHOMA, )  
 )  
 Defendants. )

No. 76-C-555C ✓

JAN 12 1978  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT - ph

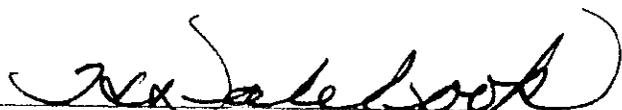
JUDGMENT ON JURY VERDICT

This action came on for trial before the Court and a jury, Honorable H. Dale Cook, District Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict,

IT IS ORDERED AND ADJUDGED that the Plaintiff, Arlen J. Lowrance, recover of the Defendant, Robert McLaughlin, the sum of Three Thousand Dollars (\$3,000.00) as nominal damages and the additional sum of Five Thousand Dollars (\$5,000.00) as punitive damages, with interest thereon as provided by law, and the costs of the action.

IT IS FURTHER ORDERED AND ADJUDGED that the Plaintiff, Arlen J. Lowrance, recover of the Defendant, J. Bryant the sum of Three Thousand Dollars (\$3,000.00) as nominal damages and the additional sum of Five Thousand Dollars (\$5,000.00) as punitive damages, with interest thereon as provided by law, and the costs of the action.

Dated at Tulsa, Oklahoma, this 11<sup>th</sup> day of January, 1978.

  
UNITED STATES DISTRICT JUDGE

FILED

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

JAN 12 1978

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

JOSEPH D. KIRST, JEAN D. KIRST )  
and BOB H. KIRST, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
FERNANDO C. DOMINGUEZ and )  
BENITO FLORES, )  
 )  
Defendants. )

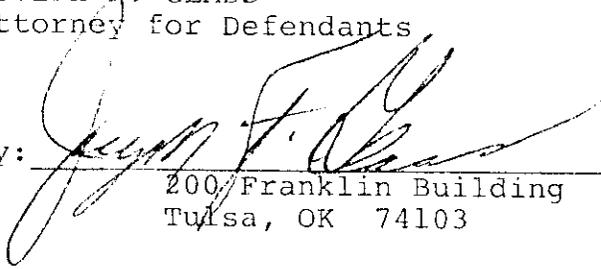
NO. 76-C-447-B J

STIPULATION OF DISMISSAL WITH PREJUDICE

COME now the plaintiffs and the defendants and stipulate that the case against the defendants may be dismissed with prejudice to the rights to the bringing of any future action.

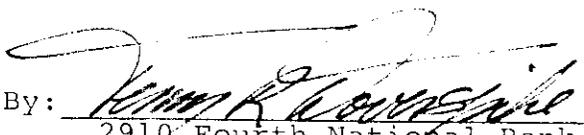
BEST, SHARP, THOMAS & GLASS

JOSEPH F. GLASS  
Attorney for Defendants

By:   
200 Franklin Building  
Tulsa, OK 74103

PRAY, SCOTT & WILLIAMSON

Attorneys for Plaintiffs

By:   
2910 Fourth National Bank Bldg.  
Tulsa, OK 74103

ORDER OF DISMISSAL

Now on this 11<sup>th</sup> day of January, 1978,

there came on for consideration before the undersigned Judge of the United States District Court for the Northern District of Oklahoma, stipulation of the parties hereto of dismissal,

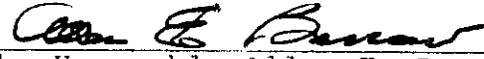
FILED

JAN 12 1978

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

parties hereto having advised the Court that all disputes between the parties have been settled.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above styled cause <sup>of action & complaint</sup> be and the same ~~is~~ <sup>are</sup> hereby dismissed with-  
prejudice to the right of the plaintiffs to bring any future action arising from said cause of action.



The Honorable Allen E. Barrow, Chief Judge  
United States District Court for the  
Northern District of Oklahoma

lh

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

GILCREASE OIL COMPANY, a Texas )  
corporation, ET AL., )  
 )  
Plaintiffs, )  
 )  
vs. ) No. 77-C-487 (C)  
 )  
GULF OIL CORPORATION, a )  
Pennsylvania corporation, )  
 )  
Defendant. )

NOTICE OF DISMISSAL OF ACTION

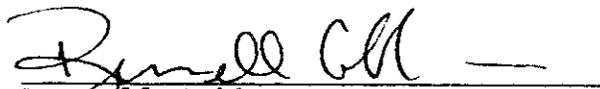
**FILED**

To: Edwin S. Hurst  
Michael C. Smith  
P. O. Box 1589  
Tulsa, Oklahoma 74102  
  
ATTORNEYS FOR DEFENDANT

JAN 12 1978

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

Please take notice that the above entitled action is  
hereby dismissed without prejudice.

  
\_\_\_\_\_  
Russell Cobb III  
James R. Miller  
320 South Boston, Suite 920  
Tulsa, Oklahoma 74103

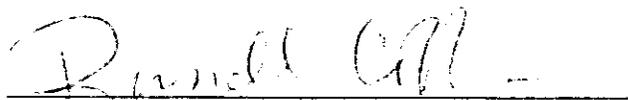
ATTORNEYS FOR PLAINTIFFS

OF COUNSEL:

MOYERS, MARTIN, CONWAY,  
SANTEE & IMEL  
320 South Boston, Suite 920  
Tulsa, Oklahoma 74103

CERTIFICATE OF MAILING

I hereby certify that on this 12th day of January, 1978,  
I mailed a true and correct copy of the foregoing Notice of  
Dismissal of Action, postage prepaid, to Michael Smith, Esq.,  
P. O. Box 1589, Tulsa, Oklahoma 74102.

  
\_\_\_\_\_

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

ROBERT RANDALL ZIEGLER, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 PETE SILVA and )  
 LES EARL, JR., )  
 )  
 Defendants. )

No. 77-C-529-C

**FILED**

**JAN 11 1978**

O R D E R

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

This action is brought pro se pursuant to 42 U.S.C. § 1983 by a prisoner in the Oklahoma State Penitentiary at McAlester. Plaintiff was permitted to file his complaint in forma pauperis but was advised that any further proceedings would have to be specifically authorized in advance by the Court. Plaintiff has named as defendants Les Earl, Jr., the head of the Tulsa County Public Defender's Office, and a member of his staff, Pete Silva. Mr. Silva represented plaintiff in the state criminal proceeding which resulted in plaintiff's incarceration. The complaint alleges that defendants failed to provide plaintiff with effective legal representation in his state criminal trial, in violation of the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution. The plaintiff asks that the Court order the defendants to prepare and present to him all information and evidence pertinent to his case, including transcripts of all proceedings; that the Court order defendants to answer interrogatories propounded by the plaintiff; that the Court order a full evaluation of the Tulsa County Public Defender's Office; and finally that the Court order the defendants to pay the fees of any attorney that plaintiff may choose to prosecute the appeal of his state court conviction.

Title 28 U.S.C. § 1915, the statute authorizing proceedings

in forma pauperis, provides in subsection (d) that the "court . . . may dismiss the case if the allegation of poverty is untrue, or if satisfied that the action is frivolous or malicious." Under this statute,

"It is preferable procedure for a federal district court to authorize the commencement and prosecution of an action without the prepayment of costs, if the requirements of § 1915(a) are satisfied on the face of the papers submitted, and if the court thereafter discovers that the allegation of poverty is untrue, or if it is satisfied that the action is frivolous or malicious, then to dismiss the action."

Duhart v. Carlson, 469 F.2d 471, 473 (10th Cir. 1972), cert. denied 410 U.S. 958 (1973); Oughton v. United States, 310 F.2d 803 (10th Cir. 1962) cert. denied 373 U.S. 937 (1963). Once filed, the complaint may be dismissed by the Court on its own motion, prior to the issuance of summons, if it determines that the action is frivolous. Conway v. Fugge, 439 F.2d 1397 (9th Cir. 1971); Williams v. Field, 394 F.2d 329 (9th Cir. (1968)).

For a defendant to be liable under 28 U.S.C. § 1983, he must have acted "under color" of state law in his denial of a plaintiff's constitutional rights. An attorney does not act under color of state law just because he has accepted employment as a public defender. See Espinoza v. Rogers, 470 F.2d 1174, 1175 (10th Cir. 1972). If, as in Oklahoma, the public defender is required to exercise independent judgment in his representation of a defendant, he does not act under color of state law while carrying out this duty. See Berryman v. Shuster, et al., 405 F.Supp. 1346, 1348 (W.D. Okla. 1975), citing 19 O.S. §§ 138.1, et seq., and Hill v. State, 407 P.2d 208 (Okla. 1965).

For the foregoing reasons, the Court finds that plaintiff's claims are frivolous and that this action should for this reason be dismissed under the authority of 28 U.S.C. § 1951(d).

It is so Ordered this 10<sup>th</sup> day of January, 1978.

  
H. DALE COOK  
United States District Judge

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

MATILDA HOLMES, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 DAVID S. MATTHEWS, Secretary, )  
 United States Department of )  
 Health, Education and Welfare, )  
 )  
 Defendant. )

No. 76-C-531-C

FILED

JAN 11 1978

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

O R D E R

Plaintiff in this action was awarded \$8,913.40 in accrued disability insurance benefits by a judgment of this Court. This judgment reversed the decision of an Administrative Law Judge of the Bureau of Hearings and Appeals of the Social Security Administration. Plaintiff has now made application for the allowance and payment of attorney's fees pursuant to 42 U.S.C. § 406.

Title 42 U.S.C. § 406 provides in pertinent part:

"(a) Whenever the Secretary, in any claim before him for benefits under this subchapter, makes a determination favorable to the claimant, he shall, if the claimant was represented by an attorney in connection with such claim, fix (in accordance with the regulations prescribed pursuant to the preceding sentence) a reasonable fee to compensate such attorney for the services performed by him in connection with such claim. If as a result of such determination, such claimant is entitled to past-due benefits under this subchapter, the Secretary shall, notwithstanding section 405(i) of this title, certify for payment (out of such past-due benefits) to such attorney an amount equal to whichever of the following is the smaller: (A) 25 per centum of the total amount of such past-due benefits, (B) the amount of the attorney's fee so fixed, or (C) the amount agreed upon between the claimant and such attorney as the fee for such attorney's services. . . .

(b)(1) Whenever a court renders a judgment favorable to a claimant under this subchapter who was represented before the court by an attorney, the court may determine and allow as part of its judgment a reasonable fee for such representation, not in excess of 25 percent of the total of the past-due benefits to which

the claimant is entitled by reason of such judgment, and the Secretary may, notwithstanding the provisions of section 405(i) of this title, certify the amount of such fee for payment to such attorney out of, and not in addition to, the amount of such past-due benefits. In case of any such judgment, no other fee may be payable or certified for payment for such representation except as provided in this paragraph."

A majority of the courts which have interpreted this Section have held that subsection (b)(1) gives a District Court the power to award a reasonable attorney's fee for representation of a Social Security claimant before that court, but that the court has "no authority to award an attorney's fee for representation of a claimant before the Secretary, that power being granted by 42 U.S.C. § 405(a) to the Secretary alone." MacDonald v. Weinberger, 512 F.2d 144, 146 (9th Cir. 1975). See also Whitehead v. Richardson, 446 F.2d 126 (6th Cir. 1971); Fenix v. Finch, 436 F.2d 831 (8th Cir. 1971); McKittrick v. Gardner, 378 F.2d 872 (4th Cir. 1967); Gardner v. Menendez, 373 F.2d 488 (1st Cir. 1967). However, Webb v. Richardson, 472 F.2d 529, 536 (6th Cir. 1972), held that the district court, if it is the "tribunal that ultimately upholds the claim for benefits is the only tribunal that can approve and certify payment of an attorney fee . . ." This Court finds the majority rule to be more in accord with the clear language of Section 406.

The Court therefore finds that plaintiff should be awarded an attorney's fee for those services performed by her attorney beginning with and subsequent to his preparation of the complaint and summons filed in this action. According to Exhibit "A" attached to the Application, these services began on October 21, 1976 and ended on November 3, 1977. Plaintiff's attorney estimates that he spent twenty-one and one-half (21.5) hours performing these services, at a fee of fifty dollars (\$50.00) per hour, for a total fee of \$1,075.00. To recover attorney's fees for services rendered prior to October 21, 1976, plaintiff must make application

to the Bureau of Hearings and Appeals of the Social Security Administration.

It is therefore ordered, pursuant to 42 U.S.C. § 406(b), that \$1,075.00 be allowed plaintiff as an attorney's fee for services rendered by her attorney before this Court, to be certified for payment by the Secretary out of the total disability insurance benefits previously awarded plaintiff by the Court.

It is so Ordered this 11<sup>th</sup> day of January, 1978.

  
H. DALE COOK  
United States District Judge

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

TERRY EUGENE McDONALD,  
individually, and MILDRED  
McDONALD, individually,  
  
Plaintiffs,

vs.

ROCKWOOD INSURANCE COMPANY,  
STUYVESANT INSURANCE COMPANY,  
and WILLIAM DEES, FRED HOPKINS,  
DEWEY WARD, RALPH JOHNSON, d/b/a  
DEES BAIL BOND COMPANY, and  
LAURA MAE TURNER, GEORGE TRENT SPAHR  
and FREDDIE MARIE QUICK,  
  
Defendants.

FILED

JAN 10 1978

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

Case No. 77-C-305

ORDER

1978  
1977, NOW on this, the 10 day of January,  
it appearing that Plaintiffs' Motion to Join Additional  
Parties Defendant should be sustained along with other relief  
prayed for therein, for good cause shown,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that  
the Defendants Rockwood Insurance Company and Stuyvesant  
Insurance Company be dismissed from this cause without pre-  
judice.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that  
summons issue to be served upon Surety Managers, Inc. d/b/a  
Imperial Insurance Company, as a proper party defendant in  
this cause;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that  
Plaintiffs be and they are hereby granted thirty (30) days  
to amend their Complaint to conform to the relief granted  
hereunder.

1978  
1977, Done ~~in open court~~ this 10 day of January.

(Signed) Allen E. Barrow

JUDGE OF THE DISTRICT COURT

NOTE: THIS ORDER IS TO BE MAILED  
BY MOVANT TO ALL COUNSEL AND  
PRO SE LITIGANTS IMMEDIATELY,  
UPON RECEIPT.

MOREHEAD, SAVAGE, O'DONNELL, McNULTY & CLEVERDON  
ATTORNEYS & COUNSELORS  
Suite 500, Two Hundred One Office Building  
Tulsa, Oklahoma 74103  
918 - 584-4716

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

MARJORIE L. HAENKY, Executrix  
of the Estate of Norman H.  
Haenky, Deceased,

Plaintiff,

vs.

WHEATLEY COMPANY, A Delaware  
Corporation,

Defendant.

No. 77-C-248-C

**FILED**

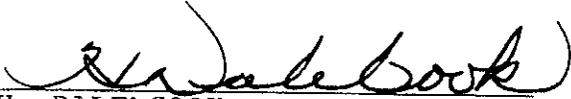
JAN 10 1978

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

O R D E R

The Court has before it for consideration the defendant's motion to alter or amend the Court's order of November 21, 1977. The Court has determined that defendant's motion is well taken. Therefore, page 5 of that order is hereby amended as follows. The sentence "IT IS FURTHER ORDERED that plaintiff's motion to dismiss defendant's counterclaims is sustained" is deleted, and the following sentence is inserted in substitution therefor: "IT IS FURTHER ORDERED that defendant's counterclaims are dismissed for lack of subject matter jurisdiction."

It is so Ordered this 10<sup>th</sup> day of January, 1978.

  
H. DALE COOK  
United States District Judge

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

MAXCO, INC., an Oklahoma Corporation,  
  
Plaintiff,  
  
vs.  
  
PENNECO OIL, INC., a Kansas Corporation,  
  
Defendant.

No. 77-C-226-C

**FILED**

JAN 10 1978

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

O R D E R

This cause coming on for hearing upon the plaintiff's Motion to Dismiss and Strike Counterclaim and Third Party Complaint and it appearing from such Motion, the briefs filed in support and in opposition thereto and the arguments of counsel, that such Motion should be sustained it is hereby

ORDERED that the Counterclaim and Third Party Complaint against third-party defendants filed by the defendant Penneco Oil, Inc., August 5, 1977, be and it hereby is, dismissed and stricken. And it is further

ORDERED that, the plaintiff having waived any objection, the defendant be, and it hereby is granted 20 days from this date within which to amend its Answer to assert its claimed possessory rights against the plaintiff.

DATED January 10<sup>th</sup> 1978.

*W. Dale Book*  
UNITED STATES DISTRICT JUDGE

NOTE: THIS ORDER IS TO BE MAILED  
IN THE COURT CLERK'S OFFICE AND  
RETURNED TO THE CLERK'S OFFICE  
IMMEDIATELY.

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

DILLARD CRAVENS, et al., )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 AMERICAN AIRLINES, et al., )  
 )  
 Defendants. )

No. 74-C-301-C

FILED

JAN 10 1978 *ph*

ORDER

Jack H. Sawyer  
U. S. DISTRICT COURT

The Court has before it for consideration the motion of the defendant Transport Workers Union of America, AFL-CIO, for summary judgment against the plaintiff/intervenors, who have advised the Court that they acquiesce to the motion. For that reason, the motion for summary judgment of the defendant Transport Workers Union of America, AFL-CIO, is hereby sustained as to the following individuals: Kenneth C. Long, Delores Johnson, Dorothy M. Williams, Juanita M. Higgs, Leonard Atkinson, Thomas M. Higgs, Toni Shauer, Shirley Ann Davis, Valarie Crews, Alene Y. Washington, Shirley A. Williams, Elizabeth Childs, David L. Deville, Ernestine Hudson, James Clark, Thelma Harris, Virtle Lee Rucker, Jeanetta Adams, Dihanne Young, Roger Pairchild, Willie E. Harper, Cornell Miller, Ernestine Miller, Clyde Smithers, Patricia L. Hudson, Willie D. Davis, Carol M. South, Linda S. Harding, Marlene Jones, Rose Marilyn Bagley, Judith A. Gill, Johnny Wright, and Willa Pain.

It is so Ordered this 10<sup>th</sup> day of January, 1978.

  
H. DALE COOK  
United States District Judge

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

FILED

JAN - 9 1978

UNITED STATES OF AMERICA, )  
 )  
 ) Plaintiff, )  
 )  
 vs. )  
 )  
 ARCHIE V. LANG and )  
 DOROTHY M. LANG, )  
 )  
 ) Defendants. )

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

Civil Action No. 77-C-477-C

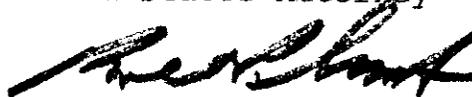
NOTICE OF DISMISSAL

COMES NOW the United States of America, by and through its attorney, Robert P. Santee, Assistant United States Attorney for the Northern District of Oklahoma, and herewith gives its notice of dismissal of this action, without prejudice.

Dated this 9<sup>th</sup> day of January, 1978.

UNITED STATES OF AMERICA

HUBERT H. BRYANT  
United States Attorney



ROBERT P. SANTEE  
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the 9<sup>th</sup> day of JAN, 1978.

  
Assistant United States Attorney

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

**FILED**

BILLY J. WILLIAMS, )  
 )  
 ) Plaintiff, )  
 )  
 ) v. )  
 )  
 ) AMERICAN AIRLINES, INC.; )  
 ) TRANSPORT WORKERS UNION, LOCAL )  
 ) 514--TRANSPORT WORKERS UNION )  
 ) INTERNATIONAL; KEN HARDING; )  
 ) and J. A. HENRY, )  
 )  
 ) Defendants. )

**JAN 6 1978**

No. 76-C-427-B

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

O R D E R

The Court has for consideration the Motion for Summary Judgment and Motion for Order Compelling Answers and to Assess Costs and Attorney's Fees filed by the Defendant, American Airlines, Inc. ("American"), and the Motion for Summary Judgment filed by the defendant, Transport Workers Union, Local 514--Transport Workers Union International ("Union"). The Court, after having reviewed the entire file, including the depositions of the plaintiff, affidavits, exhibits and the briefs on file and the recommendations concerning said Motions, and being fully advised in the premises, FINDS:

That the defendants' Motions for Summary Judgment should be sustained for the reasons stated herein; and that the Motion for Order Compelling Answers and to Assess Costs and Attorney's Fees should be overruled as moot.

This is a civil rights action commenced under 42 U.S.C. §1981 by the plaintiff, a black man, for the redress of alleged racial discrimination in employment committed by the defendants while the plaintiff was an employee of American. Subject matter jurisdiction is predicated on 28 U.S.C. §1343. The basis of the plaintiff's claim for relief is founded on three allegedly discriminatory acts or conduct. First, the plaintiff alleges that from April 23, 1973 to November 26, 1974, American discrim-

inated against him by placing signed undated resignation letters in the personnel files of sixteen (16) employees, one of whom was plaintiff. The plaintiff alleges that of those sixteen (16) individuals, twelve (12) are caucasian, three (3) are black and one (1) is spanish surnamed. The plaintiff further alleges that blacks comprise eight point three percent (8.3%) of the population and nine point five percent (9.5%) of the work force in Tulsa, Oklahoma and that five percent (5%) of American's work force is black. The plaintiff concludes by alleging that a disproportionate number of blacks have had such undated resignation letters placed in their files and that such conduct constitutes actionable racial discrimination.

Second, the plaintiff alleges that he was discharged by American, J. A. Henry and Ken Harding for alleged abuse of sick time, but that a caucasian with a rate of absenteeism which exceeded that of the plaintiff was not discharged. The plaintiff concludes that such conduct also constitutes actionable racial discrimination.

Third, the plaintiff alleges that the Union failed to adequately represent the plaintiff by withdrawing the plaintiff's grievance concerning his discharge, but that the Union provided other nonblack members with adequate representation in connection with their discharge from employment by American. As relief, the plaintiff seeks a permanent injunction enjoining the defendants from further acts of racial discrimination against the plaintiff, reinstatement with accrued seniority, back pay, attorney's fees and punitive damages for mental pain, humiliation and discomfort. By way of answer, the defendants, American, Ken Harding and J. A. Henry and the Union, generally deny the factual allegations of the plaintiff's Petition and deny that they have racially discriminated against the plaintiff.

After the plaintiff's deposition was taken on July 19, 1977 American and the Union filed their respective Motions for Summary

Judgment. In support of its Motion, American attached the affidavit of Lana Jeanne Tyree, attorney for American. In support of its Motion, the Union attached the affidavits of James E. Frasier, attorney for the Union, with supporting exhibits, Harold Nichols, officer of the Union, and Claude E. Stiles, President of the Union. These affidavits and materials are uncontroverted and unopposed by the plaintiff.

After a careful review of the deposition, affidavits and exhibits, the Court concludes that there is no genuine issue as to any material fact in this controversy and that the defendants are entitled to judgment as a matter of law.

The testimony given by the plaintiff during his deposition demonstrates a complete absence on the part of the plaintiff of any knowledge of facts to support his allegations of racial discrimination. Contrary to the allegations of his Petition, the plaintiff on deposition testified that (1) he had no knowledge whether any caucasians or blacks had undated resignation letters in their files or were in fact discharged; (2) he had no knowledge of any caucasian whose absenteeism exceeded that of the plaintiff and who had a resignation letter in his file; (3) he had no knowledge of anyone who had an undated resignation letter but himself; (4) he had no knowledge of any employee who was discharged with absenteeism similar to that of the plaintiff and (5) he had no knowledge of how many absences the plaintiff had subsequent to April, 1973.

From the affidavit of Lana Jeanne Tyree the Court finds that only three (3) employees of American had signed undated resignation letters during 1973, all of which have been accepted. These employees were: (1) The plaintiff, a black man, who executed a resignation letter on April 23, 1973. After the plaintiff was absent on twenty-five (25) occasions and late on twelve (12) others, his resignation letter was accepted on November 24, 1974 for violation of the rules and abuse of sick leave in violation

of the employment agreement between American and the plaintiff;  
(2) B. L. Cooper, a caucasian, who executed a resignation letter on January 5, 1973. After two (2) absences, Cooper's resignation was accepted on February 27, 1973 for abuse of sick leave; and  
(3) J. S. Spivey, a caucasian, who executed a resignation letter on January 5, 1973 and whose resignation was accepted on February 27, 1974 for abuse of sick leave. Spivey was absent sixteen (16) days in 1973 and three (3) days in 1974.

The Court further finds that in 1974 only three (3) employees of American signed undated resignation letter. These employees were (1) H. Pettie, a black, who executed a resignation letter on May 8, 1974 and whose resignation was accepted on October 24, 1974 for failure to report an absence; (2) J. E. West, a caucasian, who executed a resignation letter on June 10, 1974 and who had one (1) absence in 1974 and retired on April 28, 1976 and (3) G. L. Ventura, a Spanish American, who executed a resignation letter on January 31, 1974 and whose resignation was accepted on June 17, 1974 for failure to report an absence. The Court further finds that of those employees with resignation letters on file and discharged for abuse of leave in 1973 and 1974 the plaintiff had the highest number of absences and no caucasian or other race with an undated resignation letter was kept in the employ of American who had a higher rate of absenteeism. The records do not support the allegations of the plaintiff's complaint as to a racially discriminatory policy regarding the execution or acceptance of resignation letters. The Court further finds that the records establish that the plaintiff's discharge was not discriminatory and was in fact based on his abuse of sick leave in violation of the employment agreement between American and the plaintiff. The Court further finds from a review of all records that the withdrawal of the plaintiff's grievance by the Union was not discriminatory. The plaintiff objects generally to the entry of Summary Judgment against him.

Rule 56, Federal Rules of Civil Procedure, provides in pertinent part:

(b) For defending party. A party against whom a claim, counterclaim or cross claim is asserted or declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof.

\* \* \*

. . . The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories and admissions on file together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

\* \* \*

(e) . . . When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading but his response by affidavits or as otherwise provided in this rule must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond summary judgment if appropriate shall be entered against him.

A party moving for summary judgment bears the burden of showing the absence of any genuine issue of fact requiring a trial. Thereupon, the opposing party must offer countervailing evidence that such an issue does exist. Hahn v. Sargent, 523 F.2d 461 (1st Cir. 1975); de Loraine v. Meba Pension Trust, 499 F.2d 49 (2nd Cir. 1974); Morgan v. Sylvester, 125 F. Supp. 380 (S.D. N.Y. 1954). Applying these principles to this case, the Court finds that the defendants have demonstrated the absence of any genuine issue of fact requiring a trial. The plaintiff has utterly failed to adduce any evidence to support his allegations of racial discrimination in employment or to controvert the facts adduced by the defendants.

From a review of the affidavits, depositions and exhibits on file the Court finds that the record is devoid of any act constituting racial discrimination against the plaintiff. Therefore, the defendants are entitled to judgment against the plaintiff as a matter of law and the defendants' Motions for Summary Judgment should be sustained.

IT IS THEREFORE ORDERED that the Motion for Summary Judgment

of the defendant, American, be, and the same is hereby, sustained.

IT IS FURTHER ORDERED that the Motion for Summary Judgment of the defendant, Union, be, and the same is hereby, sustained.

IT IS FURTHER ORDERED that the Motion for Order Compelling Answers and to Assess Costs and Attorney's Fees in accordance with Rule 37, Federal Rules of Civil Procedure, be, and the same is hereby, overruled as moot.

IT IS FURTHER ORDERED that the general objection of the plaintiff to the entry of summary judgment against him be, and the same is hereby, overruled as moot.

DATED this 6<sup>th</sup> day of <sup>January</sup> ~~December~~, 1978.

*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

RUSSELL F. HUNT, et al.,

Plaintiffs,

vs.

DEMOCRATIC PARTY OF  
OKLAHOMA,

Defendant.

)  
)  
) 75-C-485-B  
)  
)  
)

**FILED**

**JAN 6 1978**

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

ORDER

The Court has for consideration the Motion for New Trial filed by the plaintiffs, the briefs in support and opposition thereto, and, being fully advised in the premises, finds:

That plaintiffs have raised no new arguments by virtue of this motion that were not previously considered by the Court; that the Court did not review the Requests for Admissions nor the objections of plaintiffs to the late filing, the Court only considering its jurisdiction when the order of November 6, 1977, was filed.

IT IS, THEREFORE, ORDERED that the Motion for NEW Trial filed by the plaintiffs be and the same is hereby overruled.

ENTERED this 6<sup>th</sup> day of January, 1978.



CHIEF UNITED STATES DISTRICT JUDGE



THAT the Defendant, Irma Dean Hall, did, on the 3rd day of February, 1972, execute and deliver to the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, her mortgage and mortgage note in the sum of \$15,550.00 with 7 1/4 percent interest per annum, and further providing for the payment of annual installments of principal and interest.

The Court further finds that Defendant, Irma Dean Hall, made default under the terms of the aforesaid mortgage note by reason of her failure to make annual installments due thereon, which default has continued and that by reason thereof the above-named Defendant is now indebted to the Plaintiff in the sum of \$17,302.00 as unpaid principal with interest thereon at the rate of 7 1/4 percent per annum from November 21, 1977, 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 Defendant, Irma Dean Hall, in personam, for the sum of \$17,302.00 with interest thereon at the rate of 7 1/4 percent per annum from November 21, 1977, 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 for 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 Defendant 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, shall be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of

this judgment and decree, the Defendant be and she is forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof, specifically including any lien for personal property taxes which may have been filed during the pendency of this action.

/s/ H. Dale Cook  
UNITED STATES DISTRICT JUDGE

APPROVED



ROBERT P. SANTEE  
Assistant United States Attorney

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

JAN 5 1978

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No. 77-C-310-B ✓
	)	
RICHARD K. MULLER, MOBILE	)	
CHEMICAL COMPANY, a	)	
Corporation, and RURAL WATER	)	
DISTRICT NO. 3, Creek County,	)	
Oklahoma,	)	
	)	
Defendants.	)	

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 5th  
day of ~~December~~ <sup>January</sup> 1978, 1977, the Plaintiff appearing by Robert P. Santee, Assistant United States Attorney; and the Defendants, Richard K. Muller, Mobile Chemical Company, a Corporation, and Rural Water District No. 3, Creek County, Oklahoma, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Mobile Chemical Company, a Corporation, was served by publication as shown on Proof of Publication filed herein; that Defendant, Richard K. Muller, was served with Summons and Complaint on July 26, 1977, and Defendant, Rural Water District No. 3, Creek County, Oklahoma, was served with Summons and Complaint on July 19, 1977, as appears from the United States Marshal's Service herein.

It appearing that the Defendants, Richard K. Muller, Mobile Chemical Company, a Corporation, and Rural Water District No. 3, Creek County, Oklahoma 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 and foreclosure on a real property mortgage securing said promissory note upon the following described real property located in Creek County, Oklahoma, within the Northern Judicial District of Oklahoma:

A tract of land in the S/2 NW/4 of Section 32, Township 18 North, Range 11 East, described as follows: Beginning at a point 591.6 feet East, of the Southwest corner of said NW/4 of said Section 32, thence North 75° 47' 10" East a distance of 134.6 feet, thence North 14° 12' 50" West a distance of 25 feet, thence North 75° 47' 10" East a distance of 275 feet, thence 14° 12' 50" East a distance of 137 feet to a point on the South line of the said NW/4 of said Section 32, thence East along said South line of said NW/4 of said Section 32, a distance of 103.7 feet, thence North 14° 12' 50" West a distance of 174 feet, thence North 75° 47' 10" East a distance of 1,584.5 feet to a point on the East line of the said NW/4 of said Section 32, 555.1 feet North of the Southeast corner thereof, thence South to the Southeast corner of the said NW/4 of said Section 32, thence West approximately 2,048.4 feet to the point of beginning, containing 11-1/2 acres, more or less, LESS and EXCEPT an undivided one-half (1/2) interest in the minerals and mineral rights thereof,

THAT the Defendant, Richard K. Muller, did, on the 15th day of March, 1974, execute and deliver to the United States of America, acting through the Farmers Home Administration, his promissory note in the sum of \$38,000.00, with 5 percent interest per annum, and further providing for the payment of annual installments of principal and interest.

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

A tract of land in the S/2 NW/4 of Section 32, Township 18 North, Range 11 East, described as follows: Beginning at a point 591.6 feet East, of the Southwest corner of said NW/4 of said Section 32, thence North 75° 47' 10" East a distance of 134.6 feet, thence North 14° 12' 50" West a distance of 25 feet, thence North 75° 47' 10" East a distance of 275 feet, thence 14° 12' 50" East a distance of 137 feet to a point on the South line of the said NW/4 of said Section 32, thence East along said South line of said NW/4 of said Section 32, a distance of 103.7 feet, thence North 14° 12' 50" West a distance of 174 feet, thence North 75° 47' 10" East a distance of 1,584.5 feet to a point on the East line of the said NW/4 of said Section 32, 555.1 feet North of the Southeast corner thereof, thence South to the Southeast corner of the said NW/4 of said Section 32, thence West approximately 2,048.4 feet to the point of beginning, containing 11-1/2 acres, more or less, LESS and EXCEPT an undivided one-half (1/2) interest in the minerals and mineral rights thereof,

THAT the Defendant, Richard K. Muller, did, on the 15th

day of March, 1974, the 5th day of July, 1974, and the 30th day of July, 1974, execute and deliver to the United States of America, acting through the Farmers Home Administration, his promissory notes in the sums of \$45,700.00, \$2,400.00, and \$5,000.00, respectively, with 6-3/4, 6-3/4, and 5 percent interest per annum, respectively, and further providing for the payment of annual installments of principal and interest.

The Court further finds that Defendant, Richard K. Muller, made default under the terms of the aforesaid promissory notes by reason of his failure to make annual installments due thereon, which default has continued and that by reason thereof the above-named Defendant is now indebted to the Plaintiff in the sum of \$47,010.16, as unpaid principal with a daily interest accrual of \$5.5466, from August 11, 1977, and the sum of \$55,234.16, as unpaid principal with a daily interest accrual of \$8.6170, from August 11, 1977, until paid, plus the cost of this action accrued and accruing.

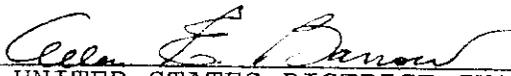
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendant, Richard K. Muller, in personam, for the sum of \$47,010.16, with a daily interest accrual of \$5.5466, from August 11, 1977, and the sum of \$55,234.16, with a daily interest accrual of \$8.6170, from August 11, 1977, 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 for 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 Defendants, Mobile Chemical Company, a Corporation, and Rural Water District No. 3, Creek County, Oklahoma.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant 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, subject to outstanding ad valorem taxes, the real property, with appraisement, and apply the proceeds thereof in satisfaction of Plaintiff's judgment. The residue, if any, shall 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

ADOLPH CRISP,

Plaintiff,

-vs-

C. L. LEWIS, Et. al.,

Defendants.)

No. **FILED** 76 C 571

JAN 5 1978

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

ORDER FOR DISMISSAL

This matter comes on for hearing this 5<sup>th</sup> day of January, 1978, upon plaintiff's motion for dismissal in the above captioned matter.

For good cause shown, IT IS THEREFORE ORDERED that the above captioned lawsuit be dismissed with prejudice as to the defendant, C. L. Lewis, only.

*Cecilia E. Banow*  
Judge

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

RICHARD G. ZILE and SANDRA  
JOYCE ZILE, husband and wife,

Plaintiffs,

vs.

OSTEOPATHIC HOSPITAL FOUNDERS  
ASSOCIATION, d/b/a OKLAHOMA  
OSTEOPATHIC HOSPITAL, ORTHOPEDICS,  
INC., a corporation, E. A. FELMLEE,  
D.O. and GLENN SMITH, D.O.,

Defendants.

No. 77-C-267-B

**FILED**

**JAN 5 1978**

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

ORDER

NOW, on this 5<sup>th</sup> day of January, 1978, this matter coming  
on before the undersigned Judge of the United States District Court for the  
Northern District of Oklahoma, upon a stipulation by both parties for  
dismissal; and the Court finds that this cause should be dismissed without  
prejudice.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY  
THE COURT that this cause be and the same is hereby dismissed without  
prejudice.

  
JUDGE OF THE UNITED STATES  
DISTRICT COURT FOR THE  
NORTHERN DISTRICT.

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

FILED

JAN 4 1978

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

IN THE MATTER OF: )  
 )  
LAKEVIEW APARTMENTS, OF WICHITA )  
FALLS, TEXAS, SANDERS-ENGLAND )  
INVESTMENTS, an Oklahoma General )  
Partnership, )  
 )  
DEBTOR. )

CASE NO. 77-C-87-B ✓

MOVANT'S DISMISSAL OF MOTION TO SET ASIDE  
SALE OF REAL PROPERTY AND REQUEST FOR AUTHORITY  
TO OPERATE BUSINESS AND MANAGE PROPERTY  
AS DEBTOR IN POSSESSION

NOW COMES Warren G. Sanders and Fred A. England, the sole general partners of Sanders-England Investments, an Oklahoma General Partnership, the debtor herein, and does respectfully dismiss their "Motion to Set Aside Sale of Real Property and Request for Authority to Operate Business and Manage Property as Debtor in Possession" filed in the cause on March 1, 1977, for the reason that said Motion is rendered moot by the Stipulation and Dismissal of Appeal filed on October 11, 1977.

BARKLEY AND TANNEHILL  
Attorneys for Debtor

By *Tom Tannehill*  
TOM TANNEHILL

1924 S. Utica, Suite 702  
Tulsa, Oklahoma 74104 - 749-8846

*Warren G. Sanders*  
WARREN G. SANDERS,  
General Partner of  
Sanders-England Investments,  
an Oklahoma General Partnership

*Fred A. England*  
FRED A. ENGLAND,  
General Partner of  
Sanders-England Investments,  
an Oklahoma General Partnership

FILED

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

JAN 3 1978

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No. 77-C-495-B
	)	
KENNETH L. MCKINZIE,	)	
SANDRA LEE MCKINZIE, and	)	
AETNA FINANCE COMPANY, a	)	
Corporation,	)	

NOTICE OF DISMISSAL

COMES NOW the United States of America, by and through its attorney, Robert P. Santee, Assistant United States Attorney for the Northern District of Oklahoma, and herewith dismisses this action without prejudice.

Dated this 3 day of January, 1978.

HUBERT H. BRYANT  
United States Attorney



ROBERT P. SANTEE  
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the 3 day of Jan, 1978.

  
Assistant United States Attorney

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

CARL H. BARBEE and )  
RUTH F. BARBEE, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
IRBY SPROUSE, JR., and )  
CONCEPT 21, INC., )  
 )  
Defendants. )

No. 76-C-478-C ✓  
76-C-509-C  
(Consolidated)

**FILED**

JAN 3 1978 *JCS*

O R D E R

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

In the Judgment entered in these cases on December 6, 1977, the Court reserved its ruling on the issue of attorney's fees. The plaintiffs, Carl H. and Ruth F. Barbee, have now complied with the Court's request for information regarding the amount of attorney's fee to be awarded. Also before the Court at this time is the motion of Irby Sprouse, Jr. to tax attorney's fees as costs on the basis of his status as a prevailing party in case number 76-C-478-C.

The Court has examined the information provided to it by the parties. It is the determination of the Court that an attorney's fee is hereby assessed in favor of Carl H. Barbee and Ruth F. Barbee and against Concept 21, in Kansas, Arkansas and Oklahoma, Inc. in the amount of \$1,800.00. The statement filed in behalf of Irby Sprouse, Jr. indicates that only six hours can be allocated to the representation of him in his individual capacity as opposed to his capacity as president of Concept 21, Inc. Consequently, an attorney's fee is hereby assessed in favor of Irby Sprouse, Jr. and against Carl H. Barbee and Ruth F. Barbee in the amount of \$300.00.

It is so Ordered this 3<sup>rd</sup> day of January, 1978.

*H. Dale Cook*  
H. DALE COOK  
United States District Judge