

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

UNITED STATES OF AMERICA, )  
 )  
 ) Plaintiff, )  
 )  
 vs. ) No. 80-C-427-B  
 )  
 ) THOMAS E. DRUMMOND and )  
 ) CHARLES R. DRUMMOND, )  
 )  
 ) Defendants. )

FILED  
JAN 30 1981

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

ORDER OF DISMISSAL

NOW, on this 30 day of Jan, 1981,  
there came on for consideration the joint Order of the parties  
filed on October 8, 1980. The Court finds this action, based  
on the Order regarding agreement as to the route to be used  
on defendants' property, should be dismissed.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that  
this action be and the same is hereby dismissed.

s/ Thomas R Brett  
UNITED STATES DISTRICT JUDGE

Approved:

HUBERT H. BRYANT  
United States Attorney

Paula S. Ogg  
PAULA S. OGG  
Assistant United States Attorney

Thomas E. Drummond  
THOMAS E. DRUMMOND  
Attorney for Defendants

# United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION FILE NO. 79-C-714-E

HARRY W. GRAVES, JR., and  
MARJORIE J. GRAVES,

Plaintiffs,

vs.

SEARS, ROEBUCK & CO.,

Defendant.

JUDGMENT

This action came on for trial before the Court and a jury, Honorable James O. Ellison, United States District Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdicts,

It is Ordered and Adjudged that having found in favor of the Plaintiff Harry W. Graves, Jr. and against the Defendant, assesses damages in the sum of \$189,570.00. Plaintiff to be awarded cost of action.

It is Further Ordered and Adjudged that having found in favor of the Defendant, the Plaintiff Marjorie J. Graves take nothing.

**FILED**

JAN 29 1981

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

Dated at Tulsa, Oklahoma  
of January , 1981 .

, this 29th day

  
Clerk of Court

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

**FILED**

**JAN 29 1981**

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

ONA LEE LAWSON, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 RUFUS PERCY HAMILTON, )  
 )  
 Defendant. )

No. 80-C-497-B

ORDER OF DISMISSAL

This matter comes for consideration this 29 day of Jan, 1981, on the joint application of the Plaintiff and the Defendant for an order of dismissal. The Court, being fully advised, finds that said matter should be dismissed with prejudice to any future action, without cost to either party.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above and foregoing cause of action and complaint is dismissed with prejudice to any future action, without cost to either party.

  
JUDGE OF THE DISTRICT COURT

NOTE: THIS ORDER IS TO BE FILED  
BY THE CLERK OF THE COURT AND  
PRO SE PERSONS IMMEDIATELY  
UPON RECEIPT.

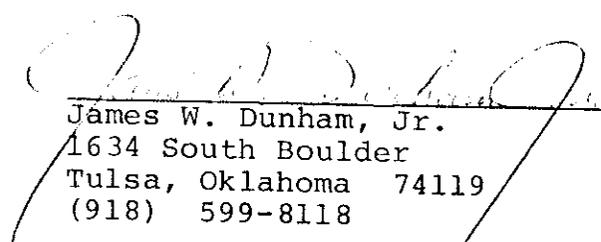
IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

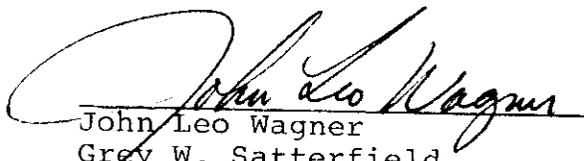
INSULL PURYEAR,  
Plaintiff,  
vs.  
ST. LOUIS-SAN FRANCISCO  
RAILWAY COMPANY, a corpora-  
tion,  
Defendant.

NO. 79-C-738-E **FILED**  
JAN 29 1981 pk  
Jack C. Silver, Clerk  
N. D. DISTRICT COURT

STIPULATION FOR DISMISSAL WITH PREJUDICE

The parties hereto advise the Court that they have agreed to fully settle this case and hereby stipulate that plaintiff's cause of action be dismissed with prejudice, at plaintiff's costs.

  
James W. Dunham, Jr.  
1634 South Boulder  
Tulsa, Oklahoma 74119  
(918) 599-8118  
Attorney for Plaintiff

  
John Leo Wagner  
Grey W. Satterfield  
Franklin, Harmon & Satterfield, Inc.  
1606 Park/Harvey Center  
Oklahoma City, Oklahoma 73102  
(405) 235-0478  
Attorneys for Defendant

**FILED**

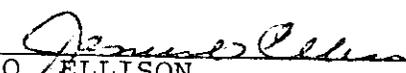
JAN 30 1981

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

ORDER

Upon stipulation of the parties and for good cause shown plaintiff's cause of action against the defendant is hereby dismissed with prejudice to the refiling of such action, at plaintiff's costs.

IT IS SO ORDERED this 30<sup>th</sup> day of January, 1981.

  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

# United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

Robert Gary Stagman, Executor of Est. of Joseph Stagman, deceased; I. J. Stagman, Executor of Est. of Dolyne Stagman, deceased. and Royal-Globe Insurance Co.	vs.	Plaintiffs.	}	<b>JUDGMENT</b>
Shel-Mar Trucking Company		Defendant.		

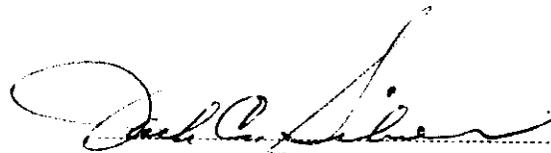
CIVIL ACTION FILE NO. 79-C-215-E ✓

This action came on for trial before the Court and a jury, Honorable James O. Ellison, United States District Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict, for the Plaintiffs.

It is Ordered and Adjudged that having found in favor of the Plaintiffs and against the Defendant, assesses damages in the sum of \$30,000.00 for Plaintiff Robert Gary Stagman, Executor of the Estate of Joseph Stagman and Royal-Globe Insurance Company, and assesses damages in the sum of \$40,000.00 for Plaintiff Dolyne Stagman. Plaintiffs' to be awarded cost of action.

**FILED**  
 JAN 28 1981  
 Jack C. Silber, Clerk  
 U. S. DISTRICT COURT

Dated at Tulsa, Oklahoma, this 28th day of January, 19 81.

  
 Clerk of Court

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

WILLIAM R. COLL,

Plaintiff,

vs.

THE CITY OF CLAREMORE, a municipal  
corporation; MARGARET ROBERTSON,  
individually, and in her capacity  
as City Clerk for the City of  
Claremore; HARRY POWERS, indivi-  
dually and in his capacity as Mayor  
of the City of Claremore; and  
FIRST BANK IN CLAREMORE, formerly  
d/b/a First National Bank of  
Claremore,

Defendants.

No. 80-C-399-Bt

**FILED**

**JAN 28 1981**

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

ORDER OF DISMISSAL

NOW on this 28 day of January, 1981, the Court has for  
its consideration Stipulation for Dismissal jointly filed in  
the above-styled and numbered cause by plaintiff and defen-  
dants. Based upon the representations and requests of the  
parties, as set forth in the foregoing stipulation, it is

ORDERED that plaintiff's Complaint and claims for relief  
against the defendants The City of Claremore, Margaret Robert-  
son and Harry Powers be and the same are hereby dismissed with  
prejudice.

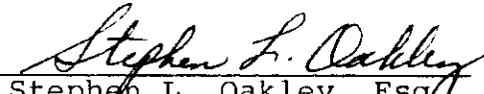
**S/ THOMAS R. BRETT**

UNITED STATES DISTRICT JUDGE

APPROVED:

SEIGEL & OAKLEY

BY

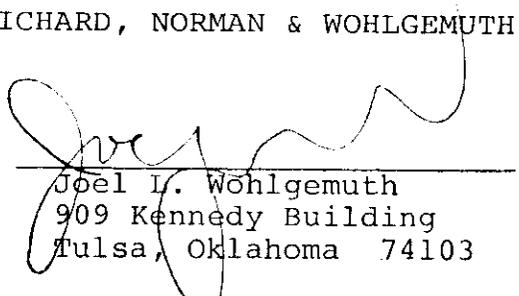
  
Stephen L. Oakley, Esq.  
250 Law Building  
500 West 7 Street  
Tulsa, Oklahoma 74119

Attorneys for the plaintiff,  
William R. Coll

DALE R. MARLAR  
City Attorney  
City of Claremore  
Box 99  
Claremore, Oklahoma 74017

PRICHARD, NORMAN & WOHLGEMUTH

By



Joel I. Wohlgemuth  
909 Kennedy Building  
Tulsa, Oklahoma 74103

Attorneys for the defendants  
The City of Claremore, Margaret  
Robertson and Harry Powers

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

**FILED**  
**IN OPEN COURT**

JAN 28 1981

WILLIAM HOLLENSWORTH, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
BILLY V. MAPLES and ROSS A. )  
McCALLISTER d/b/a McCALLISTER )  
& MAPLES, a partnership, )  
 )  
Defendants. )

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

No. 80-C-677-E

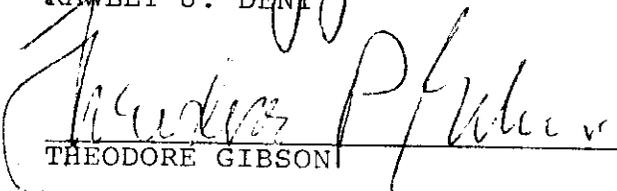
ORDER OF REMAND

NOW, on this 28th day of January, 1981, the above captioned cause comes on to be heard upon Plaintiff's Motion for Remand of said case to the District Court of Rogers County, Oklahoma. Rawley J. Dent of Dent & Dent appears and argues in support thereof. Theodore Gibson, of Farmer, Woolsey appears and argues against the same.

On consideration whereof it is ORDERED AND ADJUDGED by this Court that the Motion to Remand be, and the same is hereby granted; and further, that this cause be, and the same is hereby remanded to the District Court of Rogers County, Oklahoma, from whence it came.

  
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

  
RAWLEY J. DENT  
  
THEODORE GIBSON

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

**JAN 26 1981**

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

United States of America,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO. 78-C-305-Bt
	)	
vs.	)	This action applies to the
	)	Lessor Interest (all interests
108.84 Acres of Land, More or	)	except the leasehold interest)
Less, Situate in Washington	)	in the estate taken in:
County, State of Oklahoma, and	)	
Donald E. Endacott, et al., and	)	Tracts Nos. 164-A, and 164E-5
Unknown Owners,	)	thru 164E-13
	)	
Defendants.	)	(This is Master File #400-13)

J U D G M E N T

1.

NOW, on this 26<sup>th</sup> day of Jan., 1981, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on the Report of Commissioners filed herein on December 30, 1980, and the Court, after having examined the files in this action and being advised by counsel, finds that:

2.

This judgment applies to the entire estate condemned in Tracts Nos. 164-A and 164E-5 through 164E-13, inclusive, as such estate and tracts are described in the Complaint filed in this action.

3.

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

4.

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

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the property

described above in paragraph 2. Pursuant thereto, on June 30, 1978, the United States of America filed its Declaration of Taking of a certain estate in such tracts of land, and title to such property should be vested in the United States of America as of the date of filing such instrument.

6.

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

7.

The Report of Commissioners filed herein on December 30, 1980, is accepted and adopted as findings of fact as to subject tracts. The amount of just compensation for the estate taken in the subject tracts, as fixed by the Commission, is set out below in paragraph 12.

8.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the estate taken in subject tracts and the amount fixed by the Commission and the Court as just compensation, and a sum of money sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 12.

9.

The defendants named in paragraph 12 as owners of the estate taken in subject tracts are the only defendants asserting any interest in such estate. All other defendants having either disclaimed or defaulted, the named defendants were (as of the date of taking) the owners of the estate condemned herein and, as such, are entitled to receive the just compensation awarded by this judgment.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority

to condemn for public use the subject tracts, as such tracts are described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of June 30, 1978, and all defendants herein and all other persons are forever barred from asserting any claim to such estate.

11.

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

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on December 30, 1980, hereby is confirmed and the sum therein fixed is adopted as the award of just compensation for the taking of the subject property, as shown by the following schedule:

TRACTS NOS. 164-A, & 164E-5 thru 164E-13, Incl.

OWNERS:

Donald E. Endacott ----- 1/2

Richard R. Endacott ----- 1/2

Award of just compensation pursuant to Commissioners' Report -----	\$29,089.89	\$29,089.89
Deposited as estimated compensation -	5,569.00	
Disbursed to owners -----		<u>5,569.00</u>
Balance due to owners -----		<u>\$23,520.89</u>
		plus
Deposit deficiency -----	\$23,520.89	interest

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this

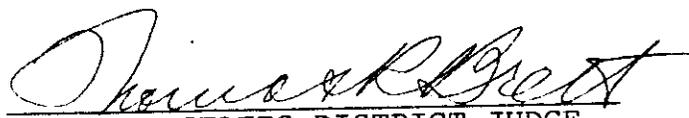
Court for the benefit of the owners the deposit deficiency for the subject tracts as shown in paragraph 12, in the total amount of \$23,520.89, together with interest on such deficiency at the date of 6% per annum from June 30, 1978, until the date of deposit of such deficiency sum; and such sum shall be placed in the deposit for subject tracts in this civil action.

After such deficiency deposit has been made, the Clerk of this Court shall disburse the entire sum then on deposit for the subject tracts, as follows:

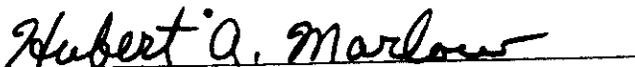
TO -

Donald E. Endacott ----- 1/2

Richard R. Endacott ----- 1/2.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant United States Attorney

  
RICHARD G. HARRIS  
Attorney for Defendants.

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

UNITED STATES OF AMERICA for and  
on behalf of JACK PARKS, d/b/a  
PARKS CONCRETE COMPANY,

Plaintiff,

v.

GUY H. JAMES CONSTRUCTION CO.,  
FEDERAL INSURANCE CO. and STATE  
OF OKLAHOMA DEPARTMENT OF  
TRANSPORTATION,

Defendants.

NOTICE OF DISMISSAL

Case No. 81-C-11-E

*Filed*  
~~CLOSED~~

JAN 26 1981

JACK C. SILVER  
CLERK  
U.S. DISTRICT COURT

TO: JACK C. SILZER, Clerk of the U.S. District Court for the Northern  
District of Oklahoma.

WHEREAS, there has been no service by the adverse party of an  
answer or of a motion for summary judgment in the above entitled  
action, you are hereby requested to answer a dismissal of the above  
entitled action without prejudice.

Dated the 26<sup>th</sup> day of January, 1981.

PITCHER, CASTOR & HARTLEY  
Attorneys for Plaintiff

By:

*S. Dynda Post*  
Dynda Post  
P.O. Box 492  
Vinita, Oklahoma 74301

AFFIDAVIT OF MAILING

I, Dynda Post, being first duly sworn upon oath, do hereby certify that I mailed a true and correct copy of the foregoing Notice of Dismissal to the following parties, with postage thereon fully prepaid: Federal Insurance Company, Insurance Commissioner Gerald Grimes, 416 Will Rogers Building, Oklahoma City, Oklahoma 73105, Attention: Jeff Walk; State of Oklahoma Department of Transportation, Director R. A. Ward, 200 N.E. 21st Street, Oklahoma City, Oklahoma 73105; Guy H. James Construction Company, The Corporation Company, 735 First National Building, Oklahoma City, Oklahoma 73102; Norman Hill, General Counsel for Department of Transportation, 200 N.E. 21st Street, Oklahoma City, Oklahoma 73105, Attorney for Defendant, State of Oklahoma Department of Transportation; Stuart D. Basham, Looney, Nichols, Johnson & Hayes, Suite 300, 219 Couch Drive, Oklahoma City, Oklahoma 73102, Attorney for Defendant, Guy H. James Construction Co., on the 26th day of January, 1981.

*Dynda Post*  
Dynda Post

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

AMERICAN FIDELITY FIRE INSURANCE )  
COMPANY, a corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
WINCON CONSTRUCTION COMPANY, INC., )  
CHARLES R. WINDER, BETTY WINDER, )  
J.C.TURNER, VIRGIE TURNER and )  
WOODROW W. ACUFF, )  
 )  
Defendants. )

No. 80-C-32-B

**FILED**  
**JAN 23 1981**  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law filed herein this date, judgment is hereby entered as follows:

1. The plaintiff, American Fidelity Fire Insurance Company, a corporation, is granted judgment on the General Agreement of Indemnity against the defendant, Wincon Construction Company, Inc., Charles R. Winder, J.C. Turner, Virgie Turner and Woodrow W. Acuff, in the amount of \$42,886.96 with interest at the rate of 6% from July 15, 1979 until the date of judgment, interest at the rate of 12% from the date of judgment; fees and expenses prior to the commencement of the action in the amount of \$6,991.89; and an award of attorneys fees herein in the total sum of \$10,523.49, and costs in the sum of \$93.60.

2. The defendant, Betty Winder, is entitled to judgment against the plaintiff and is hereby granted an award and judgment for attorneys fees in the sum of \$3,420.00.

3. The cross claim defendant, Charles R. Winder, is granted judgment against the cross-claimants, Winder Construction Company, Inc., J. C. Turner, Virgie Turner and Woodrow W. Acuff; and the cross claim defendants, Wincon Construction Company, Inc., J. C. Turner, Virgie Turner and Woodrow W. Acuff are hereby granted judgment on the cross claim of Charles R. Winder. Said cross-claimants are to pay their respective costs and attorneys' fees.

ENTERED this 23<sup>rd</sup> day of January, 1981.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE  
NORTHERN DISTRICT OF OKLAHOMA

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

AMERICAN FIDELITY FIRE )  
INSURANCE COMPANY, a )  
corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
WINCON CONSTRUCTION COMPANY, )  
INC., CHARLES R. WINDER, )  
BETTY WINDER, J.C. TURNER, )  
VIRGIE TURNER and WOODROW W. )  
ACUFF, )  
 )  
Defendants. )

No. 80-C-32-B ✓

**F I L E D**

**JAN 23 1981** *rd*

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On the 6th and 7th days of January, 1981, this case was tried to the Court sitting alone with the counsel of record and the various parties present. Following consideration of all relevant evidence, the presentations of counsel and applicable authority, the Court enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The plaintiff is a corporation organized and existing under the laws of the State of New York with its principal place of business there and the defendants are all residents and citizens of the State of Oklahoma. The amount in controversy exceeds \$10,000.00. The General Agreement of Indemnity giving rise to the plaintiff's claim was entered into in the Northern District of Oklahoma.

2. On November 17, 1977 the City of Okmulgee as owner entered into a construction contract with Wincon Construction Company, Inc., Charles R. Winder, and Woodrow W. Acuff, a joint venture, as contractor, concerning the construction of the Okmulgee City Hall Project, 101 East Fourth Street, Okmulgee, Oklahoma.

3. The plaintiff as surety gave its Statutory Bond (2-3-78) and Performance Payment Bond (11-3-78) No. 04-938-1985073 in the amount of \$398,656.00 with the joint venture of Wincon Construction Company, Inc., Charles R. Winder, and Woodrow W. Acuff, principal, bound to the City of Okmulgee, Oklahoma relative to the Okmulgee City Hall project.

4. On or about the 1st day of February, 1978, as a condition to the plaintiff executing the Statutory Bond and Performance Payment Bond on behalf of the defendant, Wincon Construction Company, on the Okmulgee, Oklahoma City Hall construction project, the defendants, excluding Betty Winder, and each of them, agreed in writing by executing a General Agreement of Indemnity to save and hold the plaintiff harmless from any loss arising under said Statutory Bond and Performance Payment Bond. The defendant, Betty Winder, did not execute or sign said General Agreement of Indemnity, although her purported signature was on the document.

5. Throughout the construction of the City of Okmulgee City Hall Project, the defendants, Charles R. Winder, Woodrow W. Acuff, and J. C. Turner were principal shareholders of Wincon Construction Company.

6. The defendant, Charles R. Winder, was one of the principal incorporators of Wincon Construction Company and was President and Director thereof until April 27, 1978, at which time, at a duly called meeting of the Board of Directors, the defendant, J.C. Turner, was elected President of Wincon Construction Company and the defendant, Woodrow W. Acuff, was elected Vice-President, Secretary, and Treasurer. Throughout the balance of the project, after said date, the defendants, Woodrow W. Acuff and J.C. Turner, were active officials of Wincon Construction Company, Inc., involved in the Okmulgee, Oklahoma City Hall construction project.

7. Upon completion of the Okmulgee City Hall Construction Project, Wincon Construction Company had exhausted its financial resources and was unable to pay \$42,886.96 in amounts due and owing various subcontractors.

8. The principal officers of the Wincon Construction Company gave notification to the plaintiff surety requesting plaintiff pay the subcontractors under the terms of the Statutory Performance and Payment Bond. Acknowledging the request and pursuant to its obligation under the Statutory Performance and Payment Bond, the plaintiff paid on behalf of the defendant, Wincon Construction Company, the sum of \$42,886.96 to various subcontractors and incurred expenses including attorneys' fees (over and above the attorneys fees involved in prosecuting this action) and costs involved in supervising the payment of claims against said bond in the additional sum of \$6,991.89.

9. The plaintiff incurred attorney fees in prosecuting this action in the sum of \$10,523.00. The defendant, Betty Winder, incurred attorneys fees in the sum of \$3,420.00. (These sums are set forth in the respective parties' Bill of Costs and supported by hours and rate per hour in keeping with the agreement of the parties on the record at the conclusion of the trial to the Court.)

CROSS PETITION OF WINCON CONSTRUCTION COMPANY,  
J.C. TURNER, VIRGIE TURNER AND WOODROW W. ACUFF  
AGAINST CHARLES R. WINDER:

10. Said defendant cross-claimants dismissed in open court their cross petition against the defendant, Betty Winder.

11. Said cross-claimants failed to establish their claim by a preponderance of the evidence that the defendant, Charles R. Winder, improperly estimated the construction costs in the bidding of said Okmulgee City Hall Project and said cross-claimants' proof likewise failed to establish Charles R. Winder

was grossly negligent or that his conduct was willful or wanton in his bid estimating on behalf of Wincon Construction Company.

CROSS CLAIM OF CHARLES R. WINDER  
AGAINST DEFENDANTS, WINCON CON-  
STRUCTION COMPANY, INC., J.C.  
TURNER, VIRGIE TURNER, AND  
WOODROW W. ACUFF:

12. The defendant, Charles R. Winder, has wholly failed to establish by a preponderance of the evidence any of his alleged six cross claims. The evidence establishes there was no profit made on the Okmulgee City Hall Project by Wincon Construction Company, or said joint venture, and the cross-claimant's evidence failed to establish a breach of a fiduciary relationship between the cross-claimant and the alleged cross claim defendants.

#### CONCLUSIONS OF LAW

1. The Court has jurisdiction of the parties and the subject matter as there is diversity of citizenship and the required jurisdictional amount. 28 U.S.C. §1332.

2. The plaintiff is entitled to judgment against the defendants, Wincon Construction Company, Inc., Charles R. Winder, J.C. Turner, Virgie Turner, and Woodrow W. Acuff, under the terms of the General Agreement of Indemnity in the amount of \$42,886.96 with interest at the rate of 6% from July 15, 1979 until the date of judgment, fees and expenses prior to the commencement of this case in the amount of \$6,991.89, attorneys' fees since the filing of this case in the sum of \$10,523.49, and costs in the sum of \$93.60.

3. The defendant, Betty Winder, is entitled to judgment against the plaintiff and entitled to be awarded her attorneys' fees in the amount of \$3,420.00 against the plaintiff.

4. Neither the cross-claimants, Wincon Construction Company, Inc., J. C. Turner, Virgie Turner, and Woodrow W. Acuff, or the cross-claimant, Charles R. Winder, are entitled

to recover judgment herein and each is to pay their respective attorneys' fees and costs.

5. The joint judgment-debtor defendants, Wincon Construction Company, Inc., Charles R. Winder, J. C. Turner, Virgie Turner, and Woodrow W. Acuff, are each entitled to the right of contribution concerning the judgment granted herein to the plaintiff on the General Agreement of Indemnity. Title 12, O.S. §831.

6. A judgment for the respective parties should be entered in keeping with these Findings of Fact and Conclusions of Law.

ENTERED this 23<sup>rd</sup> day of January, 1981.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE  
NORTHERN DISTRICT OF OKLAHOMA

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

HAROLD SMITH, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 CHARLES BEESON, individually )  
 and d/b/a BEESON PROPERTIES, )  
 )  
 Defendant. )

No. 80-C-676-BT

**FILED**  
**JAN 23 1981**  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

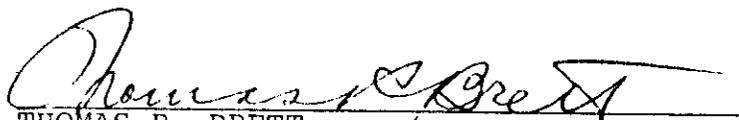
O R D E R

The motion to withdraw as counsel for plaintiff filed by attorney Steven J. Berg came on for hearing this 23rd day of January, 1981. The plaintiff appeared in person as well as counsel of record.

After considering the relevant matters and hearing statements of counsel as well as the plaintiff personally, the Court concluded the motion to withdraw of counsel, Steven J. Berg, should be sustained.

The plaintiff advised the Court he was having some difficulty in finding substitute counsel and further thought it would be difficult to be ready to proceed to jury trial on February 17, 1981. The Court advised the plaintiff he would permit the case to be dismissed without prejudice were that the plaintiff's desire. The plaintiff stated in view of the fact he doubted if he could obtain counsel and be ready for trial on February 17, 1981, it was his desire for the case to be dismissed without prejudice.

IT IS THEREFORE ORDERED this case is dismissed without prejudice to the timely refileing of same by plaintiff.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE  
NORTHERN DISTRICT OF OKLAHOMA  
1-23-81

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

**FILED**

JUN 22 1981

NATIONAL ASSURANCE LIFE  
INSURANCE COMPANY,  
  
Plaintiff,  
  
v.  
  
GUY SHERMAN PRIMROSE and  
PAMELA H. PRIMROSE,  
  
Defendants.

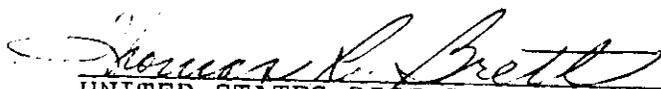
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

No. 80-C-45-BT

ORDER OF DISMISSAL WITH PREJUDICE

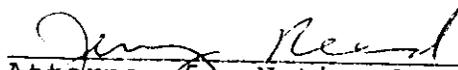
Upon the written stipulation of the parties, and for good cause shown, the Court finds that the complaint of the plaintiff against the defendants should be and the same is hereby dismissed with prejudice. The Court further finds that the counterclaim of the defendants against the plaintiff should be and the same is hereby dismissed with prejudice.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the complaint of National Assurance Life Insurance Company, plaintiff, against the defendants, Guy Sherman Primrose and Pamela H. Primrose, be and the same is hereby dismissed with prejudice and that the counterclaim of the defendants, Guy Sherman Primrose and Pamela H. Primrose against the plaintiff, National Assurance Life Insurance Company, be and the same is hereby dismissed with prejudice.

  
UNITED STATES DISTRICT JUDGE

1-22-81

APPROVED AS TO FORM:

  
Attorney for National Assurance  
Life Insurance Company,  
Plaintiff

  
Attorneys for Defendants

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 22 1981

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 RICHARD R. RENEAU, )  
 )  
 Defendant. )

CIVIL ACTION NO. 80-C-693-E

DEFAULT JUDGMENT

This matter comes on for consideration this 21<sup>st</sup> day of January, 1981, the Plaintiff appearing by Robert P. Santee, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Richard R. Reneau, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Richard R. Reneau, was personally served with Summons and Complaint on December 15, 1980, and that Defendant has failed to answer herein and that default has been entered by the Clerk of this Court.

The Court further finds that the time within which the Defendant could have answered or otherwise moved as to the Complaint has expired, that the Defendant has not answered or otherwise moved and that the time for the Defendant to answer or otherwise move has not been extended, and that Plaintiff is entitled to Judgment as a matter of law.

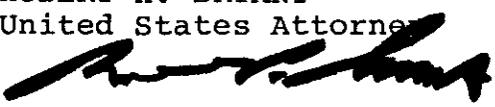
IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, Richard R. Reneau, for the principal sum of \$208.85 plus the accrued interest of \$224.97 as of November 10, 1980, plus interest at 7% from November 10, 1980, until the date of Judgment, plus interest at the legal rate on the principal sum of \$208.85 from the date of Judgment until paid.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA

HUBERT H. BRYANT  
United States Attorney

  
ROBERT P. SANTEE  
Assistant U. S. Attorney

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

FILED

JOHNNY RAY JONES, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 AETNA LIFE INSURANCE COMPANY, )  
 OF HARTFORD CONNECTICUT, a )  
 foreign corporation and )  
 insurance company, )  
 )  
 Defendant. )

NO. 80-C-60-E

JAN 22 1981

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

ORDER OF DISMISSAL

ON this 21<sup>st</sup> day of January, 1981, 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 and causes of actions involved in or which could have been within the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action. •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 pleaded or that could have been pleaded by Plaintiff herein against the Defendant be and the same hereby is dismissed with prejudice to any future action.

James O. Ellison  
JAMES O. ELLISON, JUDGE

APPROVALS:

JAMES E. FRASIER:

James E. Frasier  
Attorney for the Plaintiff

RICHARD D. WAGNER

Richard D. Wagner  
Attorney for the Defendant

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

RURAL WATER DISTRICT #3,  
Washington County, Oklahoma,  
Plaintiff,

-vs-

OWASSO UTILITIES AUTHORITY, ITS  
BOARD OF TRUSTEES, Consisting of  
JERRALD HOLT, Chairman,  
BILL WILLIAMS, Vice Chairman,  
BOYD SPENCER, Secretary, and  
V. D. DUNCAN, Treasurer,  
Defendants,

And

FARMER'S HOME ADMINISTRATION,  
United States Department of  
Agriculture, United States of  
America,  
Defendant,

And

•  
BUFORD WILLIAMS and  
HELEN WILLIAMS,

Intervenors.

FILED

JAN 21 1981

Jack L. Smith, Clerk  
U. S. DISTRICT COURT

No. 77-C-99-E

ORDER

This cause comes on for decision this 14th day of  
January, 1981 and the Plaintiff appears by its Attorney,  
Lewis C. Johnson; the Defendant, Owasso Utilities Authority,  
appears by its Attorney, Harold Charney; and the Defendant,  
Farmers Home Administration appears by United States  
Assistant District Attorney, Kenneth Snoke.

All counsel present have advised the Court that they  
have substantially settled all differences and based upon  
their representations of Mr. Harold Charney and Mr. Lewis  
Johnson, between the parties have been resolved, does

HAROLD CHARNEY, Attorney At Law  
LEON STEIN, Associate

Post Office Box 116

Owasso, Oklahoma 74055

(918) 772-5338

overrule, deny the Rule 60 (b) motion filed by the Defendant and in addition states that the ruling of the Court is based upon the status of the record as of this time.

The Court further orders that the record will further reflect that Mr. Charney has advised Mr. Johnson that his client does not at this time contemplate further legal proceedings by way of 60 (b) or otherwise, however both sides have stated to the Court that they recognize that such a motion might be filed upon any substantial change of condition that would qualify the filing of such a motion.

Additionally, the Court has reviewed the evidence in regard to the application of Lewis Johnson for attorney's fee and has further reviewed the statement of legal services which is itemized and concludes from the evidence and from the itemized statement that it is somewhat difficult to specifically remove from any order granting fees those items that are not subject to compensation, so the Court has used its best instincts in this matter and awards a total fee and litigation expense of \$7,349.45. The litigation expense will remain in the amount applied for, that is \$1,099.45 and the total attorney's fees applied for shall be reduced by \$2,000.00.

It is the further order of the Court that the Defendant will pay to the Plaintiff the litigation expenses of \$1,099.45 within ten days from this date and will pay to Lewis Johnson the attorney's fees awarded by this Court on or before July 15, 1981.

  
Judge

HAROLD CHARNEY, Attorney At Law  
LEON STEIN, Associate  
Post Office Box 116  
Owasso, Oklahoma 74055  
(918)272-5338

APPROVED:

*Lewis C. Johnson*

LEWIS C. JOHNSON,  
Attorney for Plaintiff

*Kenneth P. Snoke*

KENNETH SNOKE  
Attorney for FARMERS HOME  
ADMINISTRATION

*Harold Charney*

HAROLD CHARNEY,  
Attorney for OWASSO UTILITIES  
AUTHORITY

HAROLD CHARNEY, Attorney At Law  
LEON STEIN, Associate  
Post Office Box 116  
Owasso, Oklahoma 74055  
(918)272-5338

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

ROBERT E. COTNER, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 DOUG HAYES, (BIXBY POLICE )  
 DEPARTMENT), et al., )  
 )  
 Defendants. )

No. 80-C-446-B ✓

FILED

JAN 21 1981

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

O R D E R

This case comes before the Court on plaintiff's Motion for Reconsideration under Rule 59 and Rule 60. Plaintiff submits that reconsideration of the case is appropriate in view of "newly discovered evidence" alleged in his motion. For the reasons set out below, plaintiff's motion is hereby denied.

Plaintiff filed his present motion by mail on January 7, 1981. Contained in the same envelope was a "Motion of Appeal" from the Court's order granting defendant's Motion to Dismiss. For reasons particular to these facts, the Court concludes that the simultaneous filing of this Motion with a Notice of Appeal does not affect the substantive outcome.

RULE 59

If a timely motion under Rule 59 has been made and not disposed of, the case lacks finality. For that reason, the subsequent filing of a Notice of Appeal is a nullity and does not deprive the trial court of power to rule on the Rule 59 Motion. See e.g. Turner v. HMH Publishing Co., 328 F.2d 136 (5th Cir. 1964). However, if notice of appeal has already been given, the subsequent filing of a Rule 59 motion, even if otherwise timely, is ineffective because the jurisdiction of the case is no longer in the District Court. See e.g. Sykes v. U.S., 392 F.2d 735 (8th Cir. 1968).

In the present case, the plaintiff filed this motion and a Notice of Appeal simultaneously. In other circumstances, this would raise a serious question as to the jurisdiction of this Court to decide the Rule 59 Motion. However, under the facts here, the Court is not impelled to address this issue. Plaintiff's Motion under Rule 59 was filed January 7, 1981, fourteen days after the December 24, 1980 Order of this Court granting defendants' Motion to Dismiss. A Motion under Rule 59 "shall be served not later than 10 days after entry of the judgment." F.R.Civ.P. Rule 59(b). The Court finds that plaintiff's Motion under Rule 59 is out of time and therefore is denied.

It should be noted that the denial of plaintiff's Motion under Rule 59 does not prevent the pro se plaintiff from bringing his claims before this Court. In fact, the substance of plaintiff's claims are not affected in any way by the invocation of this technicality. The only result is that the matter will be dealt with in its entirety below as a Motion for Relief under Rule 60(b).

RULE 60 •

In applicable part, F.R.Civ.P. Rule 60(b)(2) provides:

"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  
... (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)..."

It is settled law that after an appeal has been taken, the District Court retains jurisdiction to consider a Rule 60(b) motion. If it indicates that it will grant the motion, the movant may then ask the Court of Appeals to remand the case so that the District Court may act. If the Motion is denied, the movant may appeal from the order of denial. See Aune v. Reynders, 344 F.2d 835 (10th Cir. 1965).

In the present case, plaintiff filed a Motion for Reconsideration of the Court's Order of December 24, 1980. The plaintiff asserts the following "newly discovered evidence" in support of his Rule 60 Motion:

(1) The defendant was acting as a private citizen when he was attempting to discover plaintiff's trade secrets, and his acts were unrelated to defendant's duties as a police officer;

(2) On September 22, 1980 the state court dismissed a state claim against plaintiff "after it was discovered that the arresting officers had no jurisdiction to make the arrest, had no evidence, no witnesses, no probable cause and had, in fact, made an illegal arrest outside their duties as police officers." [sic]

It is clear from these "facts" that plaintiff has not met the requirement of Rule 60 for "newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b)..." F.R.Civ.P. Rule 60(b)(2). These "facts" clearly were known to plaintiff in time to be included in a Motion under Rule 59. More importantly, these allegations could have been pleaded in plaintiff's original cause, long before this Court granted defendant's Motion to Dismiss on December 24, 1980. Consequently, the standards of Rule 60 have not been met by plaintiff's most recent assertions. Therefore, plaintiff's Motion for Reconsideration under Rule 60 is hereby denied.

ENTERED this 21<sup>ST</sup> day of January, 1981.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE  
NORTHERN DISTRICT OF OKLAHOMA

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

DIAN O. GORDON, )  
 )  
 Plaintiff, )  
 )  
 vs. ) Civil Action No. 79-C-109-E  
 )  
 CITY OF TULSA, OKLAHOMA, )  
 a municipal corporation )  
 )  
 Defendant. )

JUDGMENT

Based on the Order filed simultaneously with this Judgment,  
IT IS ORDERED that judgment is entered in favor of the Defendant  
and against the Plaintiff.

DATED this 20<sup>th</sup> day of January, 1981.

S/ JAMES O. ELLISON

James O. Ellison  
United States District Judge

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY, STATE  
OF OKLAHOMA

F I I E L  
JAN 21 1981 K

UNITED STATES FIRE INSURANCE COMPANY )

Plaintiff )

vs. )

DENNIS WOOD, Individually, and as )  
Parent and Guardian of TAMMY WOOD, )  
a minor, and THE OKLAHOMA STATE )  
DEPARTMENT OF HEALTH )

Defendants )

Jack ...  
U.S. DISTRICT COURT

No. 79-C-647-E ✓

JUDGMENT

Pursuant to the Order of the Court entered this date, it is the judgment of the Court that plaintiff has no duty to defend or indemnify The State Department of Oklahoma under its policy 540-039938-4 in Cause No. C-79-12 pending in the District Court of Ottawa County, entitled Dennis Wood, individually, and as father and natural guardian of Tammy Wood, a minor, plaintiff, versus Francene Taylor, Ottawa County Health Department, The Oklahoma State Department of Health and American Cyanamid Company, defendants.

Dated this 20<sup>th</sup> day of January, 1981.

Judge

JAS:ws

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

United States of America, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 854.43 Acres of Land, More or )  
 Less, Situate in Osage County, )  
 State of Oklahoma, and Oklahoma )  
 Land and Cattle Company, a Cor- )  
 poration, et al., and Unknown )  
 Owners, )  
 )  
 Defendants. )

CIVIL ACTION NO. 79-C-189-Bt  
Tracts Nos. 207-1, 207-2  
and 207E-1 thru 207E-17

FILED

JAN 20 1981

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

J U D G M E N T

1.  
Now, on this 20<sup>th</sup> day of Jan., 1981, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on a stipulation of the parties agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for Plaintiff, finds:

2.

This judgment applies to the entire estate condemned in Tracts Nos. 207-1, 207-2, and 207E-1 thru 207E-17, inclusive, 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 case.

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 such Complaint. Pursuant thereto, on April 5, 1979, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing the Declaration of Taking.

6.

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

7.

The defendant named in paragraph 12 as owner of the subject property is the only defendant asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendant was, as of the date of taking, the owner of the subject property and, as such, is entitled to receive the just compensation awarded by this judgment.

8.

The owner of the subject tracts and the United States of America have executed and filed herein a Stipulation As To Just Compensation wherein they have agreed that just compensation for the estate condemned in subject tracts is in the amount shown as compensation in paragraph 12 below, and have agreed that the Plaintiff will construct, at its own expense, a fence upon the boundary of the property taken in fee (as to surface) in this action, prior to the impounding of water upon such fee land, and such stipulation should be approved.

9.

This judgment will create a deficiency between the amount deposited as estimated compensation for the estate taken in subject tracts and the amount fixed by the Stipulation As To Just Compensation, and the amount of such deficiency should be deposited for the

benefit of the owner. Such deficiency is set out in paragraph 12 below.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the tracts listed in paragraph 2 herein, as such tracts are particularly described in the Complaint filed herein; and such tracts, to the extent of the estate described in such Complaint, are condemned, and title thereto is vested in the United States of America, as of April 5, 1979, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such estate.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owner of the estate condemned herein in subject tracts was the defendant whose name appears below in paragraph 12, and the right to receive the just compensation for the estate taken herein in such tracts is vested in the party so named.

12.

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

TRACTS NOS. 207-1, 207-2,  
and 207E-1 thru 207E-17

OWNERS:

Oklahoma Land and Cattle Company, a corporation

Award of Just Compensation pursuant to Stipulation -----	\$482,000.00	\$482,000.00
Deposited as estimated compensation -----	375,475.00	
Disbursed to owners -----		<u>\$375,475.00</u>
Balance due to owners -----		<u>\$106,525.00</u>
Deposit deficiency -----	\$106,525.00	

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court in this civil action, to the credit of subject tracts, the deposit deficiency in the sum of \$106,525.00, and the Clerk of this Court then shall disburse the deposit for such tracts as follows:

To:

Oklahoma Land and Cattle  
Company, a corporation ----- \$106,525.00.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant United States Attorney

  
BRUCE W. ROBINETT  
Attorney for Defendant

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JOHN HUBERT THOMPSON, et al., )  
 )  
 Defendants. )

77-CR-37  
No. 77-CR-42  
77-CR-69  
80-C-670-C

**F I L E D**

JAN 20 1981

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

O R D E R

Now before the Court is the Motion of the defendant, John Hubert Thompson, under Title 28 U.S.C. §2255 to vacate sentence based on his contention that the Court has imposed multiple punishment for the same offense.

On May 9, 1977 petitioner pled guilty in Case No. 77-CR-37 to a charge of having violated Title 21, U.S.C. §846 and 843(b) as charged in Counts 1 and 7 of the indictment. He was sentenced on June 10, 1977 to fifteen years with a special parole term of ten years and a fine of \$20,000 as to Count 1. As to Count 7, defendant received a sentence of fifteen years, with a special parole term of twenty years, to run consecutively to the sentence imposed in Count 1. On July 7, 1980 the special parole term as to Count 1 was vacated by order of the Court. In Case No. 77-CR-42, defendant also pled guilty as to having violated Title 28 §846 and 843(b) as charged in Counts 1 and 2 of the indictment and was sentenced on June 10, 1977 to fifteen years with a special parole term of ten years to run concurrently with the sentence imposed in Count 1 of Case No. 77-CR-37. As to Count 2, defendant Thompson was sentenced to four years to run consecutively to the sentence imposed in Count 1. On July 7, 1980 the special parole term as to Count 1 was vacated by order of the Court.

It is the petitioner's contention that the conspiracy

counts in Case No. 77-CR-37 and 77-CR-42 incorporate acts set out in the substantive counts in both cases, and that multiple punishments imposed by the Court in both cases are unlawful for double jeopardy purposes.

Petitioner's contention is without merit. It is well-established that a defendant can be convicted of both violation of narcotics laws and conspiring to violate narcotics laws, even though the overt act of conspiracy might also have been an offense which was the object of conspiracy; and conviction on both counts is not double jeopardy. Toliver v. U.S., 224 F.2d 742 (9th Cir. 1955); U.S. v. Agueci, 310 F.2d 817, (2nd Cir. 1962) cert. den. 83 S.Ct. 1013, 1016, 372 U.S. 959, 10 L.Ed.2d 11, 12; U.S. v. Cartwright, et al., 528 F.2d 168 (7th Cir. 1975).

Thus defendant's motion to vacate and set aside his sentence is hereby overruled.

It is so Ordered this 20<sup>th</sup> day of January, 1981.

  
\_\_\_\_\_  
H. DALE COOK  
Chief Judge

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

MARY GERALDINE NEWTON, )

Plaintiff, )

v. )

F & M BANK & TRUST COMPANY, )  
an Oklahoma Banking Corporation, )  
et al., )

Defendants. )

No. 80-C-727-BT

ORDER RE DISMISSAL  
AND  
RELEASE OF REMOVAL BOND

This cause having come before me pursuant to the Joint Stipulation For Dismissal With Prejudice, and Joint Stipulation For Release of Removal Bond, and the Court being fully advised in the premises, it is, therefore,

ORDERED, ADJUDGED and DECREED that the Complaint herein, together with the causes of action set forth therein, be and hereby is dismissed with prejudice, with each party to bear its own costs.

It is further ORDERED that the Defendants be and hereby are released from their Removal Bond posted herein, and shall have no liability to Plaintiff arising out of the removal of this action to this Court. The Clerk of the Court is hereby directed to return to Defendants their security posted in connection with such Removal Bond.

So Ordered this 19<sup>th</sup> day of Jan, 1981.

S/ THOMAS R. BREIT

U. S. District Court Judge

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

NORMA HOLLINGER, an )  
individual, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 80-C-357-B  
 )  
TRAILWAYS, INC., a Delaware )  
corporation, )  
 )  
Defendant. )

ORDER OF DISMISSAL

NOW, on this 14 day of June, 1981, the  
above styled and numbered cause of action coming on for  
hearing before the undersigned Judge, upon the Application  
for Order of Dismissal of the plaintiff and defendant herein;  
and the court having examined the pleadings and said application  
and being well and fully advised in the premises, is of the  
opinion that said cause should be dismissed with prejudice.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the  
court that the above styled and numbered cause be and the  
same is hereby dismissed with prejudice.

S/ THOMAS R. BRANT

\_\_\_\_\_  
JUDGE

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

BILLIE L. SPECK, an )  
individual, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 80-C-358-B  
 )  
TRAILWAYS, INC., a Delaware )  
corporation, )  
 )  
Defendant. )

ORDER OF DISMISSAL

NOW, on this 14 day of April, 19 81, the  
above styled and numbered cause of action coming on for  
hearing before the undersigned Judge, upon the Application  
for Order of Dismissal of the plaintiff and defendant herein;  
and the court having examined the pleadings and said application  
and being well and fully advised in the premises, is of the  
opinion that said cause should be dismissed with prejudice.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the  
court that the above styled and numbered cause be and the  
same is hereby dismissed with prejudice.

S/ THOMAS R. BRETT

\_\_\_\_\_  
JUDGE

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

JAN 19 1981

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

DENNIS HALL, d/b/a RED CARPET )  
DENNIS HALL COMPANY REALTORS, )  
 )  
Plaintiff, )  
 )  
-vs- )  
 )  
RED CARPET CORPORATION OF )  
AMERICA, )  
 )  
Defendant. )

No. 79-C-565-E

ORDER OF DISMISSAL

On this 19th day of January, 1980, upon written application of the parties for an Order allowing Plaintiff to dismiss his complaint with prejudice and allowing the Defendant to dismiss its counterclaims with prejudice, the Court having examined said application, finds that said parties have entered into a compromise settlement agreeing mutually to dismiss all claims involved in the complaint and counterclaims, the Court being fully advised in the premises finds that complaint and said counterclaims should be dismissed.

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 are hereby dismissed with prejudice to any further action and that the counterclaims and all causes of action of the Defendant filed herein against the Plaintiff be, and the same are hereby dismissed with prejudice to any further action.

S/ JAMES O. ELLISON  
JAMES O. ELLISON,  
United States District Judge

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JAN 19 1981

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 KEITH L. BARRY, )  
 )  
 Defendant. )

CIVIL ACTION NO. 80-C-692-B ✓

DEFAULT JUDGMENT

This matter comes on for consideration this 19<sup>th</sup>  
day of January, 1981, the Plaintiff appearing by Robert P. Santee,  
Assistant United States Attorney for the Northern District of  
Oklahoma, and the Defendant, Keith L. Barry, appearing not.

The Court being fully advised and having examined  
the file herein finds that Defendant, Keith L. Barry, was personally  
served with Summons and Complaint on December 11, 1980, and  
that Defendant has failed to answer herein and that default  
has been entered by the Clerk of this Court.

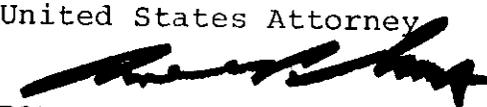
The Court further finds that the time within which  
the Defendant could have answered or otherwise moved as to the  
Complaint has expired, that the Defendant has not answered or  
otherwise moved and that the time for the Defendant to answer  
or otherwise move has not been extended, and that Plaintiff  
is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that  
the Plaintiff have and recover Judgment against Defendant, Keith L.  
Barry, for the principal sum of \$1,559.67 plus the accrued interest  
of \$325.24 as of September 10, 1980, plus interest at 7% from  
September 10, 1980, until the date of Judgment, plus interest at  
the legal rate on the principal sum of \$1,559.67 from the date  
of Judgment until paid.

  
UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA

HUBERT H. BRYANT  
United States Attorney

  
ROBERT P. SANTEE  
Assistant U. S. Attorney

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

**F I L E D**

JAN 19 1981

Jack W. Allen, Clerk  
U. S. DISTRICT COURT

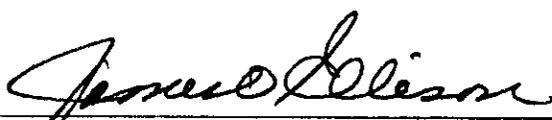
GERALD E. MILLER, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 79-C-593-E  
 )  
SOUTHWESTERN BELL TELEPHONE, )  
DEAN WASEM, DAVE VAUGHN, )  
JIM DENNANY and ROBERT HATTER, )  
 )  
Defendants. )

O R D E R

The Court has before it for consideration Plaintiff's motion to dismiss this action pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure. The Defendants filed an answer on February 2, 1980, but made no counterclaim and would not suffer substantial prejudice by the dismissal of this action. The Defendants communicated to the Court by letter dated January 7, 1981, that Defendants decline to file a responsive brief and have no objection to this matter being dismissed.

THEREFORE IT IS THE ORDER OF THIS COURT that this action be dismissed without prejudice.

It is so Ordered this 12<sup>TH</sup> day of January, 1981.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

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

F I L E D

JAN 19 1981

EDWARD LEE CARTER, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 SHERIFF DAVE FAULKNER and )  
 TULSA COUNTY JAIL DOCTOR, )  
 (Name unknown to Plaintiff), )  
 )  
 Defendants. )

Jack [unclear] [unclear]  
U. S. DISTRICT COURT

No. 80-C-546-E

O R D E R

The Court has before it for consideration Defendants, Dave Faulkner and William R. Barnes' motion to dismiss on the grounds that the Court lacks jurisdiction and that the complaint fails to state a claim upon which relief can be granted pursuant to Fed.R. Civ.Pro., Rule 12(b)(6).

The Plaintiff brings this action pursuant to the Civil Rights Statute, 42 U.S.C. § 1983. Plaintiff alleges the degree of adequacy of medical treatment rendered him while in custody of the Tulsa County Jail deprived him of his constitutional rights. Plaintiff asserts that his name was on the jail sick call list for approximately two (2) weeks before he could see a para-medic. He was tested and treated for hepatitis. Plaintiff alleges malpractice and that he was intimidated by the Tulsa County Jail Physician. Plaintiff states he should have been taken to the hospital.

The Defendant Sheriff Faulkner states that the Defendant did not allege that he personally refused Plaintiff any medical treatment. Defendant Sheriff Faulkner alleges that Dr. Barnes functions as the Tulsa County Jail Physician. Defendant Faulkner states that Plaintiff has not established respondeat superior and that as to himself, the complaint fails to state a claim upon which relief can be granted.

The Defendants additionally allege that the Plaintiff fails to state a claim upon which relief can be granted as to all of Plaintiff's claims. Defendants claim that Plaintiff's allegations do not rise to the issue of standards of review of medical treatment. The Defendants Faulkner and Dr. Barnes allege

that the Plaintiff fails to state a claim under 42 U.S.C. § 1983. The Defendants filed a brief in support of their position.

The Plaintiff responded on December 9, 1980, restating several facts such as the fact that he had been placed in isolation when it was discovered he had hepatitis. Plaintiff stated the conditions in isolation were depressing and dirty.

The Court has carefully reviewed the pleadings and applicable authorities in this case. In a motion to dismiss for failure to state a claim under Rule 12(b)(6) of the Fed.R.Civ.Pro., the allegations of the complaint must be taken as true. Cruz v. Beto, 405 U.S. 319, 92 S.Ct. 1079, 31 L.Ed.2d 263 (1972); Reeves v. City of Jackson, Mississippi, 532 F.2d 491, 493 (Fifth Cir. 1976). Further, "A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the Plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Conley v. Gibson, 355 U.S. 41, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957); Scheuer v. Rhodes, 416 U.S. 232, 94 S.Ct. 1683, 40 L.Ed.2d 90 (1974). It is also important to note that pro se complaints are held to less stringent standards than formal pleadings drafted by lawyers. Haines v. Kerner, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972).

Affidavits were submitted; however, the Court did not take these into consideration in its determination and only is looking to the pleadings in determining this motion. In viewing Plaintiff's complaint, the Court looks to Estelle v. Gamble, 429 U.S. 97, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976) where the Supreme Court noted that the government has an obligation to provide medical care for those it is punishing by incarceration; that denial of medical care causes pain and suffering inconsistent with standards of decency, and then concluded that "deliberate indifference" to serious medical needs of prisoners constitutes a violation of the Eighth Amendment. The "deliberate indifference" standard was clarified by the court to include only "wanton infliction of unnecessary pain" and not an accident or inadvertent failure. In applying this standard to the facts

of the case before this Court, this Court concludes a cognizable claim for relief is not stated. The claim is also partially based upon the theory of respondeat superior which is not actionable under 42 U.S.C. § 1983. See Estelle v. Gamble, supra; Parilla v. Cuyler, 447 F.Supp. 363 (E.D. Pa. 1978); Smart v. Villar, 547 F.2d 112 (Tenth Cir. 1976).

The Tenth Circuit is in essential accord with the Estelle standards. See Dewell v. Lawson, 489 F.2d 877 (Tenth Cir. 1974). When a prisoner alleges, as in Estelle, that medical treatment was given but was inadequate, it is difficult to recover since the complaint must allege more than malpractice, negligence or difference in professional opinion. The Tenth Circuit in Ramos et al v. Lamm et al, No. 79-2324, \_\_\_\_\_, F.2d \_\_\_\_\_, September 25, 1980, maintained that a mere difference of opinion between the prison's medical staff and the inmate as to treatment does not support a claim for cruel and unusual punishment. See also Bowring v. Godwin, 551 F.2d 47 (Fourth cir.); Smart v. Villar, supra. The two pronged standard requires deliberate indifference on the part of prison officials and the prisoner's medical needs must be serious. Ramos v. Lamm, supra. On the face of this complaint, no set of facts appear which show deliberate indifference to Plaintiff's medical needs. Plaintiff alleged he was on sick call for two weeks, the medic ran tests on him and determined he had hepatitis. He was then isolated from the other prisoners. The Plaintiff thought he should go to the hospital but the doctors in charge did not agree. Plaintiff complained of being put in isolation and preferred to go to the hospital. Even though the Court, mindful of the applicable authorities, has viewed the complaint in the light most favorable to the Plaintiff, it cannot conclude that Plaintiff has stated a cognizable claim.

IT IS THEREFORE ORDERED That Defendants' Motion to Dismiss on the grounds that the complaint fails to state a claim upon which relief can be granted is hereby sustained.

It is so Ordered this 13<sup>th</sup> day of January, 1981.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

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

1981 JAN 19 10 31 AM  
JAMES O. ELLISON, Clerk  
U. S. DISTRICT COURT

PAUL DARRYL HAYS, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 S. M. FALLIS, DAVE )  
 FAULKNER and STATE OF )  
 OKLAHOMA, )  
 )  
 Defendants. )

No. 80-C-730-E ✓

O R D E R

On January 5, 1981, the Court granted Plaintiff leave to file this action in forma pauperis. Although filed as a civil rights complaint under 42 U.S.C. § 1983, Plaintiff seeks no relief other than his release from custody. Accordingly, the Court will treat the Complaint as a petition for habeas corpus pursuant to 28 U.S.C. § 2254. See Preiser v. Rodriguez, 411 U.S. 875, 93 S.Ct. 1827 (1973).

Petitioner, by his own allegations, is currently incarcerated in the Tulsa County Jail, awaiting trial, apparently on escape charges stemming from his unauthorized absence from a work release center. It is readily apparent that Petitioner has failed to exhaust his state remedies as required by 28 U.S.C. § 2254(b) and (c), Karlin v. State of Oklahoma, 412 F.Supp. 635 (W.D. Okla. 1976); Brown v. Crouse, 395 F.2d 755 (Tenth Cir. 1968); Omo v. Crouse, 395 F.2d 757 (Tenth Cir. 1968).

The Petition in this case must, accordingly, be dismissed.

IT IS THEREFORE ORDERED that the Petition for habeas corpus be and the same hereby is, dismissed.

It is so Ordered this 19<sup>th</sup> day of January, 1981.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

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

GENERAL ELECTRIC CREDIT )  
CORPORATION, a Delaware )  
corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
FRAN'S HAPPY HOMES, INC., )  
an Oklahoma corporation )  
formerly Pryor-Vinita Mobile )  
Homes, Inc., JAMES W. )  
PHILLIPS, an individual, )  
and ANNA D. PHILLIPS, an )  
individual, )  
 )  
Defendants. )

No. 80-C-371-B

FILED

JAN 15 1981

COURT CLERK  
U.S. DISTRICT COURT

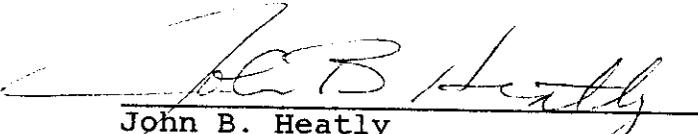
APPLICATION FOR DISMISSAL WITH PREJUDICE

Plaintiff, General Electric Credit Corporation, pursuant to Rule 41 of the Federal Rules of Civil Procedure, requests the Court to enter an Order of Dismissal With Prejudice as to all defendants for the reason that the security agreement and personal guarantee which are the basis of plaintiff's action have been paid in full by defendants including plaintiff's cost and attorney fees.

FILED

JAN 19 1981

Jack  
U. S. DISTRICT COURT

  
John B. Heatly  
Fellers, Snider, Blankenship,  
Bailey & Tippens  
2700 First National Center  
Oklahoma City, Oklahoma 73102  
405/232-0621

Attorneys for Plaintiff

ORDER OF DISMISSAL

Now on this 19<sup>th</sup> day of January, 1981, the application of plaintiff for Dismissal With Prejudice having been considered by the Court is hereby granted and the action of plaintiff is hereby dismissed with prejudice as to all defendants.

S/ THOMAS R. BRETT

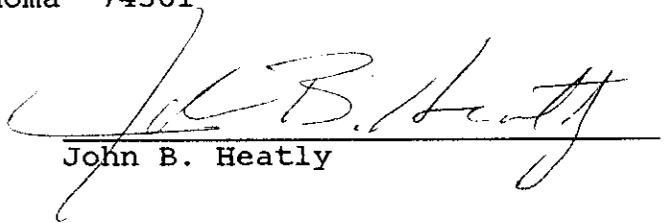
Thomas R. Brett, United States  
District Judge

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

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing pleading was mailed this 14<sup>th</sup> day of January, 1981, to the following:

1. Fran's Happy Homes, Inc.  
Paul Blevins Service Agent  
21 N. Vann  
Pryor, Oklahoma 74361
2. James W. Phillips  
325 S. Mill  
Pryor, Oklahoma 74361
3. Anna D. Phillips  
325 S. Mill  
Pryor, Oklahoma 74361

  
John B. Heatly

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 TONY M. SUTTON, )  
 )  
 Defendant. )

CIVIL ACTION NO. 80-C-690-E

DEFAULT JUDGMENT

This matter comes on for consideration this 15th  
day of January, 1981, the Plaintiff appearing by Robert P. Santee,  
Assistant United States Attorney for the Northern District of  
Oklahoma, and the Defendant, Tony M. Sutton, appearing not.

The Court being fully advised and having examined  
the file herein finds that Defendant, Tony M. Sutton, was personally  
served with Summons and Complaint on December 13, 1980, and  
that Defendant has failed to answer herein and that default  
has been entered by the Clerk of this Court.

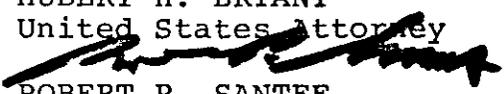
The Court further finds that the time within which  
the Defendant could have answered or otherwise moved as to the  
Complaint has expired, that the Defendant has not answered or  
otherwise moved and that the time for the Defendant to answer  
or otherwise move has not been extended, and that Plaintiff  
is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that  
the Plaintiff have and recover Judgment against Defendant, Tony M.  
Sutton, for the principal sum of \$913.60, plus interest at the  
legal rate from the date of this Judgment until paid.

S/ JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA

HUBERT H. BRYANT  
United States Attorney

  
ROBERT P. SANTEE  
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JERRY GRAY a/k/a JERRY G. )  
 GRAY, SR., TONI A. GRAY, )  
 ASSOCIATES FINANCIAL SERVICES )  
 COMPANY OF OKLAHOMA, INC., )  
 O. R. NUNLEY, JR., M.D., )  
 OKLAHOMA OSTEOPATHIC FOUNDERS )  
 ASSOCIATION, INC., WILTON )  
 WORKS, Attorney-at-Law, and )  
 HARRY A. LENTZ, JR., Attorney- )  
 at-Law, )  
 )  
 Defendants. )

CIVIL ACTION NO. 80-C-289-E

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 15<sup>th</sup> day of January, 1981, the Plaintiff appearing by Robert P. Santee, Assistant United States Attorney; and the Defendants, Oklahoma Osteopathic Founders Association, Inc., Wilton Works, and Harry A. Lentz, Jr., appearing by their attorney Fred A. Pottorf; and the Defendants, Jerry Gray a/k/a Jerry G. Gray, Sr., Toni A. Gray, Associates Financial Services Company of Oklahoma, Inc., and O. R. Nunley, Jr., M.D., appearing not.

The Court being fully advised and having examined the file herein finds that Defendants, Jerry Gray a/k/a Jerry G. Gray, Sr., Toni A. Gray, Associates Financial Services Company of Oklahoma Inc., O. R. Nunley, Jr., M.D., Wilton Works, and Harry A. Lentz, Jr., were served with Summons and Complaint on May 22, 1980; that Defendant Oklahoma Osteopathic Founders Association, Inc., was served with Summons and Complaint on May 28, 1980, all as appear from the United States Marshal's Service herein.

It appearing that the Defendants, Oklahoma Osteopathic Founders Association, Inc.; Wilton Works, and Harry A. Lentz, Jr., have duly filed their answer herein on May 28, 1980; and that the Defendants, Jerry Gray a/k/a Jerry G. Gray, Sr., Toni A. Gray, Associates Financial Services Company of Oklahoma Inc., and O. R. Nunley, Jr., M.D., 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 Mayes County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Numbered Fifteen (15), in Block Numbered Five (5), of EASTMANOR SECOND, an Addition to the Incorporated City of PRYOR CREEK, Mayes County, Oklahoma, according to the recorded Plat and Survey thereof,

THAT the Defendants, Jerry Gray, a/k/a Jerry G. Gray, Sr., and Toni A. Gray, did, on the 27th day of April, 1977, execute and deliver to the United States of America, acting through the Farmers Home Administration, their mortgage and mortgage note in the sum of \$23,750.00 with eight (8) percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendants, Jerry Gray a/k/a Jerry G. Gray Sr., and Toni A. Gray, 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 \$23,899.42 as unpaid principal plus the accrued interest of \$2,159.44 as of July 1, 1980, plus interest at eight (8) percent on the principal sum of \$23,899.42 from July 1, 1980 until paid, plus the cost of this action accrued and accruing.

The Court further finds that Oklahoma Osteopathic Founders Association, Inc., is entitled to judgment against Jerry Gray a/k/a Jerry G. Gray, Sr., and Toni A. Gray in the amount \$1,425.32 plus interest at 10% per annum from April 13, 1979 until paid, plus costs; but that such judgment would be subject to and inferior to the first mortgage lien of the Plaintiff herein.

The Court further finds that Wilton Works and Harry A. Lentz, Jr., Attorneys at Law, are entitled to judgment against defendants Jerry Gray a/k/a Jerry G. Gray, Sr., and Toni A. Gray in the amount of \$545.00 plus interest at 10% per annum from April 13, 1979 until paid, plus 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, Jerry Gray a/k/a Jerry G. Gray, Sr., and Toni A. Gray, in personam, for the sum of \$23,899.42 as unpaid principal plus the accrued interest of \$2,159.44 as of July 1, 1980, plus interest at eight (8) percent on the principal sum of \$23,899.42 from July 1, 1980 until paid, 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 Osteopathic Founders Association, Inc., have and recover judgment, in personam, against the defendants Jerry Gray a/k/a Jerry G. Gray, Sr., and Toni A. Gray, in the amount of \$1,425.32 plus interest at 10% per annum from April 13, 1979 until paid, plus costs; 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 Wilton Works and Harry A. Lentz, Jr., Attorneys at Law, have and recover judgment in personam, against the defendants Jerry Gray a/k/a

Jerry G. Gray, Sr., and Toni A. Gray, in the amount of \$545.00 plus interest at 10% per annum from April 13, 1979 until paid, plus costs; 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, Associates Financial Services Company of Oklahoma, Inc., and O. R. Nunley, Jr., M.D.

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.

**S/ JAMES O. ELLISON**

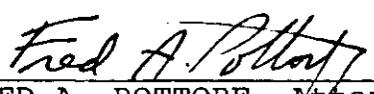
UNITED STATES DISTRICT JUDGE

APPROVED

UNITED STATES OF AMERICA

HUBERT H. BRYANT  
United States Attorney

  
BY: ROBERT P. SANTEE  
Assistant United States Attorney

  
FRED A. POTTORF, Attorney for  
Oklahoma Osteopathic Founders Association,  
Wilton W. Works and Harry A. Lentz, Jr.

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,        )  
  )  
  Plaintiff,)  
  )  
vs.                                        )  
  )  
JOHN J. PITTS, JR., and            ) No. 80-C-206-E  
ALICE M. PITTS,                        )  
  )  
  Defendants.)

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 15<sup>th</sup>  
day of January, 1981, the Plaintiff appearing by Robert P. Santee,  
Assistant United States Attorney; and the Defendants, John J.  
Pitts, Jr., and Alice M. Pitts, appearing not.

The Court being fully advised and having examined  
the file herein finds that Defendants, John J. Pitts, Jr. and  
Alice M. Pitts, were served by publication as shown on Proof of  
Publication filed herein.

It appearing that the Defendants, John J. Pitts, Jr. and  
Alice M. Pitts 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 Delaware County, Oklahoma, within the Northern  
Judicial District of Oklahoma:

Lot 1, Block 1 in the John Cox First Addition  
to the City of Grove, Oklahoma

THAT the Defendants, John J. Pitts, Jr. and Alice M.  
Pitts, did, on the 13th day of June, 1978, execute and deliver  
to the United States of America, acting through the Farmers Home  
Administration, their mortgage and mortgage note in the sum  
of \$24,700.00 with 8 1/4 percent interest per annum, and further  
providing for the payment of monthly installments of principal  
and interest.

The Court further finds that Defendants, John J. Pitts, Jr. and Alice M. Pitts, 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 \$25,288.94 as unpaid principal, plus the accrued interest of \$3,273.26 as of June 6, 1980, plus interest at 8 1/4 percent on the principal sum of \$25,288.94 from June 6, 1980, 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, John J. Pitts, Jr., and Alice M. Pitts, in rem, for the sum of \$25,288.94 as unpaid principal, plus the accrued interest of \$3,273.26 as of June 6, 1980, plus interest at 8 1/4 percent on the principal sum of \$25,288.94 from June 6, 1980 until paid, 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 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.

*Robert P. Santee*  
UNITED STATES DISTRICT JUDGE

APPROVED

UNITED STATES OF AMERICA

HUBERT H. BRYANT  
United States Attorney

  
BY: ROBERT P. SANTEE  
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED  
JAN 15 1981

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 RUSSELL J. McNALLY, )  
 )  
 Defendant. )

U.S. COURT

CIVIL ACTION NO. 80-C-146-E

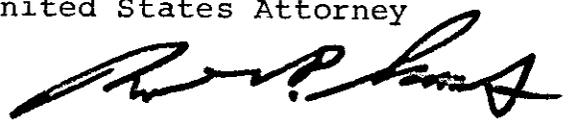
NOTICE OF DISMISSAL

COMES NOW the United States of America, Plaintiff herein, by and through its attorney, Robert P. Santee, Assistant United States Attorney for the Northern District of Oklahoma, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action, without prejudice.

Dated this 15<sup>th</sup> day of January, 1981.

UNITED STATES OF AMERICA

HUBERT H. BRYANT  
United States Attorney



ROBERT P. SANTEE  
Assistant United States Attorney

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JAN 15 1981 *no*

Jack C. [unclear]  
U.S. District Court

United States of America,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO. 80-C-116-E ✓
	)	
vs.	)	Tracts Nos. Part of 311M,
	)	311ME-1 thru ME-4 and 420M
170.18 Acres of Land, More or	)	
Less, Situate in Washington	)	As to the oil and gas lease-
County, State of Oklahoma, and	)	hold interest only in the
L. D. Brown, et al., and	)	estate taken
Unknown Owners,	)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #400-22)

J U D G M E N T

1.

Now, on this 15<sup>TH</sup> day of Jan., 1981, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on a stipulation of the parties agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for Plaintiff, finds:

2.

This judgment applies to the entire estate condemned in Tracts Nos. 311M, 311ME-1, 311ME-2, 311ME-3, 311ME-4, and 420M, 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 case.

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 such Complaint. Pursuant thereto, on March 10, 1980, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing the Declaration of Taking.

6.

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

7.

The defendants named in paragraph 12 as owners of the subject property are the only defendants asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendants were, as of the date of taking, the owners of the subject property and, as such, are entitled to receive the just compensation awarded by this judgment.

8.

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

9.

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

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority

to condemn for public use the tracts listed in paragraph 2 herein, as such tracts are particularly described in the Complaint filed herein; and such tracts, to the extent of the estate described in such Complaint, are condemned, and title thereto is vested in the United States of America, as of March 10, 1980, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such estate.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking, the owners of the estate condemned herein in subject tracts were the defendants whose names appear below in paragraph 12, and the amount of each owner's interest is shown by the fraction following each owner's name; and the right to receive the just compensation for the estate taken herein in such tracts is vested in the parties so named.

12.

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

TRACTS NOS. Part of 311M, 311ME-1,  
311ME-2, 311ME-3, 311ME-4 and 420M

OWNERS:

Lloyd D. Thomas ----- 1/2

L. D. Brown ----- 1/2

Award of Just Compensation pursuant to Stipulation -----	\$63,500.00	\$63,500.00
Deposited as estimated compensation -----	17,019.00	
Disbursed to owners -----		<u>17,019.00</u>
Balance due to owners -----		<u>\$46,481.00</u>
Deposit deficiency -----	\$46,481.00	

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court in this civil action, to the credit of subject tracts, the deposit deficiency in the sum of \$46,481.00, and the Clerk of this Court then shall disburse the deposit for such tracts as follows:

To:

Lloyd D. Thomas ----- \$23,240.50  
L. D. Brown ----- \$23,240.50.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

J. C. ...  
U.S. DISTRICT COURT

United States of America,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO. 80-C-115-E
	)	
vs.	)	Tracts Nos. 311M, 311ME-1,
	)	311ME-2, 311ME-3, 311ME-4,
250.18 Acres of Land, More or	)	and 420M
Less, Situate in Washington	)	
County, State of Oklahoma, and	)	This action applies to all
Lloyd D. Thomas, et al., and	)	interests in the estate taken
Unknown Owners,	)	<u>except the oil and gas lease-</u>
	)	<u>hold interest</u>
	)	
Defendants.	)	(Master File #400-22)

J U D G M E N T

1.

Now, on this 15<sup>th</sup> day of Jan., 1981, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on a stipulation of the parties agreeing upon just compensation, and the Court, after having examined the files in this action and being advised by counsel for Plaintiff, finds:

2.

This judgment applies to the entire estate condemned in Tracts Nos. 311M, 311ME-1, 311ME-2, 311ME-3, 311ME-4, and 420M, 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 case.

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 such Complaint. Pursuant thereto, on March 10, 1980, the United States of America filed its Declaration of Taking of such described property, and title to the described estate in such property should be vested in the United States of America as of the date of filing the Declaration of Taking.

6.

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

7.

The defendants named in paragraph 12 as owners of the subject property are the only defendants asserting any interest in such property. All other defendants having either disclaimed or defaulted, the named defendants were, as of the date of taking, the owners of the subject property and, as such, are entitled to receive the just compensation awarded by this judgment.

8.

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

9.

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

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority

to condemn for public use the tracts listed in paragraph 2 herein, as such tracts are particularly described in the Complaint filed herein; and such tracts, to the extent of the estate described in such Complaint, are condemned, and title thereto is vested in the United States of America, as of March 10, 1980, and all defendants herein and all other persons interested in such estate are forever barred from asserting any claim to such estate.

11.

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

12.

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

TRACTS NOS. 311M, 311ME-1, 311ME-2,  
311ME-3, 311ME-4 and 420M

OWNERS:

Lloyd D. Thomas and  
 Harriet Thomas, H&W

Award of Just Compensation pursuant to Stipulation -----	\$13,750.00	\$13,750.00
Deposited as estimated compensation -----	4,870.00	
Disbursed to owners -----		<u>4,870.00</u>
Balance due to owners -----		\$ 8,880.00
Deposit deficiency -----	\$ 8,880.00	

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall deposit in the Registry of this Court in this civil action, to the credit of subject tracts, the

deposit deficiency in the sum of \$8,880.00, and the Clerk of this Court then shall disburse the deposit for such tracts as follows:

To:

Lloyd D. Thomas and  
Harriet Thomas, jointly ----- \$8,880.00.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JAN 15 1981  
Jack [unclear]  
U. S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JOHN E. FLORES, )  
 )  
 Defendant. )

CIVIL ACTION NO. 80-C-652-C

DEFAULT JUDGMENT

This matter comes on for consideration this 15  
day of January, 1981, the Plaintiff appearing by Robert P. Santee,  
Assistant United States Attorney for the Northern District of  
Oklahoma, and the Defendant, John E. Flores, appearing not.

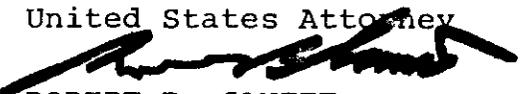
The Court being fully advised and having examined  
the file herein finds that Defendant, John E. Flores, was personally  
served with Summons and Complaint on November 22, 1980, and  
that Defendant has failed to answer herein and that default  
has been entered by the Clerk of this Court.

The Court further finds that the time within which  
the Defendant could have answered or otherwise moved as to the  
Complaint has expired, that the Defendant has not answered or  
otherwise moved and that the time for the Defendant to answer  
or otherwise move has not been extended, and that Plaintiff  
is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that  
the Plaintiff have and recover Judgment against Defendant, John E.  
Flores, for the principal sum of \$1,544.96, plus interest at  
the legal rate from the date of this Judgment until paid.

(Signed) M. Dale Cook  
UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA

HUBERT H. BRYANT  
United States Attorney  
  
ROBERT P. SANTEE  
Assistant U. S. Attorney

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

HUFF TEEMAN and MARY TEEMAN, )  
)  
Plaintiffs) )  
v. ) )  
FRED E. STONEMAN, d/b/a STONEMAN )  
FORD, )  
Defendant )

No. 80-C-201-C ✓

FILED  
JAN 15 1981 *pt*

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

ORDER

Now on this 15<sup>th</sup> day of January, 1981, the Court has for consideration plaintiff's Application for Dismissal. The Court notes that counsel for defendant does not object to said dismissal, and accordingly finds that such Application should be granted.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that plaintiff's Application for Dismissal without prejudice, is granted.

*W. Salubook*  
UNITED STATES DISTRICT JUDGE

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

FILED

JAN 14 1981

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

GENE KEVIN STARR, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 PATRICK JEREMIAH PHELAN, )  
 et al., )  
 )  
 Defendants. )

No. 80-C-220-E

FILED

JAN 14 1981

ORDER

The Court has before it for consideration Plaintiff's motion to dismiss this action. For good cause shown it is hereby ordered that this action be dismissed without prejudice.

It is so Ordered this 14<sup>th</sup> day of January, 1981.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

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

TECHNICAL SYSTEMS, INC., AN )  
OKLAHOMA CORPORATION )  
Plaintiff, )  
vs. )  
DUKES INDUSTRIES, INC., AN OHIO )  
CORPORATION )  
Defendant. )

NO. 80-C-551-E

FILED  
JAN 13 1981  
Jack  
U. S. DISTRICT COURT

JOURNAL ENTRY OF DEFAULT JUDGMENT

NOW on this 13<sup>th</sup> day of January, 1981, this matter comes on before me, the undersigned Judge of the Federal District Court for the Northern District of Oklahoma, on Plaintiff's Application for Default Judgment.

Upon reviewing the file herein, being fully advised in the premises and in consideration thereof this Court finds that the Defendant was duly served with summons on the 6th day of October, 1980, and has failed, refused and neglected to plead, answer or otherwise appear in this action in the time allowed by law and is in default.

Further, it appears from the sworn affidavit of the Plaintiff that \$10,900.00 principal, \$1,690.00 interest and \$64.90 cost is due and owing by the Defendant to the Plaintiff and that Plaintiff should be awarded judgment by default for these amounts.

Further, as the prevailing party in this action and under Oklahoma Statutes Title 12 Section 936, Plaintiff is entitled to an attorney's fee in the amount of \$1,500.00, which this Court finds to be a reasonable amount.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff be and it is hereby awarded judgment against the Defendant in the amount of \$12,590.00 with interest at the rate of 1% per annum from the date of judgment until paid, \$1,500.00 as a reasonable attorney's fee, \$64.90 as costs expended and all additional costs to be incurred in this matter.

FOR ALL OF WHICH LET EXECUTION LIE.

S/ JAMES O. ELLISON

Judge of the Federal District Court  
Northern District of Oklahoma

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

UNITED STATES OF AMERICA for )  
the use and benefit of EDDIES )  
SALES AND LEASING, INC., d/b/a )  
EDDIES WHITE TRUCK SALES, )

Plaintiff, )

v. )

FEDERAL INSURANCE COMPANY, )  
Chubb Group of Insurance )  
Companies; MID-STATES )  
CONSTRUCTION OF DERBY, INC.; )  
and UTILITY CONTRACTORS, INC.;

Defendants. )

NO. 78-0551C

FILED

JAN 12 1981

CLERK  
U.S. DISTRICT COURT

JUDGMENT ON MANDATE

The United States District Court of Appeals for the Tenth Circuit having on December 1, 1980 entered its judgment and opinion constituting its mandate to the Court, and the Court being fully advised in the premises;

NOW, THEREFORE, IT IS

ORDERED AND ADJUDGED that the above-entitled action be, and the same hereby is, dismissed with prejudice against Federal Insurance Company and Utility Contractors, Inc., and that the Plaintiff take nothing against Federal Insurance Company and Utility Contractors, Inc. by way of its Complaint;

IT IS FURTHER

ORDERED AND ADJUDGED that all parties bear their own costs of action.

Dated this 9<sup>th</sup> day of January, 1981.

  
UNITED STATES DISTRICT JUDGE



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 it further appearing that no persons have interposed a claim before the return date named in said process:

NOW, THEREFORE, on motion of the United States Attorney for this district for a default decree of condemnation, the Court being fully advised in the premises, it is hereby

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

ORDERED, ADJUDGED, AND DECREED that the seized article is a food which, while held for sale after shipment in interstate commerce, is adulterated within the meaning of 21 U.S.C. 342(a)(3) and is, therefore, hereby condemned and forfeited to the United States of America pursuant to 21 U.S.C. 334; and it is further

ORDERED, ADJUDGED, AND DECREED that pursuant to 21 U.S.C. 334(d) the United States Marshal for this district shall forthwith destroy the condemned article and make due return to this Court.

Dated at Tulsa, Oklahoma,  
this 22<sup>d</sup> day of December, 1980.

James C. Lewis  
UNITED STATES DISTRICT JUDGE

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

IN RE SWINE FLU IMMUNIZATION

MARCIA ANN BAYSINGER,

Plaintiff,

-vs-

UNITED STATES OF AMERICA,

Defendant.

Civil Action No. 80-207-F

FILED

JAN 12 1981

ORDER

THIS MATTER comes before the Court upon the motion of Plaintiff, Marcia Ann Baysinger, to dismiss the action without prejudice. The motion is GRANTED.

IT IS ORDERED that the above captioned action be, and hereby is, dismissed without prejudice.

DATED at Denver, Colorado, this Jan day of ~~December~~,  
1980.

BY THE COURT:

*Sherman G. Finesilver*

Sherman G. Finesilver, Judge  
United States District Court  
District of Colorado  
Sitting by Designation

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

A.R. MORGAN, ET AL, )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 KARL R. HUBER, JR., ET AL, )  
 )  
 Defendants. )

No. 79 C-715B

JAN 9 1981

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

O R D E R

ON the foregoing stipulation of the parties herein,  
filed on the 8 day of Jan, 1981, and on Motion  
of the Plaintiff, by his attorney of record herein,

IT IS HEREBY ORDERED that the above entitled action be,  
and it hereby is dismissed without prejudice to either  
party.

DATE: 1/8/81

Al Thomas R. Brett  
JUDGE OF THE U.S. DISTRICT  
COURT

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

RONNIE VERNON LeROY McGOWEN, )  
 )  
 ) Petitioner, )  
 )  
 vs. )  
 )  
 WARDEN, FCI, EL RENO, OKLA., )  
 )  
 ) Respondent. )

No. 75-CR-101  
(81-C-2-C)

FILED

O R D E R

JAN 9 1981

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

Now before the Court for its consideration is the petition of Ronnie Vernon LeRoy McGowen for a Writ of Habeas Corpus by a person in federal custody under Title 28 U.S.C. §2241.

Petitioner was sentenced by this Court on September 18, 1975 to four and one-half years after being found guilty by a jury of violation of Title 18 U.S.C. §472, as charged in Count 1 of a three-count indictment, said sentence to run concurrently with a sentence imposed in 75-CR-90. On November 19, 1975, petitioner sought review by this Court of the sentence imposed, pursuant to Rule 35 of F.R.Cr.P. On November 28, 1975, that motion was overruled, the Court finding that the sentence imposed was proper under the circumstances.

The petition for a Writ of Habeas Corpus alleges incarceration without bond or hearing in the Federal Correctional Institution, El Reno, Oklahoma, on a warrant executed on or about November 21, 1980. Petitioner alleges that he has been released on parole and has completed serving the four and one-half year sentence imposed in 75-CR-101.

The procedure governing issuance of the writ is provided by statute. The federal courts may grant the writ "within their respective jurisdictions." 28 U.S.C. §2241(a).

In Schlanger v. Seamans, 401 U.S. 487, 491, 91 S.Ct. 995, 28 L.Ed.2d 251 (1971), the Supreme Court held that the absence of the custodian of the petitioner is fatal to jurisdiction.

In the case at bar, neither the custodian nor the petitioner are located in this judicial district. The parties have no present connection with this district except for the fact that petitioner was once tried and sentenced here. The Court finds that the most convenient forum with the most contacts with the action is the Western District of Oklahoma, and is therefore the proper and most convenient place for the petition to be heard. U.S. v. Tubman, 366 F.Supp. 1268 (E.D.N.Y. 1973).

It is hereby ordered that the application for a Writ of Habeas Corpus be transferred to the Western District of Oklahoma.

It is so Ordered this 9<sup>th</sup> day of January, 1981.

  
\_\_\_\_\_  
H. DALE COOK  
Chief Judge, U. S. District Court

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

IN RE AIR CRASH NEAR  
VAN CLEVE, MISSISSIPPI

)  
)

MDL NO. 407  
80-C-164-C  
80-C-169-C

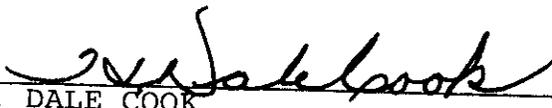
**FILED**

JAN 8 1981

ORDER

Upon motion of third party plaintiff Aircraft Engine and Accessory Co., Inc. to dismiss third party defendant Vacuum Heat Treating Co., Inc. pursuant to stipulation of both parties filed herein on October 6, 1980, it is ordered that Vacuum Heat Treating Co., Inc. be dismissed without prejudice in the above-entitled actions.

It is so Ordered this 8th day of January, 1981.

  
H. DALE COOK  
Chief Judge, U. S. District Court

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

FILED

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

JAN 8 1981

WILLIAM J. BELL, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 SAND SPRINGS AIR SERVICE, INC., )  
 an Oklahoma corporation, )  
 PATRICK E. BYVOET and JANET )  
 GAYLE BYVOET, )  
 )  
 Defendants. )

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

NO. 80-C-403-C

NOTICE OF VOLUNTARY DISMISSAL OF ACTION

COMES NOW the Plaintiff, William J. Bell, and hereby  
gives notice that the above-entitled action is voluntarily  
dismissed.

HALL, ESTILL, HARDWICK, GABLE,  
COLLINGSWORTH & NELSON

By: *Robert A. Curry*  
 Robert A. Curry  
 S. I. Betzer, Jr.  
 4100 Bank of Oklahoma Tower  
 One Williams Center  
 Tulsa, Oklahoma 74172  
 (918) 588-2729

Attorneys for Plaintiff

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

FILED  
JAN 11 1981  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

JACOB W. FLEMING and )  
HENRIETTA H. FLEMING, )  
husband and wife, )  
 )  
Plaintiffs, )  
 )  
vs. ) Civil Action  
 ) No. 80-C-287-E  
 )  
HERB HIATT and SANDY HIATT, )  
doing business as )  
MARANATHA MOTORS, )  
 )  
Defendants. )

ORDER ALLOWING DISMISSAL WITH PREJUDICE

Plaintiffs, Jacob W. Fleming and Henrietta H. Fleming, by their attorney of record, Thomas A. Mann, filed an Amended Notice of Dismissal dismissing the defendants, Herb Hiatt and Sandy Hiatt, doing business as Maranatha Motors, with prejudice from the above captioned action on the following grounds:

1. That the Complaint filed in this action named said defendants as the party liable to plaintiff; however, upon diligent search, discovery and investigation by said defendants by and through its attorney, G. W. Newton, it appears that defendants are not liable to plaintiffs and the subject matter of this action; and
2. That the defendants, Herb Hiatt and Sandy Hiatt, doing business as Maranatha Motors, as shown by the Complaint filed in this action, are not proper or necessary parties herein.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the Amended Notice of Dismissal With Prejudice of plaintiffs herein as to defendants Herb Hiatt and Sandy Hiatt, d/h/a Maranatha Motors, and each of them is hereby approved as of the date of filing same.

S/ JAMES O. ELLISON  
\_\_\_\_\_  
JUDGE OF THE DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 7 1981

BARBARA L. EVANS,

Plaintiff,

v.

Civil Action No. 79-0187-F

UNITED STATES OF AMERICA,

Defendant.

ORDER

This matter comes before the Court upon the filing of the Stipulation For Compromise Settlement Pursuant To 28 U.S.C. §2677 which has been executed by the attorneys for the plaintiff and the plaintiff, as well as the attorneys for the defendant, the United States of America, and after due consideration, it is hereby

ORDERED, as follows:

1. The settlement of this case as set out in the Stipulation For Compromise Settlement Pursuant To 28 U.S.C. §2677, is approved by the Court;

2. The above-captioned case will be dismissed with prejudice and without costs, and the case closed, upon the receipt of the checks by plaintiff and his counsel, as set out in the Stipulation For Compromise Settlement filed herein; and

3. In the event that the United States of America does not make payment as set out in the Stipulation For Compromise Settlement filed herein, by February 1, 1981, the plaintiff shall have the right to move the Court to reopen this civil action in the same posture as it was on the eve of trial.

DATED, at Denver, Colorado this 30 day of December, 1980.

BY THE COURT:

*Sherman G. Finesilver*

SHERMAN G. FINESILVER, JUDGE  
UNITED STATES DISTRICT COURT  
DISTRICT OF COLORADO  
Sitting by Designation

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

F I L E D

ROBERT E. COTNER, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 WILLIAM J. MUSSMAN and )  
 JAMES F. RAYMOND, )  
 )  
 Defendants. )

JAN 7 1981

No. 80-C-467-E

W. C. SILVER, C  
U. S. DISTRICT C

O R D E R

Plaintiff filed his Complaint in this action on August 19, 1980, after having been granted leave by the Court to proceed in forma pauperis.

Plaintiff invokes this Court's jurisdiction under 28 U.S.C. § 1343(3), 42 U.S.C. § 1983, and 18 U.S.C. §§ 241 and 242. Plaintiff alleges that Defendants Mussman and Raymond conspired to deprive the Plaintiff of his rights under the First, Fourth, Fifth, Sixth, and Fourteenth Amendments in that they and others conspired to have Plaintiff arrested and prosecuted for "everything they could think of" and to have Plaintiff transported to Tulsa County under the Interstate Agreement on Detainer Act, 22 O.S. §§ 1345 et seq., but to delay his trial, thereby hindering Plaintiff's ability to receive parole consideration. Plaintiff further alleges that Defendants have attempted extortion and intimidation; have attempted to coerce a confession; have attempted assault and battery; subornation of perjury; harassment of witnesses; tampering with public records; and that they are guilty of "official misconduct" and "malicious prosecution." Plaintiff also apparently alleges that Defendants have conspired to commit murder, and to steal valuable property.

Presently before the Court are Defendants' Motions to Dismiss, and Plaintiff's Motion for Default.

Plaintiff's Motion for Default is based upon the extension of time granted to Defendants to Answer. Due to the present posture of this case, the Court concludes that Plaintiff's Motion for Default should be denied.

It is Defendants' contentions that they were, at all times

material to Plaintiff's allegations, acting in their official capacities as Assistant District Attorneys of the Fourteenth Judicial District, Tulsa County, Oklahoma, and that they are, therefore, immune from liability for any acts alleged which fall within the scope of their authority.

Insofar as Plaintiff relies upon 18 U.S.C. § 241 and 242 to support his claim jurisdictionally, he is not entitled to rely upon them, inasmuch as they are criminal statutes of the United States proscribing offenses against the United States. They do not grant Plaintiff, as an individual, a cause of action.

Turning next to Plaintiff's assertion of 42 U.S.C. § 1983, the Court notes that a District Attorney or his Assistant is accorded absolute immunity as a judicial officer provided he has acted at all times within the scope and authority of his official capacity as District Attorney. See Stump v. Sparkman, 435 U.S. 349, 98 S.Ct. 1099 (1978); Butz v. Economou, 438 U.S. 478, 98 S.Ct. 2894 (1978); Imbler v. Pachtman, 424 U.S. 409, 96 S.Ct. 984, (1976); Pierson v. Ray, 386 U.S. 547, 87 S.Ct. 1213, (1967)\*; Blevins v. Ford, 572 F.2d 1336 (Ninth Cir. 1978); Kostal v. Stoner, 292 F.2d 492 (Tenth Cir. 1961), cert. denied, 369 U.S. 868, 82 S.Ct. 1032 (1962); Bauers v. Heisel, 361 F.2d 581 (Third Cir. 1966), cert. denied, 386 U.S. 1021, 87 S.Ct. 1367 (1967); Cawley v. Warren, 216 F.2d 74 (Seventh Cir. 1954); Berryman v. Shuster, 405 F.Supp. 1346 (W.D. Okla. 1975); Hagan v. State of California, 265 F.Supp. 174 (D.C. Cal., 1967).

Under the allegations contained in Plaintiff's Complaint it appears that Defendants Mussman and Raymond, as Assistant District Attorneys of Tulsa County, Oklahoma, acted within their jurisdiction as Assistant District Attorneys in prosecuting the Plaintiff in the District Court of Tulsa County, Oklahoma, and as an integral part of the judicial process. They are, therefore, shielded from Plaintiff's claim for damages herein by virtue of the doctrine of quasi-judicial immunity.

In Imbler v. Pachtman, 424 U.S. 409, 96 S.Ct. 984 (1976), the

Supreme Court stated:

We conclude that the considerations outlined above dictate the same absolute immunity under § 1983 that the prosecutor enjoys at common law. To be sure, this immunity does leave the genuinely wronged defendant without civil redress against a prosecutor whose malicious or dishonest action deprives him of liberty. But the alternative of qualifying a prosecutor's immunity would disserve the broader public interest. It would prevent the vigorous and fearless performance of the prosecutor's duty that is essential to the proper functioning of the criminal justice system.

424 U.S. at 427-428, 96 S.Ct. at 993-994.

The Court also noted:

Various post-trial procedures are available to determine whether an accused has received a fair trial. These procedures include the remedial powers of the trial judge, appellate review, and state and federal post-conviction collateral remedies. In all of these the attention of the reviewing judge or tribunal is focused primarily on whether there was a fair trial under law. This focus should not be blurred by even the subconscious knowledge that a post-trial decision in favor of the accused might result in the prosecutor's being called upon to respond in damages for his error or mistaken judgment.

424 U.S. at 427, 96 S.Ct. at 993.

Unless the acts complained of are clearly outside the authority or jurisdiction of the office, the prosecutor should have absolute immunity from a civil action for damages. In Bauers v. Heisel, 361 F.2d 581 (Third Cir. 1966) the Court said:

Because immunity is conferred on an individual solely by virtue of the office he holds, reason requires us to adopt a rule which does not provide immunity for those acts which are done outside the authority or jurisdiction of the office.

361 F.2d at 590, 591. In McNamara v. Hawks, 354 F.Supp. 492 (S.D. Fla. 1973), where the Court dismissed the 42 U.S.C. § 1983 action against the prosecuting attorney in which the Plaintiff had alleged that the prosecution had made unfair remarks to the jury suggesting plaintiff's guilt and had also conspired to keep a witness favorable to the plaintiff from testifying, the Court held that the prosecutor enjoyed immunity from damage claims arising out of such acts, stating:

The immunity exists despite the alleged improper use of such authority so long as the alleged wrongful acts were conducted within the apparent jurisdiction. See Mullins v. Oakley, 437 F.2d 1217 (Fourth Cir. 1971); Goodwin v. Williams, 293 F. Supp. 770 (D.C. Tex. 1968).

In the case of Atkins v. Lanning, 556 F.2d 485 (Tenth Cir. 1977), affirming Atkins v. Lanning, 415 F.Supp. 186 (N.D. Okla. 1976), the prosecutor was alleged to have conspired with others in the unlawful arrest and confinement of the plaintiff. The Court sustained a Motion for Summary Judgment finding that the bringing of the criminal charge without probable cause was within the quasi-judicial role for which the Supreme Court in Imbler has provided absolute immunity.

In Gaito v. Strauss, 249 F.Supp. 923, (W.D. Pa. 1966), the Court dismissed the plaintiff's 42 U.S.C. §§ 1983 and 1985 action against the district attorney for damages for allegedly conspiring with others to convict the plaintiff of certain crimes in the Courts of Pennsylvania through the use of illegally obtained evidence, perjured testimony and other violations of plaintiff's constitutional rights. In its opinion the Court states:

Judges and district attorneys acting in their official capacities in connection with criminal and commitment proceedings are entitled to absolute immunity from Civil Rights Act and other damage suits arising out of their judicial and quasi-judicial acts, without regard to their alleged motives in so acting, and notwithstanding such acts may have been performed in excess of jurisdiction.

249 F.Supp. at 930 (citations omitted).

The District Court in Clark v. Zimmerman, 394 F.Supp. 1166 (M.D. Pa. 1975) dismissed the Plaintiff's Complaint as frivolous, pursuant to 28 U.S.C. § 1915(d), without issuance of process. The thrust of Plaintiff's Complaint in Zimmerman was that he had been arbitrarily arrested, incarcerated, and held for trial by the individual and concerted acts of a police officer, magistrate and district attorney in a manner that violated his constitutional rights. The district attorney was alleged to have exerted undue influence on the magistrate so as to cause the plaintiff to be

held for grand jury action on false criminal charges without a proper evidentiary hearing.

The Court stated:

The only exception to judicial and prosecutorial immunity are acts of a judge or prosecuting attorney which are clearly outside his jurisdiction, as distinguished from acts which are merely in excess of his jurisdiction, the latter not being actionable.

394 F.Supp. at 1175 (citations omitted).

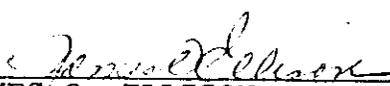
In the case of Ney v. State of California, 439 F.2d 1285 (Ninth Cir. 1971), the Court held that even though the facts alleged that the prosecutor knowingly used altered tapes in the trial of the defendant, the acts were done in the course of the prosecuting function and therefore he had complete immunity.

The ruling of the Court in Ney is consistent with Imbler, supra, where the Supreme Court cautioned that absolute immunity does in some cases "leave the genuinely wronged defendant without civil redress against a prosecutor whose malicious or dishonest action deprives him of liberty." Imbler, supra, 424 U.S. at 427, 96 S.Ct. at 993.

Because of the finding of this Court that the Plaintiff's Complaint does not allege facts to show that Defendants Mussman and Raymond acted clearly outside the scope of their authority or jurisdiction, it is the view of this Court that the Defendants are entitled to complete immunity from liability for damages under 42 U.S.C. § 1983.

IT IS, THEREFORE, ORDERED that the motions to dismiss of Defendants William J. Mussman and James F. Raymond be, and the same hereby are granted, and that Plaintiff's motion for default be, and the same hereby is, denied.

It is so Ordered this 6<sup>th</sup> day of January, 1981.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

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

BRADFORD-WHITE CORPORATION, )  
a corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
PLUMBERS PIPE & PRODUCTS )  
COMPANY, a corporation, )  
 )  
Defendant. )

Case No. 80-C-42-E

**FILED**  
JAN 7 1981

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

J U D G M E N T

THIS action came on for trial before the undersigned Judge, and the issues having been tried and a decision been duly rendered,

IT IS ORDERED AND ADJUDGED that the Plaintiff, BRADFORD-WHITE CORPORATION, recover of the Defendant, PLUMBER'S PIPE & PRODUCTS COMPANY, the sum of \$11,449.00, with interest thereon at the rate of 12% per annum from this date until paid, as provided for by the law, the costs of this action, plus an attorney's fee in the sum of \$2000.00.

*James C. Silver*  
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

*Allen Klein*  
ALLEN KLEIN, Attorney for  
Plaintiff

*David A. Carpenter*  
DAVID A. CARPENTER, Attorney  
for Defendant

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

DEB HENSON, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JOSEPH SHELF0, an individual, )  
 d/b/a PEPPE'S VILLA CAPRI; )  
 PENTHOUSE, INC., an Oklahoma )  
 corporation, d/b/a BEAUMONT'S )  
 BISTRO; and THE FOUNTAINS )  
 CLUB, INC., an Oklahoma )  
 corporation, d/b/a THE )  
 FOUNTAINS RESTAURANT; and )  
 THREE FOUNTAINS, INC., an )  
 Oklahoma corporation, d/b/a )  
 THE FOUNTAINS RESTAURANT, )  
 )  
 Defendants. )

No. 78-C-52-C  
No. 78-C-191-C  
(Consolidated)

**F I L E D**

JAN 7 1981

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

J U D G M E N T

The Court on January 7<sup>th</sup>, 1981, filed its Findings of Fact and Conclusions of Law which are hereby incorporated herein and made a part of its Judgment.

IT IS HEREBY ORDERED ADJUDGED AND DECREED that Judgment be entered in favor of the plaintiff, Deb Henson, and against the defendant Penthouse, Inc., d/b/a Beaumont's Bistro for back pay in the amount of \$2,565.70; in favor of the plaintiff, Deb Henson, and against the defendant Joseph Shelfo, d/b/a Peppe's Villa Capri for back pay in the amount of \$2,565.70; in favor of the plaintiff, Deb Henson, and against the defendants Three Fountains, Inc., d/b/a The Fountains Restaurant, and The Fountains Club, Inc., d/b/a The Fountains Restaurant, jointly for back pay in the amount of \$2,565.70.

IT IS FURTHER ORDERED that Judgment be entered in favor of the plaintiff and against the defendants for an attorney's fee in a reasonable amount, subject to submission by plaintiff's counsel of an affidavit as directed in the Court's Findings of Fact and Conclusions of Law within fifteen (15)

days of the date hereof.

It is so Ordered this 7<sup>th</sup> day of January, 1981.

  
H. DALE COOK  
Chief Judge, U. S. District Court

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

DEB HENSON, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JOSEPH SHELFO, an individual, )  
 d/b/a PEPPE'S VILLA CAPRI; )  
 PENTHOUSE, INC., an Oklahoma )  
 corporation, d/b/a BEAUMONT'S )  
 BISTRO; and THE FOUNTAINS )  
 CLUB, INC., an Oklahoma )  
 corporation, d/b/a THE )  
 FOUNTAINS RESTAURANT; and )  
 THREE FOUNTAINS, INC., an )  
 Oklahoma corporation, d/b/a )  
 THE FOUNTAINS RESTAURANT, )  
 )  
 Defendants. )

No. 78-C-52-C  
No. 78-C-191-C  
(Consolidated)

**FILED**

JAN 7 1981

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

FINDINGS OF FACT

AND

CONCLUSIONS OF LAW

Plaintiff brings this action pursuant to the provisions of Title VII\* of the Civil Rights Act of 1964 as amended (42 U.S.C. §§2000e, et seq.). Plaintiff alleges that the defendants denied her employment as a food server on their evening shifts, and that they thereby discriminated against her on the basis of her sex. This case was tried to the Court on April 14th and 15th, 1980. The parties have submitted trial briefs and proposed findings of fact and conclusions of law, and the case is now ready for disposition on the merits.

After considering the pleadings, the testimony and exhibits admitted at trial, all of the briefs and arguments presented by counsel for the parties, and being fully advised in the premises, the Court enters the following findings of fact and conclusions of law.

## FINDINGS OF FACT

### A. Jurisdiction and Venue

1. The acts of employment discrimination which gave rise to this action occurred during the summer of 1975.

2. On or about July 30, 1975, plaintiff, Deb Henson, by way of a third-party certification, filed administrative charges against the defendants, with the Equal Employment Opportunity Commission (EEOC) and with the Oklahoma Human Rights Commission (OHRC). Plaintiff alleged in the charges that the defendants had discriminated against her on the basis of sex in refusing to give her employment as a food server on their evening shifts.

3. On August 13, 1975, the EEOC gave notice of deferral to the OHRC, which in turn gave notice to the EEOC that it would not process the charge as the complainant had requested a waiver to the EEOC.

4. After investigation and an attempt to negotiate a conciliation with the defendants, the EEOC rendered a decision on January 21, 1977, finding that there was probable cause to believe that each of the defendants herein had discriminated against the plaintiff on the basis of sex. On November 10, 1977, the EEOC furnished plaintiff with a ninety-day letter authorizing her to sue in a United States District Court.

5. On February 6, 1978, plaintiff filed the instant action.

6. Each of the defendants was a person engaged in an industry affecting commerce.

7. Defendants each employed more than fifteen persons a day in each of twenty or more calendar weeks in the summer of 1975 or for the year preceding.

8. The unlawful employment practices which are the subject of this action were committed in Tulsa, Oklahoma in

the Northern District of Oklahoma.

#### B. Background

1. The plaintiff graduated from the University of Kansas in Lawrence, Kansas in May of 1975 with a degree in speech communications and human relations.

2. At that time she had the intention to enroll in graduate school for the fall of 1976 in order to obtain a master's degree in social work.

3. To finance her graduate studies, plaintiff wanted to work for the year between the completion of her undergraduate education and the beginning of her graduate studies.

4. She decided upon employment as an evening food waitress. She knew such a job would be lucrative based upon her experience working as a waitress when she was an undergraduate. She also wanted to keep her days free for other employment.

5. In late May of 1975, plaintiff moved to Tulsa, Oklahoma with Mr. Mark Roloff, with whom she was living at the time. Plaintiff chose Tulsa because of its size and because she had family members in the area.

6. Plaintiff and Mr. Roloff began applying with various restaurants in Tulsa in late May or early June of 1975.

#### C. Liability of Penthouse, Inc.,

##### d/b/a Beaumont's Bistro

1. Penthouse, Inc., d/b/a Beaumont's Bistro (Beaumont's), did not require that its evening food servers have any special training or skills at the time they were hired. New evening food servers received considerable training after they were hired.

2. Beaumont's did not have any established procedure for recruiting, interviewing, or hiring new food servers.

3. Plaintiff was qualified to serve food on the

evening shift at Beaumont's, having had nine (9) months of experience as an evening food server at a comparable restaurant in Lawrence, Kansas.

4. On June 7, 1975, plaintiff made oral application with Beaumont's for a job as an evening food server. Plaintiff was not given an application form to fill out and Beaumont's refused to consider plaintiff for employment.

5. On June 15, 1975, Stephen Pollack was hired by Beaumont's as an evening food server.

6. No women worked for Beaumont's as evening food servers until some time in 1976.

7. After being denied an application and employment with defendant, plaintiff occupied various other positions, and plaintiff, with reasonable diligence, attempted to secure other similar employment.

D. Liability of Joseph Shelfo,  
d/b/a Peppe's Villa Capri

1. Joseph Shelfo, doing business as Peppe's Villa Capri (Peppe's), did not require that its evening food servers have any special training or skills at the time they were hired. New evening food servers received considerable training after they were hired.

2. Peppe's did not have any established procedure for recruiting, interviewing, and hiring new food servers.

3. Plaintiff was qualified to serve food on the evening shift at Peppe's having had nine (9) months of experience as an evening food server at a comparable restaurant in Lawrence, Kansas.

4. On June 16, 1975, plaintiff made written application with Peppe's for a job as a waitress. She expressed her preference for evening food service.

5. On June 20, 1975, plaintiff began working as a luncheon food server for Peppe's. Within a few days after

she began working on the luncheon shift, plaintiff again expressed her desire to work as an evening food server. Plaintiff never worked for Peppe's as an evening food server.

6. On June 28, 1975, Mr. Ahadollah Abbaszadeh was hired by Peppe's as an evening food server. On July 29, 1975, Wayne Chapin was hired by Peppe's as an evening food server.

7. Both of these individuals had less experience than the plaintiff or the equivalent of plaintiff's experience.

8. No women worked for Peppe's as evening food servers until some time in 1976.

9. After giving notice, plaintiff left the employ of Peppe's on July 18, 1975.

10. After leaving Peppe's, plaintiff occupied various other positions and with reasonable diligence she attempted to secure other similar employment.

#### E. Liability of

Three Fountains, Inc.,

d/b/a The Fountains Restaurant

1. Three Fountains, Inc., doing business as The Fountains Restaurant (Three Fountains), did not require that its evening food servers have any special training or skills at the time they were hired. New evening food servers received considerable training after they were hired.

2. Three Fountains did not have any established procedure for recruiting, interviewing, and hiring new food servers.

3. Plaintiff was qualified to serve food on the evening shift at Three Fountains, having had nine (9) months of experience as an evening food server at a comparable restaurant in Lawrence, Kansas.

4. On June 10, 1975, plaintiff applied with Three

Fountains for a job as an evening food server. After June 10, 1975, plaintiff continued to check back with Three Fountains for openings as an evening food server.

5. On July 20, 1975, plaintiff was hired as a luncheon shift food server. Plaintiff continued to express her desire to work as an evening food server. Plaintiff never worked for Three Fountains as an evening food server.

6. On July 29, 1975, Mark Roloff and John Sandman were hired by Three Fountains as evening food servers. Between July 13th and July 29th, five other males were hired by Three Fountains as evening food servers.

7. Mr. Roloff had less experience than the plaintiff.

8. No women worked for Three Fountains as evening food servers until some time in 1976.

9. Plaintiff ceased her employment with Three Fountains on August 31, 1975.

10. After leaving Three Fountains, plaintiff occupied various other positions and with reasonable diligence she attempted to secure other similar employment.

#### F. Liability of

The Fountains Club, Inc.,

d/b/a The Fountains Restaurant

1. The plaintiff has filed suit against the defendant, The Fountains Club, Inc., seeking to impose any money damage judgment which may be imposed against Three Fountains, Inc. against The Fountains Club, Inc. based upon a theory of successor corporations.

2. The plaintiff was employed by Three Fountains, Inc. during the months of July and August, 1975.

3. Three Fountains, Inc. operated the Fountains Restaurant at 6520 South Lewis, Tulsa, Oklahoma at the time plaintiff's cause of action arose.

4. Three Fountains, Inc. owned all fixtures, equipment

and inventory but leased the building which contained the Fountains Restaurant.

5. The plaintiff left the employment of Three Fountains, Inc. in August of 1975 and has never been reemployed nor has she made application with The Fountains Club, Inc.

6. On the 22nd day of February, 1977, Three Fountains, Inc., sold all equipment, inventory and fixtures together with the right to use the names "Fountains Restaurant" and "The Fountains Club" to David Ingram, an individual, according to the Agreement for Sale.

7. Charles Gilmore was an officer of Three Fountains, Inc. and Fountains Club, Inc. after its organization. Further, Charles Gilmore continued as a director of Fountains Club, Inc. after the purchase of the stock by David Ingram. Charles Gilmore had knowledge of a claim filed with the EEOC by a former employee.

8. On the 22nd day of February, 1977, as a part of this sale, David Ingram purchased the stock of Fountains Club, Inc., an Oklahoma corporation, which was organized June 1, 1976, for the purpose of holding a private club license.

9. Following the 22nd day of February, 1977, David Ingram operated the Fountains Restaurant at 6520 South Lewis, Tulsa, Oklahoma.

10. Prior to the sale of the equipment, fixtures and inventory on February 22, 1977, David Ingram was not employed by Three Fountains, Inc. and not engaged in the operation of the Fountains Restaurant, nor was he an officer, director or shareholder of Fountains Club, Inc.

11. Following the sale on the 22nd day of February, 1977, David Ingram began operating the Fountains Club and Restaurant and handled all managerial duties and established all policies relating thereto without the intervention of

Three Fountains, Inc.

12. Following the 22nd day of February, 1977, Three Fountains, Inc., an Oklahoma corporation, did not receive any profits or distributions from the operation of the Fountains Restaurant other than the proceeds of sale set forth in the Sale Contract.

13. Prior to the sale to David Ingram on February 22, 1977, David Ingram, as purchaser, was not aware of a pending EEOC claim filed by Deb Henson and was later notified by counsel for Three Fountains, Inc. of this action. David Ingram was notified in November of 1977 of plaintiff's right to sue by the EEOC.

14. Following the sale to David Ingram of the fixtures, inventory and equipment on February 22, 1977, Three Fountains, Inc., did not operate or own any other restaurant or club.

15. The inventory, equipment and fixtures purchased by the purchaser, David Ingram, were later transferred to the Fountains Club, Inc. in March, 1977.

16. The discrimination charge issued by the EEOC was directed to "Fountains Restaurant", then owned by Three Fountains, Inc.

17. Three Fountains, Inc., an Oklahoma corporation, does not presently transact any business nor did Three Fountains, Inc. hold any assets or transact any business following the sale on February 22, 1977.

#### G. Back Pay

1. In mid-October of 1975, plaintiff left Oklahoma and traveled with Mark Roloff to the southwestern United States and California. Mr. Roloff and the plaintiff did not return to Oklahoma. The purpose of this trip was to travel.

2. Plaintiff thereupon withdrew from the Oklahoma job market and from further consideration for employment with the defendants. Plaintiff did not exercise reasonable

diligence to secure other employment during this period of time.

3. Plaintiff's initial applications for employment with the defendants were all within the first three weeks of June of 1975. There is every indication that the defendants would not have hired the plaintiff at that time whether or not they had had openings. Plaintiff was ready, willing, and able to assume employment with the defendants as an evening food server from that time until mid-October, or for a period of approximately eighteen (18) weeks.

4. Up until mid-October, 1975, the plaintiff had exercised reasonable diligence in seeking evening employment and had found evening employment at The Fountains Restaurant, Philbrook Art Center, and Porter Alarm Board Company.

5. While plaintiff was employed in the daytime at The Fountains Restaurant, she worked approximately three evenings there as a cocktail waitress. The hourly wage for a cocktail waitress was \$1.10. The shift was an average of six (6) hours and the tips for an evening averaged \$17.50. The total approximate amount earned by the plaintiff as a cocktail waitress at The Fountains Restaurant was \$72.30.

6. At the Philbrook Art Center, the plaintiff worked as a model. She was paid \$2.00 per hour, and worked four (4) two (2) hour sessions for total earnings of \$32.00.

7. At Porter Alarm Board Company, plaintiff was paid \$2.50 per hour. She worked an average of seven and one-half (7-1/2) hours per night, four (4) nights per week, and her total earnings were approximately \$210.00.

8. Plaintiff's total approximate interim earnings from evening employment were \$314.30.

9. During the summer of 1975, male food servers at the defendants' restaurants earned an average of \$40.00 per evening in hourly wages, tips, and bonuses. They worked an

average of four (4) days per week.

10. If plaintiff had been hired by a defendant as an evening food server for the eighteen (18) week period that she was available for evening employment with the defendants, she would have earned approximately \$2,880.00. This amount minus plaintiff's interim earnings from evening employment during this period would be the amount of back pay recoverable by the plaintiff from each defendant, \$2,565.70.

#### CONCLUSIONS OF LAW

##### A. Jurisdiction and Venue

1. All filing requirements of Title VII of the Civil Rights Act of 1964, as amended in 1972 (Title VII), which are a prerequisite to this Court's jurisdiction, have been satisfied by the plaintiff herein. 42 U.S.C. §§2000e-5(e), (f) (1).

2. Each of the defendants herein are "employers" subject to the provisions of Title VII. 42 U.S.C. §2000e (b), (h).

3. Venue is properly laid with this Court. 42 U.S.C. §2000e-5(f) (3).

##### B. Liability of Penthouse, Inc.

d/b/a Beaumont's Bistro,

Joseph Shelfo,

d/b/a Peppe's Villa Capri,

and Three Fountains, Inc.,

d/b/a The Fountains Restaurant

1. Beaumont's, Peppe's, and Three Fountains each committed an unlawful employment practice forbidden by Title VII when they failed or refused to hire the plaintiff as a food server on the evening shift in their restaurants because of her sex. 42 U.S.C. §2000e-2.

2. The prima facie proof of discrimination required of a Title VII plaintiff will vary according to the facts of

each case, but generally this burden may be carried by showing that the plaintiff belongs to a protected class, that she applied and was qualified for a job for which the employer was seeking applicants, that she was rejected notwithstanding her qualifications, and that after her rejection the employer continued to seek applicants from persons having plaintiff's qualifications. See McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973); Meyer v. State Hywy. Comm'n., 567 F.2d 804 (8th Cir. 1977); Rich v. Martin Marietta Corp., 522 F.2d 333 (10th Cir. 1975); Butta v. Anne Arundel County, 473 F.Supp. 83 (D.Md. 1979).

3. Plaintiff carries her burden if she can show "actions taken by the employer from which one can infer, if such actions remain unexplained, that it is more likely than not that such actions were 'based on a discriminatory criterion illegal under the Act.'" (citation omitted). Furnco Construction Corp. v. Waters, 438 U.S. 567, 576, 98 S.Ct. 2943, 57 L.Ed.2d 957 (1978).

4. The plaintiff herein made out a prima facie case of sex discrimination in employment against each of the defendants.

5. The burden then shifts to the employer to articulate some legitimate, nondiscriminatory reason for the employee's rejection. See Bd. of Trustees of Keene State College v. Sweeney, 439 U.S. 24, 99 S.Ct. 295, 58 L.Ed.2d 216 (1978); McDonnell Douglas Corp. v. Green, supra.

6. None of the defendants herein have met this burden.

C. Liability of The Fountains Club, Inc.,  
d/b/a The Fountains Restaurant

1. When a successor corporation has not been named in antecedent charges filed with the EEOC, its liability to suit depends on

1) whether the successor company had notice of the charge, 2) the ability of the predecessor to provide relief, 3) whether there has been a substantial continuity of business operations, 4) whether the new employer uses the same plant, 5) whether he uses the same or substantially the same work force, 6) whether he uses the same or substantially the same supervisory personnel, 7) whether the same jobs exist under substantially the same working conditions, 8) whether he uses the same machinery, equipment and methods of production and 9) whether he produces the same product. Slack v. Havens, 522 F.2d 1091, 1094-95 (9th Cir. 1975), citing EEOC v. MacMillan Bloedel Containers, Inc., 503 F.2d 1086, 1094 (6th Cir. 1974).

2. Lack of technical notice of EEOC proceedings does not prevent liability of a successor corporation if the successor had a full and fair opportunity to present its defenses to the district court and was not prejudiced in any other way. See Slack v. Havens, supra.

3. In EEOC v. MacMillan Bloedel Containers, Inc., supra, the court warns that

[f]ailure to hold a successor employer liable for the discriminatory practices of its predecessor could emasculate the relief provisions of Title VII by leaving the discriminatee without a remedy or with an incomplete remedy. In the case where the predecessor company no longer had any assets, monetary relief would be precluded. Such a result could encourage evasion in the guise of corporate transfers of ownership . . .

It is to be emphasized that the equities of the matter favor successor liability because it is the successor who has benefited from the discriminatory employment practices of its predecessor. 503 F.2d at pp.1091,92.

4. The Fountains Club, Inc., the successor corporation to Three Fountains, Inc., is jointly liable with Three Fountains, Inc. for the acts of sex discrimination in employment committed against the plaintiff at The Fountains Restaurant.

#### D. Back Pay

1.

[G]iven a finding of unlawful discrimination, backpay should be denied only for reasons which, if applied generally, would not frustrate the

central statutory purposes of eradicating discrimination throughout the economy and making persons whole for injuries suffered through past discrimination. Albemarle Paper Co. v. Moody, 422 U.S. 405, 421, 95 S.Ct. 2362, 45 L.Ed.2d 280 (1975).

2. Back pay need not be proved to an exact, mathematical certainty. The wrongdoer bears the risk of the uncertainty it has created. See Kamberos v. GTE Automatic Electric, Inc., 603 F.2d 598 (7th Cir. 1979); Hairston v. McLean Trucking Co., 520 F.2d 226 (4th Cir. 1975); Fabian v. Independent School Dist. No. 89, 409 F.Supp. 94 (W.D.Okla. 1976).

3. The use of averages in a back pay formula is permissible. See Love v. Pullman Co., 569 F.2d 1074 (10th Cir. 1978).

4. An award of back pay must be reduced by interim earnings or amounts earnable with reasonable diligence by the plaintiff. 42 U.S.C. §2000e-5(g). If the plaintiff leaves a geographic job market for reasons unrelated to seeking employment, then the time of unavailability may be excluded from the back pay period. See 2 Larson, Employment Discrimination §55.37(a); Stone v. D.A.&S. Oil Well Servicing, Inc., 624 F.2d 142 (10th Cir. 1980); Tidwell v. American Oil Co., 332 F.Supp. 424 (D.Utah 1971).

5. For the acts of sex discrimination in employment which they committed against the plaintiff, Beaumont's, Peppe's, and Three Fountains are each liable to the plaintiff for \$2,565.70 in back pay. As aforesaid, The Fountains Club, Inc. is jointly liable with Three Fountains for this amount.

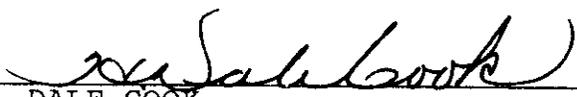
#### E. Attorney's Fee

1. The plaintiff herein, as the prevailing party, is entitled to the award of a reasonable attorney's fee. 42 U.S.C. §2000e-5(k).

2. Absent an affidavit from plaintiff's attorney

covering the factors enumerated in Waters v. Wisconsin Steel Works of Internat'l Harvester Co., 502 F.2d 1309, 1322 (7th Cir. 1974), the amount of the attorney's fee cannot be determined. See also Comacho v. Colorado Electronic Technical College, 590 F.2d 887 (10th Cir. 1979).

It is so Ordered this 7<sup>th</sup> day of January, 1981.

  
H. DALE COOK  
Chief Judge, U. S. District Court

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

TULSA TRIBUNE COMPANY, )  
an Oklahoma corporation, )  
 )  
Plaintiff, )  
 )  
-vs- )  
 )  
PATRICIA ROBERTS HARRIS, )  
SECRETARY, DEPARTMENT OF )  
HEALTH AND HUMAN SERVICES, )  
 )  
Defendant. )

No. 79-C-525-BT

FILED

JUL 6 1981

JAMES M. STURDIVANT  
U.S. DISTRICT COURT

STIPULATION OF ATTORNEY'S FEES

The Court, being fully advised, finds that the parties have stipulated to an award of attorney's fees and costs in favor of the Plaintiff in the amount of \$3,200.00, which amount is in full settlement of the claims of the Plaintiff for attorney's fees and costs.

IT IS, THEREFORE, ORDERED in accordance with the stipulation of the parties that the Plaintiff Tulsa Tribune Company be awarded the amount of \$3,200.00 in full settlement of its claims for attorney's fees and costs in the above-captioned case.

DATED this 5 day of Jan, 1981.

S/ THOMAS R. BRETT

THOMAS R. BRETT,  
United States District Judge

APPROVED AS TO FORM AND CONTENT:

Oliver S. Howard  
JAMES M. STURDIVANT and  
OLIVER S. HOWARD  
GABLE, GOTWALS, RUBIN, FOX,  
JOHNSON & BAKER  
Attorneys for Plaintiff

\_\_\_\_\_  
HUBERT H. BRYANT  
United States Attorney and  
PAULA S. OGG  
Assistant United States Attorney  
Attorneys for Defendant

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

24 15 5  
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COURT HOUSE

UNITED STATES OF AMERICA )  
 )  
 ) Plaintiff, )  
 )  
 vs. )  
 )  
 FRED R. POTTER, ) CIVIL NO. 79-C-546-E  
 )  
 ) Defendant. )

AGREED JUDGMENT

This matter comes on for consideration this 6<sup>th</sup>  
day of Jan, 1981, the Plaintiff appearing by Robert  
P. Santee, Assistant United States Attorney for the Northern  
District of Oklahoma, and the Defendant, Fred R. Potter, appearing  
by his attorney, Rick Esser.

The Court being fully advised and having examined the  
file herein finds that Defendant, Fred R. Potter, was personally  
served with Summons and Complaint on March 26, 1980:

The parties agree and consent that judgment may be  
entered against the Defendant, Fred R. Potter, in the amount  
of \$648.00.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED  
that the Plaintiff have and recover Judgment against Defendant,  
Fred R. Potter, for the principal sum of \$648.00 plus interest  
at the legal rate from the date of this Judgment until paid.

James J. ...  
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

HUBERT H. BRYANT  
United States Attorney

Robert P. Santee  
ROBERT P. SANTEE  
Assistant U.S. Attorney

Rick Esser  
RICK ESSER  
Attorney for Defendant

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

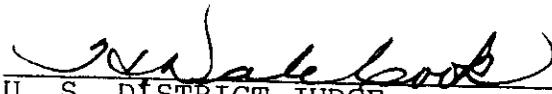
BRIDGET COLLETTE WILEY, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 AETNA LIFE AND CASUALTY )  
 INSURANCE COMPANY and )  
 McMICHAEL CONCRETE CO., )  
 )  
 Defendants. )

**FILED**  
JAN 5 1981  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

No. 80-C-439-C

ORDER

Upon Motion of the plaintiff that she be allowed to dismiss her cause of action against the defendant, McMichael Concrete Co., only, and the other parties hereto stipulating and agreeing that the plaintiff may dismiss said cause of action, for good cause shown, the cause of action of Bridget Collette Wiley against the defendant, McMichael Concrete Co., is hereby dismissed.

  
\_\_\_\_\_  
U. S. DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 5 1981

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

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
BRUCE G. WILLIAMS, )  
 )  
Defendant. )

CIVIL ACTION NO. 80-C-628

DEFAULT JUDGMENT

This matter comes on for consideration this 8<sup>th</sup> day of Jan., 1981, the Plaintiff appearing by Robert P. Santee, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Bruce G. Williams, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Bruce G. Williams, was personally served with Summons and Complaint on November 7, 1980, and that Defendant has failed to answer herein and that default has been entered by the Clerk of this Court.

The Court further finds that the time within which the Defendant could have answered or otherwise moved as to the Complaint has expired, that the Defendant has not answered or otherwise moved and that the time for the Defendant to answer or otherwise move has not been extended, and that Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, Bruce G. Williams, for the principal sum of \$918.01 plus interest at the legal rate from the date of this Judgment until paid.

Jesse L. DeWitt  
UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA

HUBERT H. BRYANT  
United States Attorney

Robert P. Santee  
ROBERT P. SANTEE  
Assistant U. S. Attorney

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

FILED

DEC 30 1980

BENJAMIN F. SPEARMAN, )  
Plaintiff, )  
-vs- )  
FOREMOST-McKESSON, INC., a )  
foreign corporation, and )  
CHARLES W, MURDOCK, )  
Defendants. )

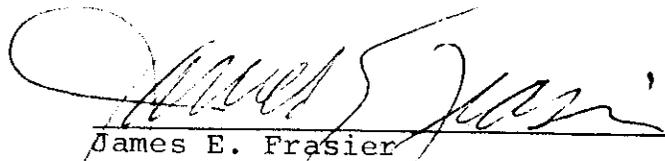
No. 79-C-389-E ✓  
Clerk  
COURT

MOTION FOR DISMISSAL WITH PREJUDICE

COMES now the plaintiff, Benjamin F. Spearman, and applies to the Court for an Order dismissing the above styled cause of action with prejudice to its refiling for the reason that an amicable settlement of the issues has been reached by the parties.

Dated this 11 day of December, 1980.

FILED  
JAN 5 1981

  
James E. Frasier  
Attorney for Benjamin F. Spearman

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

O R D E R

NOW on this 2<sup>d</sup> day of January, 1981, there comes on for hearing on the plaintiff's motion for a dismissal with prejudice of the above styled cause of action and the Court, being fully advised in the premises, finds, orders, adjudges and decrees that such motion should be and is hereby sustained and the clerk is directed to spread this dismissal with prejudice upon the proper dockets of the Court.

  
United States District Judge

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**F I L E D**

JAN 5 1981

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
RAYMOND E. HARRIS, )  
 )  
Defendant. )

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

CIVIL ACTION NO. 80-C-585-E

DEFAULT JUDGMENT

This matter comes on for consideration this 8<sup>th</sup> day of Jan, 1981, the Plaintiff appearing by Robert P. Santee, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Raymond E. Harris, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Raymond E. Harris, was personally served with Summons and Complaint on October 27, 1980, and that Defendant has failed to answer herein and that default has been entered by the Clerk of this Court.

The Court further finds that the time within which the Defendant could have answered or otherwise moved as to the Complaint has expired, that the Defendant has not answered or otherwise moved and that the time for the Defendant to answer or otherwise move has not been extended, and that Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, Raymond E. Harris, for the principal sum of \$1,000.00, plus the accrued interest of \$211.06 as of June 25, 1980, plus interest at 7% from June 25, 1980, until the date of Judgment, plus interest at the legal rate on the principal sum of \$1,000.00 from the date of Judgment until paid.

  
UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA

HUBERT H. BRYANT  
United States Attorney



ROBERT P. SANTEE  
Assistant U. S. Attorney