

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

IN RE: )  
 )  
WAYNE A. REID, DOROTHY D. REID, )  
d/b/a INTERNATIONAL MAILING )  
SYSTEMS, )  
 )  
Debtors, )  
 )  
FIRST BANK OF CATOOSA, )  
 )  
Plaintiff-Appellee, )  
 )  
vs. )  
 )  
WAYNE A. REID, DOROTHY D. REID, )  
Individually, and d/b/a INTER- )  
NATIONAL MAILING SYSTEMS, )  
 )  
Defendants- )  
Appellants, )  
 )  
and )  
 )  
MICKEY D. WILSON, )  
 )  
Trustee-Appellee, )  
 )  
and )  
 )  
COMMUNITY BANK & TRUST COMPANY, )  
 )  
Intervenor-Appellee.)

**FILED**

JUL 30 1982

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

No. 82-C-404-E ✓

ORDER

This is an appeal from the judgment of the Bankruptcy Court entered on the 31st day of March, 1982, in Bankruptcy No. 81-0588, which denied the cross-claim of the debtors, Wayne A. Reid and Dorothy Reid, praying for an exemption in their bankruptcy case in property described as "pictures" and which further found the security interest liens attached to those pictures by First Bank of Catoosa and Community State Bank to be valid and not voidable under 11 U.S.C. § 522(f).

The issues raised on appeal are:

1. Whether the court erred in finding 31 O.S. 1981 Supp. § 1(A)(3) and (7) to be inapplicable to the proceedings before the Court as matter of fact and law; and
2. Whether the Court erred in finding that the debtors were not entitled to avoid the liens of First Bank of Catoosa and Community Bank and Trust Co. pursuant to 11 U.S.C. § 522(f).

The "pictures" which are the subject of this appeal are 15 very valuable religious works of art accepted by debtors in payment of business debts owed to debtors' printing and mailing firm by Reverend Billy James Hargis. Debtors took them from the offices of Reverend Hargis where they had been displayed in a museum-type atmosphere and arranged

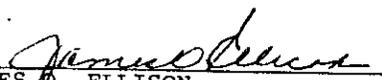
them in their private residence. Shortly thereafter they used the paintings as collateral to secure business loans from the lending institutions which now seek to enforce their liens in the paintings.

The Court implicitly found that the paintings were not exempt so as to avoid the liens under either state or federal statute because they were not household furnishings held primarily for personal use.

Rule 810 of the Bankruptcy Rules requires the District Court to accept the Bankruptcy Court's findings of fact unless they are clearly erroneous. The classification of the paintings is a question of fact and the Bankruptcy Court's findings are conclusive in the absence of clear error, e.g., Carini v. Matera, 592 F.2d 378 (Seventh Cir. 1979); In re Nelson, 561 F.2d 1342 (Ninth Cir. 1977). The findings of the Court will not be disturbed unless cogent reasons to reject these findings appear on the record. In the Matter of Vickers, 577 F.2d 683 (Tenth Cir. 1978); Wolfe v. Tri-State Insurance Co., 407 F.2d 16 (Tenth Cir. 1969); In re Perdue Housing Industries, Inc., 437 F.Supp. 36 (W.D. Okla. 1977); 13 Collier on Bankruptcy ¶¶ 810.01-810.05. The burden is on the party appealing the Bankruptcy Court's decision to show that it is clearly erroneous, e.g., In re Dawson, 446 F.Supp. 196 (E.D. Mo. 1978).

The Court has carefully examined the record as designated by Debtors and can find nothing that shows the judgment of the Bankruptcy Court to be clearly erroneous. Accordingly, the judgment of the Bankruptcy Court is hereby affirmed.

It is so Ordered this 26<sup>th</sup> day of July, 1982.

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

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

GLORIA C. REIMER, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JEFFERSON J. BAGGETT; B & D )  
 TRUCKING, INC., a corporation, )  
 and JAMES A. STEELMAN, d/b/a )  
 BEACON TIRE SERVICE, )  
 )  
 Defendants. )

No. 79-C-47-E

**FILED**  
JUL 30 1982  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

JUDGMENT

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

IT IS ORDERED AND ADJUDGED that the Plaintiff, Gloria C. Reimer, recover of the Defendants, Jefferson J. Baggett, B & D Trucking, Inc., and James A. Steelman, d/b/a Beacon Tire Service, the sum of \$383,352.50, with interest thereon at the rate of 15 percent as provided by law, and her costs of the action.

DATED at Tulsa, Oklahoma, this 30th day of July, 1982.

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

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

JOHNNIE H. BALL, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 SECRETARY OF HEALTH AND HUMAN )  
 SERVICES, UNITED STATES OF )  
 AMERICA, )  
 )  
 Defendant. )

No. 81-C-553-E ✓

**FILED**  
JUL 30 1982  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

MEMORANDUM OPINION

Plaintiff brings this action under 42 U.S.C. § 405(g), seeking a review of a final decision of the Secretary of Health and Human Services (Secretary), which decision denied Plaintiff's claim for disability insurance benefits.

Plaintiff filed his application for disability insurance benefits on February 6, 1980, alleging that he became unable to work because of his disability on January 31, 1979; he described his disability as "back trouble, hard of hearing" (Tr. 38-41). Plaintiff's application was denied initially, and upon reconsideration, and Plaintiff then requested that his claim be considered by an Administrative Law Judge (Tr. 16). His request was granted, and the hearing, at which Plaintiff above appeared, was held at Vinita, Oklahoma, on January 23, 1981 (Tr. 17-37). On February 19, 1981, the Administrative Law Judge rendered his decision, that decision being that Plaintiff was not entitled to disability insurance benefits (Tr. 4-11). The Appeals Counsel approved the decision of the Administrative Law Judge on August 10, 1981 (Tr. 2), and it thereby became the final decision of the Secretary. Plaintiff commenced this action seeking judicial review of the Secretary's decision on October 31, 1981, and the briefing of the issues was completed on March 26, 1982. The matter is now in a posture for review by this Court.

An applicant for Social Security disability insurance benefits has the burden of establishing that he was disabled on or before the date on which he last met the statutory earnings requirements. McMillin v. Gardner, 384 F.2d 596 (Tenth Cir. 1967); Stevens v. Mathews, 418 F.Supp. 881 (W.D. Okla. 1976); Dicks v. Weinberger, 390 F.Supp. 600 (N.D. Okla. 1974); see Johnson v. Finch, 437 F.2d 1321 (Tenth Cir. 1971). For the purposes of Plaintiff's claims, "disability"

means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months. 42 U.S.C. §§ 416(i)(1), 423(d)(1)(a) and 1382c(a)(3)(A). The scope of the Court's review authority is narrowly limited by 42 U.S.C. § 405(g). The Secretary's decision must be affirmed if supported by substantial evidence. Gardner v. Bishop, 362 F.2d 917 (Tenth Cir. 1966); Stevens v. Mathews, supra. Substantial evidence is more than a scintilla. It is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Richardson v. Perales, 402 U.S. 389, 91 S.Ct. 1420, 28 L.Ed.2d 842 (1971); Stevens v. Mathews, supra. However, substantial evidence is less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence. Consolo v. Federal Maritime Commission, 383 U.S. 607, 86 S.Ct. 1018, 16 L.Ed.2d 131 (1966); Stevens v. Mathews, supra.

In conducting this judicial review, it is the duty of this Court to examine the facts contained in the record, evaluate the conflicts and make a determination therefrom whether the facts support the several elements which make up the ultimate administrative decision. Heber Valley Milk Co. v. Butz, 503 F.2d 96 (Tenth Cir. 1974); Nickol v. United States, 501 F.2d 1389 (Tenth Cir. 1974); Stevens v. Mathews, supra. In this case, the ultimate administrative decision is evidenced by the findings of the Administrative Law Judge before whom Plaintiff appeared. Those findings were as follows:

1. The claimant filed an application for a period of disability and disability insurance benefits on February 6, 1980, alleging disability from January 31, 1979.
2. The claimant met the special earnings requirements of the Act, as amended, on January 31, 1979, the alleged date of onset, and continues to meet said requirements through the date of this decision.
3. The claimant testified that he was born on June 19, 1928, completed a college education, and has worked as a truck driver, school teacher, rancher, and as a contract bulldozer operator.
4. The medical evidence shows the claimant has bilateral sensorineural hearing loss and degenerative disc disease of the lumbar spine, and is unable to perform his most

recent work activity which required medium physical demands.

5. Considering the claimant's physical and mental abilities, his age, education and work history, and the residual functional capacity to engage in sedentary work, he would be able to perform substantial gainful activity.
6. In accordance with the Secretary's regulations, a 52 year old person with a high school education or greater, who has previously performed skilled work activities, and who has transferable skills to other skilled or semi-skilled sedentary jobs and the residual functional capacity to engage in sedentary work, is not disabled.
7. The claimant was not under a disability as defined in the Social Security Act, as amended, at any time on or before the date of this decision.

The elements of proof which should be considered in determining whether Plaintiff has established a disability within the meaning of the Act are: (1) objective medical facts; (2) medical opinions; (3) subjective evidence of pain and disability; and (4) the claimant's age, education and work experience. Hicks v. Gardner, 393 F.2d 299 (Fourth Cir. 1968); Stevens v. Mathews, *supra*; Morgan v. Gardner, 254 F.Supp. 977 (N.D. Okla. 1966). The evidence in the record before the Court will be summarized below.

#### MEDICAL EVIDENCE

Plaintiff was examined by Dr. F. Rollin Bland, a specialist in family practice, engaged in direct patient care (Tr. 80). Dr. Bland's report (Tr. 72-73) reveals that Plaintiff presented complaints of severe pain in his lower back, radiating down the lateral aspect of thigh and leg, especially on the right; he also stated that his legs became numb at times, and the pain experienced was so severe that he could hardly walk (Tr. 72). He did not, however, report any loss of sensory or motor function (Tr. 72). His back problems apparently stemmed from an injury he received in 1952 in a fall (Tr. 72). Plaintiff further related to Dr. Bland that he was unable to sit or walk for very long periods of time, and that his pain was helped somewhat by medication, but that side effects (stomach bleeding) were experienced with certain medication (Tr. 72). Plaintiff's history also revealed that he was deaf in his right ear, and experienced roaring and ringing in his left ear since his army service in the artillery (Tr. 72).

Plaintiff related no problems involving his vision, and no cardio-pulmonary problems, except for occasional pain in his mid-chest (Tr. 72). Plaintiff complained of no other problems, but did state that

he was always nervous (Tr. 72).

Dr. Bland's examination of Plaintiff revealed that his back was held very straight, not exhibiting the normal curvature (Tr. 72). He also showed a marked decrease in hearing on the right and some decrease on the left (Tr. 72). An examination of Plaintiff's back and extremities showed normal ranges of motion in the upper extremities, neck, and lower extremities, with no deformities; straight leg raising was essentially normal (Tr. 72). Plaintiff did, however, experience some difficulty in getting off of the examination table, with special difficulty revealed in getting up from the lying down position. Marked limitation of flexion and extension of the back was shown, with some limitation of lateral flexion. Bilateral tenderness of the sacroiliac joint area was found; reflexes were normal, however, and no loss of sensory or motor function was discovered (Tr. 72). X-rays revealed a slight scoliosis concaved to the left center to the L1-L2 area with a moderate amount of rotational component (Tr. 72). Vertebral body heights were found to be well-maintained, but severe degenerative disc disease was discovered at L3-L4, and moderate disease was found at L4-L5 (Tr. 73).

Dr. Bland concluded that Plaintiff exhibited objective evidence of severe degenerative disc disease of the lumbar spine, but no sensory deficits or motor deficits. He opined that Plaintiff would be disabled to perform his former occupation as a bulldozer operator, but that he could tolerate a sedentary type occupation (if one could be found and if Plaintiff could be retained for such) (Tr. 73).

Plaintiff was also examined by Dr. Robert Brownell, an otorhinolaryngologist (Tr. 79). Dr. Brownell's report reveals Plaintiff's earlier history of loss of hearing and exposure to considerable gunfire while in the service (Tr. 77). His examination of Plaintiff's ears revealed normal tympanic membranes and ear canals, but also disclosed a sensorineural hearing loss, mild on the left and severe on the right (Tr. 77).

Plaintiff's progress notes and medical record from the Veterans Administration in Muskogee, Oklahoma (Tr. 74-76) show that Plaintiff was treated for difficulties with his back. The radiographic report (Tr. 76) reveals that Plaintiff was found to have moderate degenerative changes in the lumbosacral spine, and a spondylolysis involving

the pars interarticularis of L5 on the right.

#### VOCATIONAL DATA

Plaintiff was born on June 19, 1928 (Tr. 22), obtained a college degree in education (Tr. 22-23), and had experience as a heavy equipment operator and mechanic (Tr. 23). He had also had military service experience (Tr. 23-24). Plaintiff had spent about 20 years working as a contractor operating heavy equipment, had run cattle, and had taught school for one year (Tr. 24-26).

#### SUBJECTIVE EVIDENCE

Plaintiff testified that his back hurt him, and he would have to lay down (Tr. 27). He had sought medical treatment, but it had not helped his condition (Tr. 27-30).

Plaintiff testified that he was not able to work because of his back condition; he testified that he could not sit for very long, and that the time that he was able to be on his feet varied from one or two hours to just a few minutes (Tr. 30). Plaintiff testified that the time he was able to sit varied from an hour to a few minutes, and that while he generally had no problems with lifting, he would experience difficulties later as a result of lifting (Tr. 31). He further stated that it hurt him to squat or kneel (Tr. 31). He testified that he was able to drive an automobile, but that his back bothered him when he did so; the distance he was able to drive without difficulty was variable (Tr. 32). Plaintiff further testified that he did a little work around his farm, including having loaded some hay, but that he experienced difficulties because of this (Tr. 33). Plaintiff also testified that he did not believe that he was able to work as a teacher, due to the variable nature of his condition (Tr. 34). He further testified that he had trouble hearing people talking to him (Tr. 35), and that a hearing aid did not solve his problems, but only caused his tinnitus to become worse (Tr. 35-36).

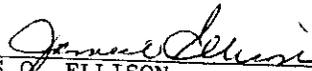
#### CONCLUSION

The final administrative decision herein is that while Plaintiff was unable to perform his most recent work activity, due to bilateral sensorineural hearing loss and degenerative disc disease of the lumbar spine, Plaintiff still retained the residual functional capacity to engage in sedentary work. Plaintiff's age, education, and prior work activities, when considered under the applicable regulations, in

consideration of his residual capacity, support a finding of not disabled. The resolution of conflicts in the evidence is the task of the Secretary, and not of a reviewing Court, e.g., Sullivan v. Weinberger, 493 F.2d 855 (Fifth Cir. 1974); Payne v. Weinberger, 480 F.2d 1006 (Fifth Cir. 1973); Grant v. Richardson, 445 F.2d 656 (Fifth Cir. 1971).

After thoroughly examining the administrative record before it, the Court is of the opinion that substantial evidence is contained therein to support the Secretary's decision that the combination of Plaintiff's physical impairments considered in light of Plaintiff's age, education and vocational experience did not render Plaintiff disabled within the meaning of the pertinent provisions of the Social Security Act. Accordingly, the Secretary's decision should be affirmed and a Judgment of affirmance will be entered this date.

It is so Ordered this 29<sup>th</sup> day of July, 1982.

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

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

BOISE CASCADE CORPORATION )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 THE BURNING HILLS GROUP OF )  
 COMPANIES, INC., a/k/a )  
 BURNING HILLS GROUP OF )  
 COMPANIES, LIMITED, an )  
 Oklahoma corporation, and )  
 COMMUNICATION ASSOCIATES, )  
 INC., an Oklahoma corporation )  
 )  
 Defendants. )

NO. 81-C-441-B ✓

**FILED**

JUL 30 1982 A

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

CORRECTED JUDGMENT

The Court entered its Findings of Fact and Conclusions of Law herein on May 6, 1982, concluding judgment should be entered in favor of the plaintiff, Boise Cascade Corporation, and against the defendants. The Court further concluded therein the plaintiff is entitled to a reasonable attorney's fee plus its costs from the defendants, but deferred entry of a final judgment in this matter pending determination of the amount of a reasonable attorney's fee.

By letter of April 29, 1982, signed by counsel for all of the parties, the parties agreed judgment should be entered in this case in favor of the plaintiff and against the defendant, The Burning Hills Group of Companies, Inc., in the amount of Four Hundred Twenty Seven Thousand One

Hundred Forty-Eight and 39/100 Dollars (\$427,148.39), plus interest at the rate of 20% accruing from April 28, 1982. Thereafter, by letter of June 29, 1982, signed by counsel for all the parties, the parties stipulated to an award in favor of the plaintiff in the amount of Thirty Thousand Dollars (\$30,000.00) as a reasonable attorney's fee herein. Accordingly,

IT IS ORDERED AND ADJUDGED judgment is hereby entered in favor of the plaintiff, Boise Cascade Corporation, and against the defendant, The Burning Hills Group of Companies, Inc., a/k/a Burning Hills Group of Companies, Limited, and Communication Associates, Inc., in the amount of Four Hundred Twenty Seven Thousand One Hundred Forty Eight and 39/100 Dollars (\$427,148.39), plus interest at the rate of 20% accruing from April 28, 1982, plus costs in the amount of Three Thousand Four Hundred Fifty-Eight and 72/100 Dollars (\$3,458.72), and a reasonable attorney's fee in the total sum of Thirty Thousand Dollars (\$30,000.00).

IT IS FURTHER ORDERED AND ADJUDGED judgment is hereby entered in favor of the Plaintiff, Boise Cascade Corporation, and against the Defendant Communication Associates, Inc., that Plaintiff has a valid and enforceable secured interest and lien in all of the property of the Defendant Communication Associates, Inc., as described in the financing statement and security agreement attached to the Complaint as Exhibit B, described as follows:

A. All rights of payment of money now owed or hereafter owed to debtor, whether due or to become due and whether or not earned by performance, including, but not limited to accounts, contract rights, chattel paper, instruments and general intangibles; all of which are hereafter called receivables.

B. All inventory now owned or hereafter acquired by debtor.

C. All equipment now owned or hereafter acquired by debtor.

D. All proceeds, including insurance proceeds, of receivables, inventory and equipment.

E. All rights of way and easements owned by debtor.

F. All vehicles whatever nature now owned or hereafter acquired.

G. All machinery and equipment now owned or hereafter acquired.

H. All contract rights now existing or hereafter acquired.

I. All fixtures of whatever nature either permanently or temporarily affixed to the business location, including but not limited to, any and all heating and air-conditioning equipment, condensers, fans and blowers now owned or hereafter acquired.

J. All tools and hand operated equipment now owned or hereafter acquired.

K. All supplies of whatever nature now owned or hereafter acquired.

L. All negotiable instruments, notes, checks, warehouse receipts, wherein any of the debtors is named payee or is the beneficiary thereof or holds any right, title or interest.

M. Any other and all other personal or corporate assets, without limitations.

N. All equipment of whatever nature or description owned by any of the debtors and leased, rented or loaned to any third person or entity, or in some third party's possession by virtue of contract or agreement.

O. All collateral similar to that described hereinabove which is hereafter acquired, all replacements thereof and all accessories, parts and equipment now or hereafter affixed thereto or used in connection therewith.

Said property be and the same is hereby foreclosed and ordered sold with or without judicial process or execution at the election of the Plaintiff in accordance with 12A Oklahoma Statutes §§ 9-501(1) and 9-503 and account debtors notified in accordance with 12A O.S. § 9-502(1), and said sale or sales, conducted, shall be public or private in accordance with 12A O.S. § 9-504 or as otherwise ordered by the Court in any subsequent enforcement proceedings in accordance with 12A O.S. § 9-507(2), said foreclosure and

sale heretofore ordered, to be to the extent of full satisfaction of the entire monetary judgment heretofore entered, and thereafter shall extinguish to all residue of the property referenced above.

ENTERED this 30<sup>th</sup> day of July, 1982.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

JOHNNIE H. BALL,  
Plaintiff,

vs.

SECRETARY OF HEALTH AND HUMAN  
SERVICES, UNITED STATES OF  
AMERICA,  
Defendant.

No. 81-C-553-E ✓

**FILED**  
JUL 30 1982  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

JUDGMENT

This cause having been considered by the Court on the pleadings, the entire record certified to this Court by the Defendant Secretary of Health and Human Services (Secretary), and after due proceedings had, and upon examination of the pleadings and record filed herein, including the Briefs submitted by the parties, the Court is of the opinion as shown by its Memorandum Opinion filed herein of even date that the final decision of the Secretary is supported by substantial evidence as required by the Social Security Act, and should be affirmed.

IT IS THEREFORE ORDERED, DECREED AND ADJUDGED that the final decision of the Secretary should be and hereby is affirmed.

Dated this 29<sup>th</sup> day of July, 1982.

  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

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

MELVIN CHAD MAHORNEY,  
#101991,

Plaintiff,

vs.

CATHERINE LOUISE RITCHIE and  
SEVIER M. FALLIS, JR., FORMER  
DISTRICT ATTORNEY OF TULSA  
COUNTY, OKLAHOMA,

Defendants.

No. 81-C-900-E

**FILED**  
JUL 30 1982  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

O R D E R

Plaintiff commenced this action on January 4, 1982, pro se and in forma pauperis, seeking damages pursuant to 42 U.S.C. § 1983, basically alleging that the Defendants, the prosecuting attorney and the victim, had conspired to have him falsely convicted of rape.

The Court has thoroughly reviewed the Plaintiff's allegations, the motions to dismiss of the Defendants, and the relevant authorities, and concludes that this action should be dismissed, on a variety of grounds.

The doctrine of absolute immunity applies to Defendant Ritchie, as she was the complaining witness in the criminal trial of this matter. This is the holding of the majority of the Court of Appeals, see Charles v. Wade, 665 F.2d 661, 666-667 (Fifth Cir. 1982), including the Court of Appeals for the Tenth Circuit, Bennett v. Passic, 545 F.2d 1260 (Tenth Cir. 1976). This action cannot, therefore, be maintained against her, and should be dismissed.

Similarly, a reading of the Complaint reveals that Defendant Fallis acted in his official capacity as District Attorney in the prosecution of Plaintiff. As such, he too is immune from suit under 42 U.S.C. § 1983, Imbler v. Pachtman, 424 U.S. 493, 96 S.Ct. 984 (1976). The case should be dismissed on this basis as to Defendant Fallis.

Even were such immunity not available, however, the Court would dismiss this action on the grounds that Plaintiff is, in reality, attacking the validity of his state conviction, without having first exhausted his state court remedies, thereby requiring a dismissal. It is fundamental that District Courts have the inherent power to fashion appropriate relief, and that the prayer of a Complaint is not

controlling; therefore, a plaintiff cannot, by artful structuring of the requested relief, disguise the true nature of the action. The circumstances of this case are remarkably similar to those of Hamlin v. Warren, 664 F.2d 29 (Fourth Cir. 1981), cert. denied \_\_\_\_\_ U.S. \_\_\_\_\_, 102 S.Ct. 1261 (1982), where the Court of Appeals upheld the district court's dismissal of a complaint which purported to seek damages under 42 U.S.C. § 1983, but which in reality attacked the validity of the plaintiff's conviction. This Court agrees with the reasoning of the majority in Hamlin, and concludes that this action should be dismissed upon the further ground that it represents an attempt to circumvent the exhaustion requirements of 28 U.S.C. § 2254.

Having reached this conclusion on this action, the Court has no need to address the other motions presently at issue in this case, since they are mooted by the dismissal.

IT IS THEREFORE ORDERED that the Defendants' motions to dismiss be, and the same hereby are, granted, and this action is hereby ordered dismissed for the reasons stated above.

It is so Ordered this 29<sup>th</sup> day of <sup>July</sup>~~June~~, 1982.

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



ing a copy of the motion to confirm sale and motion for deficiency judgment to the defendant by Certified Mail, Return Receipt Requested, to:

Cherokee Investments, Ltd., II, a  
Limited Partnership,  
Joseph H. Leonard, General Partner  
5043 Graves Avenue, Suite A  
San Jose, California 95129

Mr. Tommy Trower  
Attorney for Defendant  
P. O. Box 2967  
Tulsa, Oklahoma 74101.

3. That the reasonable value of the property foreclosed in the instant action, on or about the date of the sale on June 16, 1982, was \$435,500.00, which, when applied to the dollar amount of the plaintiffs' judgment at the date of sale, i. e., \$556,292.31, leaves a deficiency due and owing on the plaintiffs' judgment against the defendant, Cherokee Investments, Ltd., II, a Limited Partnership, in the amount of \$120,792.31.

BE IT, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the plaintiffs be and are hereby granted a judgment in personam against the defendant, Cherokee Investments, Ltd., II, a Limited Partnership, for the amount of \$120,792.31, with interest thereon at the rate of 12% per annum from the date of entry of such judgment and until paid in full, and for all of which let execution issue.

S/ JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

MAR 29 1982

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

1  
2  
3 TURRET STEEL CORPORATION, )  
4 Plaintiff, )  
5 vs. )  
6 KYLE FORGE COMPANY, )  
7 Defendant. )

No. 79-C-595-E

8  
9 STIPULATION FOR DISMISSAL WITH PREJUDICE

10 It is hereby stipulated that the above entitled action  
11 may be dismissed with prejudice, each party to bear its respective  
12 costs and attorneys fees.

13 TIPS, GIBSON, CREWSON & BAKER

14  
15 By Robert H. Tips  
16 ROBERT H. TIPS

17 Attorney for Plaintiff

18 CHAPEL, WILKINSON RIGGS, ABNEY  
19 & HENSON

20 By Bill Wilkinson  
21 BILL WILKINSON

22 Attorney for Defendant  
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FILED

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

JUL 28 1982

CITIES SERVICE COMPANY and )  
 CHARLES J. WAIDELICH, )  
 )  
 Plaintiffs/ )  
 Counterclaim Defendants, )  
 )  
 and JOHN DOE, )  
 )  
 Counterclaim Defendant, )  
 )  
 -vs- )  
 )  
 MESA PETROLEUM CO., )  
 )  
 Defendant/Counterclaimant. )

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

No. 81-C-242-C

ORDER OF DISMISSAL WITH PREJUDICE

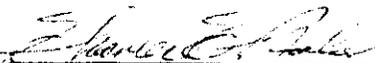
The Plaintiffs and Defendant having filed in this Court a stipulation for order of dismissal with prejudice, with each party to bear its own costs, and the Court having examined said stipulation, finds that same should be approved and this action ordered dismissed with prejudice forthwith.

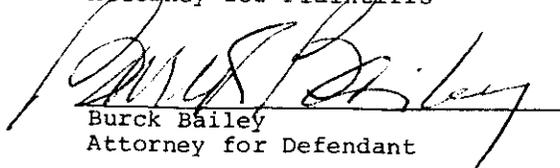
IT IS THEREFORE ORDERED that this action, including Plaintiffs' complaint and amendments and supplements thereto, and Defendant's counterclaims and amendments and supplements thereto, are hereby ordered dismissed with prejudice to the filing or prosecution of a future action, with each party to bear its own costs.

(Signed) H. Dale Cook

U.S. DISTRICT JUDGE

APPROVED:

  
 Charles C. Baker  
 Attorney for Plaintiffs

  
 Burck Bailey  
 Attorney for Defendant

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

FILE C

JUL 28 1982A

U.S. DISTRICT COURT

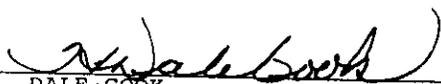
BETTE (WAGNER) CASARINI,	)
RANDALL LEE SCHAEFFER, and	)
DR. LEWIS DANIEL SCHAEFFER,	)
	)
Plaintiffs,	)
	)
vs.	)
	)
CLYDE GENE SCHAEFFER,	)
	)
Defendant.	)

No. 81-C-162-C ✓

J U D G M E N T

Judgment is hereby entered in favor of defendant and against plaintiffs for reasons consistent with and according to the terms of the Order filed herein on July 1, 1982.

It is so Ordered this 28<sup>th</sup> day of July, 1982.

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



was denied a fair trial because of the state's use of prior convictions to impeach or discredit the testimony of the Petitioner. Under normal circumstances, the use of prior convictions is permissible to impeach a Defendant who testifies in his own defense and thereby opens the door for the use of attacks on credibility on cross-examination and further direct testimony. In this case, however, the Petitioner himself, and through his attorney, opened the matter of prior convictions and offered direct testimony in admission thereof. See, Trial Transcript CFR-77-2815, at page 139, 140. The Petitioner cannot complain too stringently about events or circumstances that he, through counsel, invited. The Petitioner/Defendant's entre' into the area of former convictions effectively waives his objection to the subsequent use of such convictions in cross-examination. Goodrich v. State, 553 P.2d 219, at 222 (Ok1.Cr. 1976), Luker v. State, 504 P.2d 1238, at 1240, 1241 (Ok1.Cr. 1972).

In support of his second claim, Petitioner asserts that he was denied his "state right to be sentenced by a jury." The Court views this claim as being in essence, a claim of denial of due process as guaranteed by the Constitution of the United States of America. Petitioner asserts that the use by the state of prior convictions, some of which were later vacated, to enhance the sentence sought, effectively denied Petitioner a sentence determined by the jury. At trial, sentence was imposed on the Petitioner pursuant to 21 O.S.Supp. 1976 §51. Under the statute as it existed at the time of trial, Petitioner's former convictions were used to raise the level and degree of sentence imposed by the jury. The jury was to use a statutory formula in computing the sentence of this formerly convicted Defendant (Petitioner here). The resulting sentence imposed by the jury was fifteen years. The Petitioner alleges error in allowing the former convictions, three of which were subsequently vacated or modified on appeal due to their imposition while Petitioner was an uncertified juvenile, to be used by the jury in determining the sentence in CFR 77-2815. This same issue was raised by the Petitioner before the Court of Criminal Appeals of Oklahoma.

See, Bowen v. State, 606 P.2d 589 (Okla. Cr. 1980). Writing for the Court in that decision, Judge Brett stated:

" . . . [T]he robberies committed after the defendant became an adult more than adequately meet the requirements of 21 O.S. Supp. 1978, §51, for enhancement purposes. Further, we are of the opinion that since the defendant has now committed his third armed robbery, the 15 year sentence imposed is not in the least excessive; even if his first three priors were to be vacated, the error committed by their use in the instant case was harmless, and the 15 year sentence will be sustained." Id. at 593.

This Court agrees with the assessment of the use at trial of the Petitioner's prior convictions, as stated by the Court of Criminal Appeals. The Petitioner's second ground for issuance of a Writ of Habeas Corpus is inadequate.

In support of his third claim, Petitioner asserts that he has been denied access to the courts because of the refusal of the Public Defender, the Trial Court, and the Court of Criminal Appeals, to provide him copies of the trial transcript without charge. The United States Supreme Court stated in Ross v. Moffitt, 417 U.S. 600, 41 L.Ed.2d 341, 94 S.Ct 2437 (1974):

" . . . [T]he fact that a particular service might be of benefit to an indigent defendant does not mean that the service is constitutionally required. The duty of the State under our cases is not to duplicate the legal arsenal that may be privately retained by a criminal defendant in a continuing effort to reverse his conviction, but only to assure the indigent defendant an adequate opportunity to present his claims fairly in the context of the State's appellate process." Id. at 616.

In addition, the United States Court of Appeals, Tenth Circuit, followed an earlier Supreme Court decision in ruling on the same issue in Hines v. Baker, 422 F.2d 1002 (Tenth Cir. 1970). The Hines Court concluded:

" . . . [T]he denial of Hines' claim for a transcript should be affirmed for lack of merit, since Wade [v. Wilson], 396 U.S. 282, 90 S.Ct. 501 (1970) does not intimate that the State or Federal Government must furnish a transcript for exploratory use in collateral federal proceedings, nor change the rule followed by this Court against requiring such exploratory aids for collateral relief." Id. at 1007.

This Court finds the Petitioner's general assertion that failure of the state courts to provide him with a transcript, free of charge, fails to show how this failure has denied him access to

the courts.

On the basis of competent authority and after a review of the pleadings in this case, it is the determination of this Court that issuance of a Writ for Habeas Corpus would be inappropriate.

IT IS THEREFORE THE ORDER OF THIS COURT, that the petition for Writ of Habeas Corpus as propounded by the Petitioner, Lewis Aaron Bowen #96693-B is denied.

Dated at Tulsa, Oklahoma this 26<sup>th</sup> day of July, 1982.

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

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

BURLINGTON NORTHERN RAILROAD  
COMPANY and MISSOURI PACIFIC  
RAILROAD COMPANY,

Plaintiffs,

vs.

OKLAHOMA GAS AND ELECTRIC  
COMPANY,

Defendants.

No. 81-C-889-E ✓

**FILED**

JUL 27 1982

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

O R D E R

The Court has before it the motion of the Defendant, Oklahoma Gas and Electric Company, for change of venue from this District to the Western District of Oklahoma. The motion and supporting brief were filed by the Defendant on February 12, 1982. Plaintiffs filed their opposition to the motion on March 4, 1982, and Defendant replied to that opposition on March 11, 1982. Plaintiffs subsequently filed a supplemental memorandum in opposition to the change of venue motion on April 1, 1982 and Defendant filed a reply to said memorandum on the same date.

The question of venue and transfer to the Western District of Oklahoma has been more than adequately argued and briefed by both parties. Defendant urges that change of venue in this action is proper because its principal place of business, all of its books, records, documents and witnesses in connection with the matter in controversy are located within the Western District of Oklahoma. Further, Defendant urges that neither Defendant nor Plaintiff have their principal place of business in the Northern District of Oklahoma and that none of the parties nor their attorneys reside in the Northern District. In fact, Defendant asserts that local counsel for the Plaintiff also resides in the Western District. Defendant states that proceedings in the Northern District would cause great inconvenience for its employees who will be involved in this litigation, and that a transfer to the Western District would be no more inconvenient to the Plaintiff than would be trial in the Northern District. Finally, Defendant urges that both parties are currently involved in another action now pending in the Western District of Oklahoma, and that if allowed to transfer to that district, Defendant intends to move the consolidation of the two actions.

Plaintiff, on the other hand urges that it elected to file this action in the Northern District of Oklahoma because it represents a "neutral" district in which the Plaintiff can be assured of a fair trial. Plaintiff states the inconvenience to the Defendant of trial in the Northern District would be negligible and would not warrant transfer. Further, Plaintiff asserts that it would be easier to obtain an impartial and unbiased jury in the Northern District since fewer of Defendant's customers reside here. In fact, Plaintiff contends the Defendant would be better served by trial in the Northern District because of the likelihood of less animosity toward Defendant by ratepayers who may be selected as jurors. In addition, Plaintiff contends a jury of Defendant's ratepayers in the Western District might be inclined to find in favor of Defendant, regardless of the evidence, for fear of a Plaintiff's verdict having an adverse effect on their electric utility rates. Finally, Plaintiff asserts that the action now pending in the Western District between these same parties, is so different in facts and issues that consolidation with the instant action would be inappropriate.

It should be noted that the concept of "neutral ground" should play no part in the decision on the instant motion. Pepsi-Cola Co. v. Dr. Pepper Co., 214 F.Supp. 377 (D.C. Pa. 1963). The only occasion where such a neutral site should be considered is when it is shown that the interest of justice requires a trial location outside both parties home states. Id. In addition, Plaintiff's speculation as to the hostility that jurors in the Western District might feel toward the Defendant utility company, or the fear they might experience of increased electric rates that might result from a Plaintiff's verdict is not persuasive. Plaintiff offers nothing to support its speculation and in the absence of evidence to the contrary, prospective jurors in both the Northern and Western Districts must be presumed to be impartial and willing to perform their statutory duties.

In a case as exists here, where a change of venue would appear to reduce inconvenience to the Defendant, while not increasing the inconvenience to the Plaintiff, the transfer of the action appears to be appropriate. Additionally, while the question of consolidation with the pending action in the Western District cannot be decided by this Court, it is well established that the interest of justice is

served by minimizing the number of forums where litigation takes place and by minimizing the expenses of litigation. Duplan Corp. v. Deering Milliken, Inc., 324 F.Supp. 102 (D.C. N.Y. 1970).

As a result of this Court's review of all the arguments and authority presented, and for good cause shown, the Court views transfer of this cause as appropriate.

IT IS THEREFORE THE ORDER OF THIS COURT, that the motion of the Defendant for change of venue and transfer to the United States District Court for the Western District of Oklahoma, is granted.

DATED at Tulsa, Oklahoma this 26<sup>th</sup> day of July, 1982.

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

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

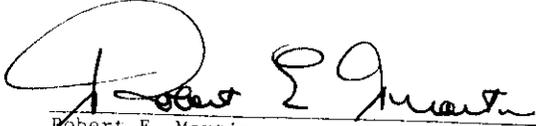
AMIR K. ADIB-YAZDI, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 AMERICAN AIRLINES, INC., a )  
 Delaware corporation, )  
 )  
 Defendant. )  
 )  
 v. )  
 )  
 SWISSAIR, INC., )  
 )  
 Third Party Defendant. )

NO. 80-C-498-C

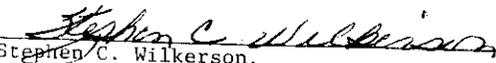
APR 17 1981

STIPULATION OF DISMISSAL

COME NOW the Plaintiff and Defendant, and pursuant to Rule 41 (a) (1), Federal Rules of Civil Procedure, and hereby stipulate that this cause can be dismissed with prejudice for the reason that a settlement agreement has been reached between the parties.

  
Robert E. Martin,  
Attorney for the Plaintiff

KNIGHT, WAGNER, STUART, WILKERSON & LIEBER

  
Stephen C. Wilkerson,  
Attorney for the Defendant.

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

JUL 27 1982

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

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
DONALD B. WILLIFORD, )  
 )  
Defendant. )

CIVIL ACTION NO. 82-C-367-B

AGREED JUDGMENT

This matter comes on for consideration this 27<sup>th</sup> day of July, 1982, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Philard L. Rounds, Jr., Assistant United States Attorney, and the Defendant, Donald B. Williford, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Donald B. Williford, was personally served with Summons and Complaint on July 26, 1982. The Defendant has not filed his Answer but in lieu thereof has agreed that he is indebted to the Plaintiff in the amount alleged in the Complaint and that Judgment may accordingly be entered against him in the amount of \$803.41, plus 15% interest from the date of this Judgment until paid.

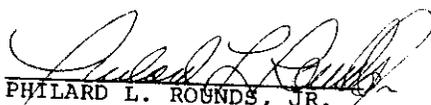
IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover Judgment against the Defendant, Donald B. Williford, in the amount of \$803.41, plus 15% interest from the date of this Judgment until paid.

  
UNITED STATES DISTRICT JUDGE  
For Thomas R. Brett

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

  
PHILARD L. ROUNDS, JR.  
Assistant U.S. Attorney

  
DONALD B. WILLIFORD

**FILED**  
**JUL 27 1982**  
**Jack C. Silver, Clerk**  
**U. S. DISTRICT COURT**

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. ) CIVIL ACTION NO. 82-C-467-B  
 )  
 KENT W. SCRIBNER, )  
 )  
 Defendant. )

DEFAULT JUDGMENT

This matter comes on for consideration this 27<sup>th</sup> day of July, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Nancy A. Nesbitt, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Kent W. Scribner, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Kent W. Scribner, was personally served with Summons and Complaint on May 13, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Kent W. Scribner, for the principal sum of \$556.80, plus interest at the legal rate (15%) from the date of this Judgment until paid.

(Signed) H. Dale Cook  
\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE  
*For Thomas R. Brett*

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED  
JUL 27 1982

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

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
SAMUEL H. NEWTON, )  
 )  
Defendant. )

CIVIL ACTION NO. 82-C-186-E

DEFAULT JUDGMENT

This matter comes on for consideration this 27<sup>th</sup> day of July, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Nancy A. Nesbitt, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Samuel H. Newton, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Samuel H. Newton, was personally served with an Alias Summons and Complaint on June 24, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Samuel H. Newton, for the principal sum of \$498.79, plus interest at the legal rate (15%) from the date of this Judgment until paid.

S/ JAMES C. ELLISON  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**  
JUL 27 1982  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
ZONA S. LACKEY, )  
 )  
Defendant. )

CIVIL ACTION NO. 82-C-331-E

DEFAULT JUDGMENT

This matter comes on for consideration this 27 day of July, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Nancy A. Nesbitt, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Zona S. Lackey, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Zona S. Lackey, was personally served with Summons and Complaint on June 17, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Zona S. Lackey, for the principal sum of \$234.36, plus interest at the legal rate (15%) from the date of this Judgment until paid.

S/ JAMES C. NELSON

UNITED STATES DISTRICT JUDGE

FILED

JUL 26 1982 A

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

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
TERRY N. WISE, )  
 )  
Defendant. )

CIVIL ACTION NO. 82-C-585-E ✓

NOTICE OF DISMISSAL

COMES NOW the United States of America by Frank Keating, United States Attorney for the Northern District of Oklahoma, Plaintiff herein, through Philard L. Rounds, Jr., Assistant United States Attorney, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action without prejudice.

Dated this 26th day of July, 1982.

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

*Philard L. Rounds, Jr.*  
PHILARD L. ROUNDS, JR.  
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the 26th day of July, 1982.

*Philard L. Rounds, Jr.*  
Assistant United States Attorney

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

**FILED**

JUL 26 1982

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

JANIE MCGHEE,  
Plaintiff,

v.

DANIEL D. DRAPER, ET AL.,  
Defendants.

NO. 74-C-326-C

AGREED ORDER

On May 17, 1982, the Court rendered a JUDGMENT and a PERMANENT INJUNCTION in this case. Since that time, the Plaintiff and her lawyers have filed an application, supported by affidavits, asking the Court to tax costs, including attorneys' fees, against the Defendants in the amount of \$126,025.27. That application has been contested by the Defendants.

The Defendants filed a MOTION FOR NEW TRIAL on May 27, 1982.

The parties have now advised the Court that they have reached an agreement concerning all issues raised by this litigation and they have submitted this AGREED ORDER, which the Court now approves, which is intended and designed to conclude this litigation.

1. The Court overrules the Defendants' MOTION FOR NEW TRIAL.
2. The parties have informed the Court that the Oklahoma State Teachers' Retirement System will accept the Plaintiff's repayment of any amounts which have been withdrawn by her and credit her with the years of service missed after the non-renewal of her contract. Therefore, the Defendants are under no obligation to make restitution to the Plaintiff for loss of those retirement benefits. The Defendant School District is under no obligation to pay any money to the Plaintiff based upon paragraph 3 on page 3 of this Court's PERMANENT INJUNCTION rendered May 17, 1982.
3. Except as above stated, all provisions of the Court's

PERMANENT INJUNCTION and JUDGMENT, rendered and filed on May 17, 1982 in this cause, remain in force and effect.

4. The Court orders the Defendant Independent School District No. 4 at Colcord, Delaware County, Oklahoma, to pay to the Plaintiff and to the lawyers and law firms on whose behalf applications for attorneys' fees and costs have been filed, the amount of \$90,000.00.

DATED at Tulsa, Oklahoma, this 26<sup>th</sup> day of July, A.D. 1982.

  
H. Dale Cook, Chief Judge,  
United States District Court

APPROVED as to form and substance:

  
Mr. Robert E. Hall  
BOB HALL & ASSOCIATES  
5850 San Felipe, Suite 125  
Houston, TX 77057  
ATTORNEYS FOR PLAINTIFF

  
Mr. William S. Hall  
FELDMAN, HALL, FRANZEN & WOODARD  
816 Enterprise Building  
Tulsa, Oklahoma 74103  
ATTORNEYS FOR DEFENDANTS

  
Mr. Gene A. Davis  
SMITH & DAVIS  
P.O. Drawer 487  
Jay, Oklahoma 74346  
ATTORNEYS FOR DEFENDANTS

IND.5/190.324.2

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 26 1982

UNITED STATES OF AMERICA, )

Plaintiff, )

vs. )

STEWART R. PONKILLA, )

Defendant. )

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

CIVIL ACTION NO. 82-C-424-C

DEFAULT JUDGMENT

This matter comes on for consideration this 26 day of July, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Nancy A. Nesbitt, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Stewart R. Ponkilla, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Stewart R. Ponkilla, was personally served with an Alias Summons and Complaint on June 11, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Stewart R. Ponkilla, for the principal sum of \$476.87, plus interest at the legal rate (15%) from the date of this Judgment until paid.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

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

**FILED**

JUL 26 1982

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

COMMUNICATION FEDERAL CREDIT )  
UNION, Successor in Interest )  
of Tulsa Bell Federal Credit )  
Union and Pioneer Bell Federal )  
Credit Union, )

Plaintiff, )

vs. )

INTER-CONTINENTAL COMPUTING, )  
INC., and ENTITY X, )

Defendants. )

No. 82-C-460-C

ORDER DISMISSING SECOND CAUSE OF ACTION ONLY

This cause comes on for consideration before the undersigned United States District Judge upon the Stipulation for Dismissal of Second Cause of Action Only that was filed by the parties herein on July 2, 1982. Having reviewed said Stipulation and being fully advised in the premises, the Court finds that the Second Cause of Action in the Amended Complaint should be and the same is hereby dismissed.

IT IS THEREFORE ORDERED that the Second Cause of Action in the Amended Complaint filed in the above-styled cause is hereby dismissed with prejudice.

H. DALE COOK  
H. DALE COOK,  
UNITED STATES DISTRICT JUDGE

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

B. F. GOODRICH COMPANY, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 THE GRAND RIVER DAM AUTHORITY, )  
 )  
 Defendant and )  
 Third Party Plaintiff, )  
 )  
 vs. )  
 )  
 NORTHEAST OKLAHOMA ELECTRIC )  
 COOPERATIVE, INC., )  
 )  
 Third Party Defendant )  
 and Counter Claimant, )  
 )  
 vs. )  
 )  
 AIR PRODUCTS & CHEMICALS, INC., )  
 a Delaware corporation; et al., )  
 )  
 Additional Third Party )  
 Defendant. )

JUL 26 1982  
Jack C. Smith, Clerk  
U. S. DISTRICT COURT

No. 80-C-522-C

O R D E R

Now before the Court for its consideration is the motion of plaintiff B. F. Goodrich for judgment on the pleadings.

In its Motion for Judgment on the Pleadings, Goodrich seeks a judgment on its Fourth Cause of Action in the Alternative to correct the settlement agreement between Grand River Dam Authority (hereinafter GRDA) and Goodrich so as to reflect the intent of the parties that the Release would not constitute a full, complete, and final settlement in the event that any other customer of GRDA was paid a proportionately higher settlement of its claim against GRDA. The parties agree that it was their mutual intent that B. F. Goodrich Company would receive the same proportion of its claim for utility service overcharges as would any of the other customers of GRDA. Since there are no disputed issues of fact, the Court finds that it was the intent of both parties, plaintiff and defendant, that the amounts paid as consideration for the Release of February 19, 1980, would not

constitute a full complete and final settlement in the event that any other customer of the defendant was paid a proportionately higher settlement of its claim against the defendant involving the same overcharge. As a result, it is the ruling of the Court that the Release of February 19, 1980 should be reformed to reflect the intent of the parties to make the release and settlement conditional upon all customers of the defendant being paid the same pro-rata or proportional settlement of their claims.

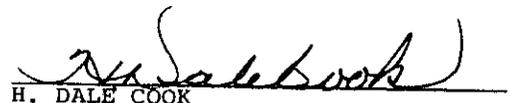
The presence of third party defendant Northeast Oklahoma Electric Cooperative, Inc. (hereinafter NEO) in this action is predicated on the assumption that some justiciable controversy exists between it and GRDA. To invoke the jurisdiction of the Court, a genuine and existing controversy must be presented, calling for present adjudication involving present rights. Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 56 S.Ct. 466, 80 L.Ed. 688 (1936). Article III, Section 2 of the U. S. Constitution mentions "cases and controversies." A "controversy" within the meaning of that provision has been interpreted to mean one that is definite and concrete, concerns legal relations among parties with adverse interests, and is real and substantial so as to require a decision granting or denying specific relief. Aetna Life Insurance Company v. Haworth, 300 U.S. 227, 57 S.Ct. 461, 81 L.Ed. 617 (1937). Claims based merely on "assumed potential invasions" of rights are not enough to warrant judicial intervention. Ashwander v. T.V.A., supra, 324-5; Arizona v. California, 283 U.S. 423, 462, 51 S.Ct. 522, 75 L.E. 1154 (1931); Rizzo v. Goode, 423 U.S. 3612, 371-3, 96 S.Ct. 598, 4 L.Ed.2d 561 (1976).

Third party defendant NEO settled in August, 1981, with defendant GRDA for a sum in excess of the alleged overcharge. In this action, NEO is objecting to any attempt by GRDA to rescind releases or settlement agreements or to make any additional payment to any of its customers who executed releases and settlement agreements in return for payment of less than the full

amount of the allegedly overcharges. NEO seeks, in its counterclaim, to have the Court enjoin GRDA and certain third-party defendants from rescinding earlier releases and settlement agreements and from arranging for payment by GRDA of any additional monies for surcharge overcharges. NEO now argues that if GRDA pays any additional sums to B. F. Goodrich or any other customers, NEO, as a customer of GRDA, will be forced to pay a portion of these amounts because of alleged future rate increases. It is the view of the Court that since the controversy between NEO and GRDA is based merely on assumed potential invasions of rights, no justiciable controversy exists between defendant GRDA and third-party defendant NEO. Therefore, third-party defendant NEO should be and hereby is dismissed from this case, pursuant to authority granted to the Court under Rule 21 F.R.Civ.P., without prejudice to NEO's rights to institute an action on the merits of its claim whenever that can be done without prejudice to the parties.

In summary, plaintiff's Motion for Partial Summary Judgment is sustained and judgment is hereby entered in behalf of plaintiff and against defendant to correct the Release and settlement agreement between GRDA and Goodrich so as to reflect the intent of the parties that the Release would not constitute a full, complete, and final settlement in the event that any other customer of GRDA was paid a proportionately higher settlement of its claim against GRDA. In addition, NEO should be and hereby is dismissed from this action sua sponte both as a third-party defendant and counter-claimant, without prejudice, pursuant to the authority of the Court pursuant to Rule 21, F.R.Civ.P.

It is so Ordered this 23<sup>rd</sup> day of July, 1982.

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

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

TAYLOR MACHINE TOOLS, INC., )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
B. F. WALKER, INC., )  
 )  
Defendant. )

No. 82-C-303-B

**FILED**  
JUL 23 1982

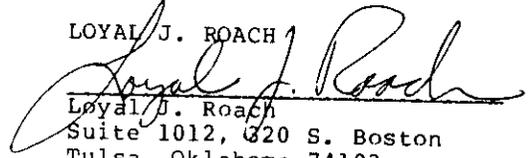
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

STIPULATION OF DISMISSAL WITH PREJUDICE

Plaintiff Taylor Machine Tools, Inc. and Defendant B. F. Walker, Inc. have settled all claims each of them now has or may hereafter have against each other arising out or by virtue of the facts, transactions, occurrences, events and matters described or referred to in their respective Complaint, Answer and Counterclaim.

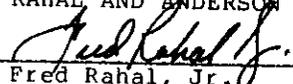
It is therefore hereby stipulated by and between Taylor Machine Tools, Inc. and B. F. Walker, Inc., by their respective attorneys of record, that the actions (whether claims or counterclaims) filed herein by each of said parties against each other be and hereby are dismissed with prejudice, and that each party shall bear its own expenses and costs of whatsoever nature.

LOYAL J. ROACH



Loyal J. Roach  
Suite 1012, 320 S. Boston  
Tulsa, Oklahoma 74103  
(918) 584-4740  
ATTORNEY FOR PLAINTIFF

KISSINGER & LANSING, P. C.  
and RAHAL, AND ANDERSON

By:   
Fred Rahal, Jr.

Suite 305 Reunion Center  
9 East Fourth Street  
Tulsa, Oklahoma 74103  
(918) 583-9000  
ATTORNEYS FOR DEFENDANT

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

WORLD PUBLISHING COMPANY, INC., )  
an Oklahoma corporation, and )  
GARY A. PERCEFULL, )  
Plaintiff, )  
vs. )  
DEPARTMENT OF JUSTICE, )  
Defendant. )

No. 81-C-601-C ✓

FILED

JUL 23 1982 *hm*

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

ORDER

Now before the Court is the defendants' Motion to Dismiss or, in the alternative, for Summary Judgment. Plaintiffs have brought this action pursuant to the Freedom of Information Act, Title 5, U.S.C. §552(a) (hereinafter, FOIA or the Act) to obtain access to withheld documents and deleted portions of other documents already supplied to plaintiffs relating to the March 17, 1977 kidnapping of Kendal Inez Ashmore and Kathy Ann Brown in Tulsa County, Oklahoma. Defendants allege that no documents have been improperly withheld, since the material requested is protected by exemptions set out in the Act.

A Vaughn Index was prepared by the government and was submitted to the Court on February 19, 1982. On June 17, 1982, the Court ordered the government to produce all withheld or excised documents for in camera review. Since the Vaughn Index provided no explanations, but merely cited the section of the Act relied upon for the claimed exemption, the Court further required that the government provide specific explanations by in camera affidavit in support of the claimed exemptions as to each document. The government supplied all the withheld or excised documents to the Court. However, the government refused to provide specific explanations in camera to the Court. Thus the Court was unable to make the required de novo review of the documents acquired under the Act (5 U.S.C. §522(a)(4)(B), and

ordered an in camera hearing at which the government was permitted to provide detailed justification for non-disclosure. This hearing was held on June 28, 1982.

The FOIA puts the burden upon the agency to justify its classification of the documents, 5 U.S.C. §552(a)(4)(B). Further, a Court generally may not deny disclosure of documents under the Act unless they are clearly covered by one of its exemptions. American Civil Liberties Union v. Brown, 609 F.2d 277 (7th Cir. 1979). A clear factual basis must be before the trial court in burden to make adequate rulings on FOIA issues. Church of Scientology v. U.S. Dept. of Army, 611 F.2d 738 (9th Cir. 1979). Any reasonably segregable non-exempt portion of a record is to be made available to the person requesting it after deletion of the portions which are exempt under this subsection. Lame v. U.S. Dept. of Justice, 654 F.2d 917 (3rd Cir. 1981); Terkel v. Kelley, 599 F.2d 214, 217 (7th Cir. 1979). Carson v. U.S. Dept. of Justice, 631 F.2d 1008, 1017 (D.C.Cir. 1980).

The government asserts that all the information requested by plaintiffs which it continues to withhold is exempt from disclosure under 5 U.S.C. §§ 552(b)(7)(C), (b)(7)(D), and (b)(7)(E). These sections exempt from disclosure:

(7) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would . . . (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures . . .

#### PRIVACY EXEMPTIONS

The privacy exemption under Section 7(c) does not prohibit all invasions of personal privacy but only those that are clearly unwarranted. Church of Scientology, supra, 746. Section 7(c) protects not only confidential sources but also third parties whom they may have revealed. Under Section 7(c) Courts must use

a de novo balancing test as to each document, weighing the privacy interest to be invaded against the public benefit which would result from disclosure. Id., 923; Dept. of Air Force v. Rose, 425 U.S. 352, 373, 96 S.Ct. 1592, 1604, 48 L.Ed.2d 11 (1976).

Case law identifies four factors to be balanced in weighing a 7(c) exemption:

- (1) The plaintiff's interest in disclosure;
- (2) The public interest in disclosure;
- (3) the degree of invasion of personal privacy; and
- (4) the availability of alternative means of obtaining the requested information.

As to the specific problem under Section 7(c) of releasing the names of FBI agents, courts have consistently held that where the government has shown only an abstract potential for harassment, annoyance, and interference with future investigations, but where the plaintiff has failed to show any public interest in revealing the names, the names will not be revealed. Abrams v. FBI, 511 F.Supp. 758, 764, 765 (N.D., Ill. 1981). Maroscia v. Levi, 569 F.2d 1000, 1002 (7th Cir. 1977). Any public interest in the adequacy of the FBI investigation can be adequately served by disclosure of the documents without the names.

The Court has reviewed each document for which a privacy exemption has been claimed and finds as follows. As to Documents 2, 3, 6, 10, 12, 13, 14, 15, and 16, the privacy interest outweighs any public benefit which might result from disclosure, and therefore the deleted material was properly withheld by the government under Section (b) (7) (C). As to document 20, the Court finds as follows:

Document 20, cover pages Agents' names properly withheld

Document 20, p.5 Release except for noted\* portions

\*Excepted portions are marked in red on copy accompanying this order and sealed by the Court, to be available only to the government.

Document 20, p.6	Release entire page
Document 20, p.7	Release except for noted portions
Document 20, p.8	Release except for portions noted
Document 20, p.9	Release except for portions noted
Document 20, p.10	Release except for portions noted
Document 20, p.11	Release except for portions noted
Document 20, pp.12-19	Documents properly withheld
Document 20, p.20	Release except for portions noted
Document 20, p.21	Release except for portions noted
Document 20, pp.22-26	Information properly withheld
Document 20, p.27	Release except for noted portions
Document 20, p.28	Agent's name properly withheld
Document 20, p.29	Previously released
Document 20, pp.30-33	Information properly withheld
Document 20, p.34	Release except for noted portions
Document 20, p.35	Information properly withheld
Document 20, p.36	Previously released.
Document 20, p.37	Information properly withheld
Document 20, p.38	Previously released
Document 20, p.39	Information properly withheld
Document 20, pp.42-46	Information properly withheld
Document 20, p.47	Release except for noted portions
Document 20, p.48	Previously released
Document 20, pp.49-51	Information properly withheld
Document 20, pp.52-59	Previously released
Document 20, p.60	Information properly withheld
Document 20, pp.61-62	Previously released
Document 20, p.72	Information properly withheld
Document 20, p.73	Document properly withheld

Document 20, pp.74-76	Release except for noted portions
Document 20, pp.77-79	Document properly withheld. See also confidentiality exception.
Document 20, p.80	Information properly withheld
Document 20, p.81	Document properly withheld
Document 20, p.82	Information properly withheld
Document 20, p.89	Document properly withheld
Document 20, pp.90-91	Information properly withheld
Documents 23-24	Information properly withheld
Document 25	Previously released
Document 26	Information properly withheld
Documents 27-30	Previously released
Document 31	Information properly withheld
Document 37	Information properly withheld
Document 41	Document previously released
Document 43	Agents' names properly withheld
Document 44	Agents' names properly withheld
Document 45	Agents' names properly withheld

Documents 34, 35, 36, 38, 40, and 42 were properly withheld under the privacy exemption.

#### CONFIDENTIALITY EXEMPTIONS

The courts have consistently held that when the FBI invokes an exemption under Section 7(D) of the Act in order to protect the confidentiality of its sources, the information must have been "acquired under an express assurance of confidentiality or in circumstances where such an assurance may reasonably be inferred." Abrams v. FBI, 511 F.Supp. 762 (N.D.Ill. 1981). Here no balancing test is required and information may be withheld without any consideration of the public interest. Church of Scientology v. U.S. Dept. of Justice, 612 F.2d 417 (9th Cir. 1979). Section 7(D) protects both the identity of the confidential source and, in a criminal law investigation, ". . .

all information furnished by a confidential source." Lame, supra, 923. Even the release of a portion of the information given by the confidential source, including testimony at trial, does not render the remaining information non-confidential.

As to 7(D) confidentiality claims, the district court must find an assurance of confidentiality, express or implied as to each source, and in order to do so, must be supplied with detailed explanations relating to each alleged confidential source. Lame, supra, 928. Thus, this court may not rely on general claims of exemption by the government, but must make substantive inquiries as mandated by Congress in the Act.

The Court has made such an inquiry during the in camera hearing and has also carefully examined all documents for evidence of express or implied confidentiality, and finds that assurances of confidentiality can be implied for the following documents only:

Document 20, pp.63-71

Document 20, pp.77-79

Document 20, pp.83-89

Documents 21-22

Documents 32-33

Therefore these documents or portions thereof were properly withheld by the government.

#### EXEMPTION OF INVESTIGATORY RECORDS

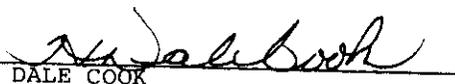
Section 552(b)(7)(E) protects "investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would disclose investigative techniques and procedures." Investigative techniques are exempt from disclosure to the extent that they are not commonly known to the public. Ferguson v. Kelley, 448 F.Supp. 919 (N.D.Ill. 1977). The Court has reviewed all documents for which an exemption under Section (b)(7)(E) is claimed and finds that the following documents or portions thereof were properly withheld under this provision:

Document 20, pp.40-41

Document 33, p.2

In conclusion, defendants' Motion to Dismiss or, in the Alternative, for Summary Judgment is hereby denied. Plaintiffs' requests in their complaint for de novo review and release of withheld documents and portions thereof have been satisfied and release is ordered as specified above. Plaintiffs are granted 10 days in which to substantiate their claim for attorney fees and defendant is granted 10 days thereafter in which to reply.

It is so Ordered this 23<sup>rd</sup> day of July, 1982.

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

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JUL 23 1982  
Jack G. Smith,  
U. S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
JAY K. VAUGHT, )  
 )  
Defendant. )

CIVIL ACTION NO. 82-C-535-C

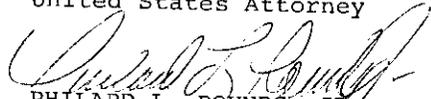
NOTICE OF DISMISSAL

COMES NOW the United States of America by Frank Keating, United States Attorney for the Northern District of Oklahoma, Plaintiff herein, through Philard L. Rounds, Jr., Assistant United States Attorney, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action without prejudice.

Dated this 23rd day of July, 1982.

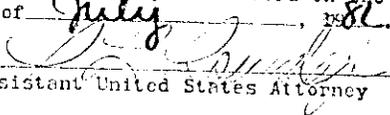
UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

  
PHILARD L. ROUNDS, JR.  
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the 23rd day of July, 1982.

  
Assistant United States Attorney

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

~~FILED~~

~~JUL 21 1982~~

JUANITA TUMELSON, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 LAUREL MOUNTAIN OVERLAND )  
 EXPRESS, INC., a foreign )  
 corporation, MELVIN SHADY, )  
 DAVE LUCAS TRUCKING COMPANY, )  
 a foreign corporation, )  
 )  
 Defendants. )

~~FILED~~  
~~U. S. DISTRICT COURT~~

No. 81-C-858-C

FILED

JUL 23 1982

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

ORDER FOR DISMISSAL

NOW, on this 23<sup>rd</sup> day of July, 1982, 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 defendants 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 numbered cause be and the same is hereby dismissed with prejudice.

*(Handwritten Signature)*

UNITED STATE DISTRICT COURT JUDGE

**FILED**

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA **JUL 21 1982**

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

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
VISTA PLAZA, LTD, and )  
L. D. BOYD d/b/a MODERN )  
DRYWALL, )  
 )  
Defendants. )

CIVIL ACTION NO. 81-C-791-E

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 21st day of July, 1982. The Plaintiff appearing by Frank Keating; United States Attorney for the Northern District of Oklahoma, through Nancy A. Nesbitt, Assistant United States Attorney; the Defendant, L. D. Boyd d/b/a Modern Drywall, appearing by his attorney, James K. Secrest, II; and, the Defendant, Vista Plaza, LTD, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Vista Plaza, LTD, was served with Summons, Complaint, and Amendment to Complaint on November 30, 1981, and February 16, 1982, respectively; and, that Defendant, L. D. Boyd d/b/a Modern Drywall, was served with Summons, Complaint, and Amendment to Complaint on February 3, 1982; both as shown on the United States Marshal's Service herein.

It appears that the Defendant, L. D. Boyd d/b/a Modern Drywall has duly filed its Answer herein on February 24, 1982; and, that Defendant, Vista Plaza, LTD, has failed to answer 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 for a foreclosure of a real property Mortgage and a Security Agreement securing said Mortgage Note.

THAT the Defendant, Vista Plaza, LTD, did, on the 12th day of May, 1972, execute and deliver to Universal Financial Corporation the aforesaid Mortgage and Mortgage Note in the sum of \$1,195,000.00 with 7 percent interest per annum, and further providing for the payment of monthly installments of principal and interest, which Mortgage and Mortgage Note have been assigned to the Secretary of Housing and Urban Development. On April 8, 1975, the Defendant, Vista Plaza, LTD., executed and delivered to Continental National Bank the aforesaid Security Agreement, which Security Agreement has also been assigned to the Secretary of Housing and Urban Development. On April 8, 1975, the Mortgage Note and Mortgage were modified as to certain payment terms and the legal description by a Modification Agreement entered into between Continental National Bank and the Defendant, Vista Plaza, LTD., and approved by the Secretary of Housing and Urban Development.

The Court further finds that Defendant, Vista Plaza, LTD., made default under the terms of the aforesaid Mortgage Note, Mortgage and Modification Agreement by reason of its failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendant is now indebted to the Plaintiff in the sum of \$1,173,319.19 as unpaid principal, plus \$84,628.30 as unpaid interest on the principal balance at 7 percent through May 15, 1981, plus \$7,714.19 as advances, plus \$27.44 as interest on advances at 7 percent per annum through May 15, 1981, plus interest on said principal balance and advances from May 16, 1981, at 7 percent per annum, until paid, plus the cost of this action accrued and accruing.

The Court further finds that the Plaintiff has a first, valid and prior lien upon the following described real property by virtue of the aforesaid real property Mortgage and Modification Agreement:

All of Block Fifteen (15), and Lots One (1), Two (2), Three (3), Four (4), and the North 125 feet of Lots Five (5) and Six (6) in Block Sixteen (16), together with that part of vacated Mound Street East of Block Fifteen running from the South line of Jackson Avenue for a distance of 201.3 feet to the North side of Block Sixteen, and together with the vacated street running East and West from the East line of Section line road to the West line of Mound Street between Blocks Fifteen (15) and Sixteen (16), said street being without name, all in the Original Town of Sapulpa, Creek County, Oklahoma, also known as Vista Plaza, an Addition to Sapulpa, Oklahoma, by reason of Plat and Dedication filed July 2, 1973, recorded in File No. 73-5535.

The Court further finds that the Plaintiff has a first, valid and prior lien upon the following described personal property by virtue of the aforesaid Security Agreement:

101 Hotpoint Model SSD12 Refrigerators,  
50 Eagle Model X2302-H Gas Ranges,  
50 Eagle Model X2302-G Gas Ranges,  
259 Sets of Draperies,

located on the real property described above.

The Court further finds that Defendant, L. D. Boyd d/b/a Modern Drywall, is entitled to judgment against Defendant, Vista Plaza, LTD., in the amount of \$3,000.00 as of the date of this judgment, but that such judgment is subject to and inferior to the first mortgage lien of the Plaintiff herein.

The Court further finds that nothing in this judgment or any exoneration of the Defendant, Vista Plaza, LTD., herein shall operate as a prejudice or preclude Plaintiff in any way, manner or form from instituting any action or suit hereinafter against the Defendant, Vista Plaza, LTD., for any violation by such Defendant, if any, under the Regulatory Agreement for Multi-Family Housing Projects executed in connection with or pursuant to the Mortgage Note, Mortgage, Modification Agreement and Security Agreement referred to and foreclosed herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against Defendant, Vista Plaza, LTD., for the sum of \$1,173,319.19 as the unpaid principal

balance, plus \$84,628.30 as unpaid interest on the principal balance at 7 percent per annum through May 15, 1981, plus \$7,714.19 as advances, plus \$27.44 as interest on advances at 7 percent per annum through May 15, 1981, plus interest on said principal balance and advances from May 16, 1981, at 7 percent per annum, 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 L. D. Boyd d/b/a Modern Drywall have and recover judgment against the Defendant, Vista Plaza, LTD., in the amount of \$3,000.00 as of the date of this judgment, but that such judgment is subject to and inferior to the first mortgage lien of the Plaintiff herein.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant to satisfy Plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real and personal property and apply the proceeds 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 all persons claiming under them since the filing of the Complaint herein are forever barred and foreclosed of any right, title, interest or claim to the real property or any part thereof.

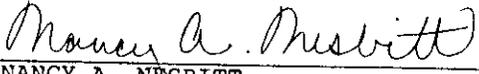
s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

S/ JAMES O. ELLISON

APPROVED:

FRANK KEATING  
United States Attorney

  
\_\_\_\_\_  
NANCY A. NESBITT  
Assistant United States Attorney

  
\_\_\_\_\_  
JAMES K. SECREST, II  
Attorney for Defendant,  
U. D. Boyd d/b/a Modern Drywall

**FILED**

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA JUL 21 1982

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
LEROY WANDS, )  
 )  
Defendant. )

Jack C. Silver, Clerk  
DISTRICT COURT

CIVIL ACTION NO. 82-C-534-C

DEFAULT JUDGMENT

This matter comes on for consideration this \_\_\_\_\_ day of July, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Philard L. Rounds, Jr., Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Leroy Wands, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Leroy Wands, was personally served with Summons and Complaint on June 24, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Leroy Wands, for the principal sum of \$282.80, plus interest at the legal rate (15%) from the date of this Judgment until paid.

s/H. DALE COOK  
UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA JUL 21 1982

Jack C. Silver, Clerk  
DISTRICT COURT

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JOHN B. ALSUP, )  
 )  
 Defendant. )

CIVIL ACTION NO. 82-C-71-C

DEFAULT JUDGMENT

This matter comes on for consideration this 21st day of July, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Don J. Guy, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, John B. Alsup, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, John B. Alsup, was personally served with Summons and Complaint on June 23, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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 B. Alsup, for the principal sum of \$626.43, plus interest at the legal rate (15%) from the date of this Judgment until paid.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

FILED

JUL 21 1982

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

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 82-C-665-C
	)	
LAWRENCE A. SPICER,	)	
	)	
Defendant.	)	

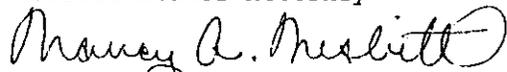
NOTICE OF DISMISSAL

COMES NOW the United States of America by Frank Keating, United States Attorney for the Northern District of Oklahoma, Plaintiff herein, through Nancy A. Nesbitt, Assistant United States Attorney, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action with prejudice.

Dated this 21st day of July, 1982.

UNITED STATES OF AMERICA

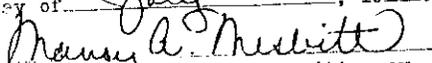
FRANK KEATING  
United States Attorney



NANCY A. NESBITT  
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the 21st day of July, 1982.

  
Assistant United States Attorney

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

PARMAC, INC., a Delaware  
corporation,

Plaintiff,

v.

TRI-SERVICE OIL FIELD MANUFACTURING  
LTD, A Canadian corporation, and TRI-  
RUDD RIG SALES, LTD., A Canadian  
corporation,

Defendant.

Civil Action No. 81-C-890-E

**FILED**

**JUL 21 1982**

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

ORDER OF DISMISSAL

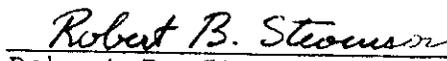
NOW on this 21<sup>st</sup> day of July, 1982, the  
above styled and numbered cause of action comes on before me  
upon the Joint Stipulation of Dismissal filed herein by the  
plaintiff and the defendants. The Court, having examined  
said Joint Stipulation of Dismissal, finds that the parties  
have entered into a compromise settlement of all claims  
involved herein, and therefore finds that the plaintiff's  
Complaint against the defendants, Tri-Service Oil Field  
Manufacturing Ltd. and Tri-Rudd Rig Sales Ltd., should be  
dismissed with prejudice.

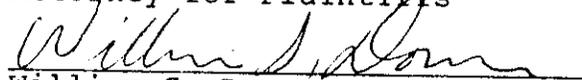
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by  
this Court that the Complaint filed herein by the plaintiffs,  
Parmac, Inc., should be and the same is dismissed with  
prejudice as to future filing.

  
UNITED STATES DISTRICT COURT  
S/ JAMES O. ELLISON

APPROVED:

HEAD, JOHNSON & STEVENSON

  
Robert B. Stevenson  
Attorney for Plaintiffs

  
William S. Dorman  
Attorney for Defendants

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JUL 20 1982

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

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
RICKEY D. ESTES, )  
 )  
Defendant. )

CIVIL ACTION NO. 82-C-545-B

NOTICE OF DISMISSAL

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

Dated this 19th day of July, 1982.

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

*Don J. Guy*  
DON J. GUY  
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the 20th day of July, 1982.

*Don J. Guy*  
Assistant United States Attorney

**FILED**

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JUL 20 1982

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FRANKLIN L. YOUNG, )  
 )  
 Defendant. )

CIVIL ACTION NO. 82-C-547-E

DEFAULT JUDGMENT

This matter comes on for consideration this \_\_\_\_\_ day of July, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Don J. Guy, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Franklin L. Young, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Franklin L. Young, was personally served with Summons and Complaint on May 14, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Franklin L. Young, for the principal sum of \$845.64 (less the amount of \$70.00 which has been paid), plus interest at the legal rate (15%) from the date of this Judgment until paid.

DALE COOK  
UNITED STATES DISTRICT JUDGE  
S/ JAMES O. ELLISON

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

GARY DON CLARK and )  
MARY ANN CLARK, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
LAFAYETTE INSURANCE )  
COMPANY, )  
 )  
Defendant. )

CIVIL ACTION

No. 81-C-903-E

**FILED**

**JUL 20 1982**

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

ORDER OF DISMISSAL

This matter comes on for hearing before me, the undersigned Judge of the United States District Court in and for the Northern District of Oklahoma, and finds that the parties have hereby filed their Stipulation and Dismissal of the above-captioned cause.

Upon all issues considered, the Court finds that this case is hereby dismissed with prejudice.

DATED this 20<sup>th</sup> day of July, 1982.

s/H. DALE COOK

JUDGE

*JOS* JAMES O. ELLISON

APPROVED:

*Ken V. Cunningham*  
\_\_\_\_\_  
KEN V. CUNNINGHAM, Attorney for  
Plaintiffs

*Robert E. Martin*  
\_\_\_\_\_  
ROBERT E. MARTIN, Attorney for  
Defendant



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

WILLIAM J. SATTERFIELD, )  
 )  
 Plaintiff, )

vs. )

TEXACO INC., a corporation, )  
 )  
 Defendant. )

NO. 81-C-51-C

**FILED**

**JUL 20 1982**

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

STIPULATED AGREEMENT OF SETTLEMENT

WHEREAS, the undersigned parties in the above-captioned matter desire to settle all issues in controversy arising out of the complaint and answer filed therein;

AND, WHEREAS, counsel for the respective parties are vested with the authority to bind the parties to the provisions of this Stipulated Agreement of Settlement;

NOW, THEREFORE, the parties in the above-captioned matter, by and through their respective counsel, hereby agree and stipulate as follows:

1. Defendant Texaco Inc. (Texaco) agrees to purchase from plaintiff the motor gasoline and the fifty-nine (59) automobile tires specified in plaintiff's complaint for the sum of one thousand eight hundred fourteen dollars and three cents (\$1,814.03) and one thousand six hundred eleven dollars and eighty-two cents (\$1,611.82), respectively.

2. Plaintiff agrees to retain title to and ownership of the Hunter computer balancer and alignment center specified in plaintiff's complaint and further agrees to release and waive any and all claims against Texaco with respect to said equipment, including a waiver of all warranties and any interest accrued on financing acquired by plaintiff to purchase said equipment.

3. The parties agree and stipulate that all removal charges, insurance premiums, and storage costs with respect to the automobile tires and Hunter equipment specified in plaintiff's complaint shall be shared by the parties on an equal basis as accrued through August 1, 1982. In connection therewith, the parties stipulate that, as of August 1, 1982, said charges shall be as follows: (a) for the costs of removing the tires and equipment to the storage location, the sum of two hundred twenty-five dollars (\$225.00); (b) for all insurance costs and premiums attributable to the tires and equipment while in storage, the sum of four hundred forty-one dollars (\$441.00); and (c) for all storage charges attributable to the automobile tires and Hunter equipment, the sum of one thousand one hundred twenty-six dollars (\$1,126.00).

The parties further agree that Texaco will remove the automobile tires from storage and that plaintiff will remove the Hunter equipment from storage no later than August 1, 1982. In the event that either party fails to remove its respective products or equipment, as specified above, by August 1, 1982, the defaulting party shall be responsible for all storage charges which accrue after August 1, 1982.

4. The parties further agree and stipulate that the sum of seven thousand six hundred six dollars and sixty-five cents (\$7,606.65), previously deposited with the Court and representing credit card funds otherwise payable to plaintiff, shall be disbursed to plaintiff, together with any interest accrued thereon.

5. The parties further agree and stipulate that Texaco shall pay plaintiff the sum of one thousand two hundred dollars (\$1,200.00) to cover any interest, costs or attorney's fees which might otherwise be due plaintiff for the credit card funds and gasoline specified in plaintiff's complaint.

6. The parties further agree and stipulate that Texaco shall use reasonable efforts to obtain, from a Hunter marketing representative located in Oklahoma City, Oklahoma, an appraisal as to the current market value of the Hunter wheel balancer and computer equipment, and that within thirty (30) days after obtaining such appraisal, Texaco will notify at least fifteen (15) independent retailers at Texaco investment service stations located in the Tulsa metropolitan area that said Hunter equipment is being offered for sale by plaintiff at the appraised value.

In connection with the appraisal of the Hunter equipment as set forth above, plaintiff agrees to notify Texaco as to the location of the Hunter equipment so that the equipment may be inspected by the Hunter representative for appraisal purposes.

It is fully understood and agreed that, upon receipt of an appraised value for the Hunter equipment and after notifying certain independent retailers that plaintiff is offering said

equipment for sale as provided above, Texaco's duties and obligations under this settlement agreement shall terminate.

7. The parties further agree and stipulate that the above and foregoing terms of settlement and compromise are made without the admission by either party as to the allegations and claims set forth in plaintiff's complaint and Texaco's counterclaim; and this agreement shall in no wise be construed as a waiver or admission by the parties as to the claims, admissions or statements set forth in this agreement or in pleadings and discovery filed or otherwise obtained in the captioned action.

8. The parties further agree and stipulate that, upon approval of this Settlement Agreement by the Court and upon receipt of the Court's order implementing same, plaintiff will file a dismissal of his claims as set forth in plaintiff's complaint, and Texaco will file a dismissal of its counterclaims as set forth in Texaco's answer and counterclaim. Except as provided herein, each party shall be responsible for its respective costs and attorneys' fees in connection with the captioned action.

DATED this 15<sup>th</sup> day of July, 1982.



Richard D. White, Jr.  
Attorney for Plaintiff  
William R. Satterfield  
315 East Rogers Boulevard  
Skiatook, Oklahoma 74070

James D. Hurley

James D. Hurley  
Attorney for Defendant Texaco Inc.  
P. O. Box 2420  
Tulsa, Oklahoma 74102

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

JIMMY BRANSON WHEAT and  
DEBBIE WHEAT, Husband  
and Wife,

Plaintiffs

vs.

BECHTEL CORPORATION  
(formerly Bechtel, Inc.),  
a Nevada corporation;  
VULCAN TANK CORPORATION,  
a suspended Oklahoma  
corporation; and FRAM  
CORPORATION, a foreign  
corporation,

Defendants

No. 81-C-571-B

**FILED**

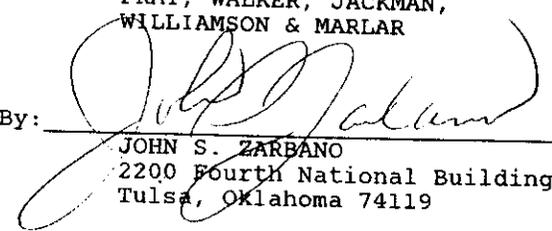
**JUL 19 1981**

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

NOTICE OF DISMISSAL

COME now the Plaintiffs, Jimmy Branson Wheat and Debbie Wheat, pursuant to Federal Rules of Civil Procedure, Rule 41(a)(1), and dismiss without prejudice their action against the Defendant Vulcan Tank Corporation, a suspended Oklahoma corporation; Plaintiffs would show the Court that said Defendant has neither filed an Answer nor a Motion for Summary Judgment and Plaintiffs hereby give notice of such Dismissal without Prejudice to said Defendant Vulcan Tank Corporation.

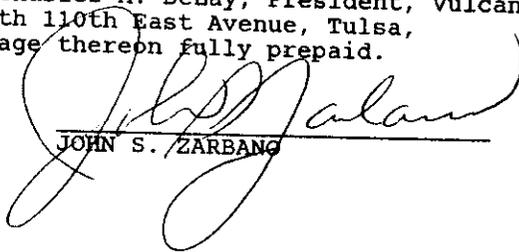
PRAY, WALKER, JACKMAN,  
WILLIAMSON & MARLAR

By: 

JOHN S. ZARBANO  
2200 Fourth National Building  
Tulsa, Oklahoma 74119

CERTIFICATE OF SERVICE

I hereby certify that on the 19<sup>th</sup> day of July, 1982, I mailed a true, correct and exact copy of the within and foregoing instrument to: Charles A. DeLay, President, Vulcan Tank Corporation, 1610 South 110th East Avenue, Tulsa, Oklahoma, with proper postage thereon fully prepaid.

  
JOHN S. ZARBANG

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

ROBERT W. McLAUGHLIN, )  
 )  
Plaintiff, )  
 )  
-vs- )  
 )  
DISCOVERY OIL & GAS, INC., an )  
Oklahoma corporation, LARRY )  
HOOVER, an individual, ORVAL )  
DeLOZIER, WILLIAM H. PHILLIPS, )  
ANDY ANDERSON and THE FIRST )  
NATIONAL BANK OF ALTAMONT, )  
ILLINOIS, )  
 )  
Defendants. )

FILED

JUL 19 1982

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

No. 81-C-548-E ✓

JUDGMENT:

NOW on this 17<sup>th</sup> day of July, 1982, the above styled cause comes on before the Court for entry of judgment as set forth in this Court's Order of June 21, 1982. The Court, having sustained a Motion for Summary Judgment filed by the plaintiff, Robert W. McLaughlin, against the defendant, Discovery Oil & Gas, Inc., all as set forth in the Court's Order of June 21, 1982, finds as follows:

1. That the plaintiff, Robert W. McLaughlin, is an individual and citizen and resident of the State of Texas and the defendant, Discovery Oil & Gas, Inc., is an Oklahoma corporation, with its principal place of business in Oklahoma, and therefore a citizen and resident of the State of Oklahoma. The amount in controversy between these parties exceeds \$10,000.00 and this Court has jurisdiction and venue pursuant to Title 28, U.S.C. §1332, under complete diversity of citizenship.

2. That on or about the 10th day of March, 1981, the defendant, Discovery Oil & Gas, Inc., made, executed and delivered to the plaintiff its Promissory Note in the principal sum of \$25,000.00, payable fifteen (15) days thereafter with interest at the rate of 18% per annum.

3. The Court further finds that for the purpose of securing the covenants and conditions contained in the Promissory Note, the

defendant, Discovery Oil & Gas, Inc., assigned to the plaintiff any and all leases it now owned or had an interest in, directly or indirectly, covering the Nowata-Bartlesville Sand Unit located in Section 32 and 33, Township 29 North, Range 15 East, Nowata County, Oklahoma, and that said assignment was dated March 10, 1981, and was filed of record with the County Clerk of Nowata County, Oklahoma, on the 10th day of June, 1981.

4. The Court further finds that the defendant, Discovery Oil & Gas, Inc., has breached the terms and conditions of the Promissory Note in that it has refused to pay said obligation within the time set forth in said Promissory Note and has defaulted upon the terms and conditions of said Note.

5. The Court further finds that despite due demand made by the plaintiff, the defendant, Discovery Oil & Gas, Inc., has failed to pay any or all of said Promissory Note and that the plaintiff is entitled to judgment against the defendant, Discovery Oil & Gas, Inc., in the sum of \$25,000.00 as and for principal, with interest thereon at the rate of 18% per annum from the 10th day of March, 1981, until paid, and for attorneys fees of fifteen percent (15%) of all principal and interest due thereunder.

6. The Court further finds that the defendant, Discovery Oil & Gas, Inc., owns interest in leases described as follows, to-wit:

The South Half, Southwest Quarter, Northwest Quarter (S/2 SW/4 NW/4), and Northwest Quarter of the Southwest Quarter (NW/4 SW/4), and the West Half of the Southwest Quarter of the Southwest Quarter (W/2 SW/4 SW/4) of Section 33, Township 29 North, Range 15 East; and

The Southeast Quarter of the Northeast Quarter of the Southeast Quarter (SE/4 NE/4 SE/4) and the East Half of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter (E/2 SE/4 SE/4 SE/4) of Section 32, Township 29 North, Range 15 East; and

The West Half of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter (W/2 SE/4 SE/4 SE/4) and the Southwest Quarter of the Southeast Quarter of the Southeast Quarter (SW/4 SE/4 SE/4) of Section 32, Township 29 North, Range 15 East, all located in Nowata County, State of Oklahoma.

7. The Court further finds that the plaintiff is entitled to foreclose his interest in and to said above-described oil and gas

leases and for an Order of this Court commanding the Marshal of the United States District Court for the Northern District of Oklahoma to advertise and sell as upon execution, with appraisal, the above described property and that said real estate be sold and the proceeds applied to payment first of all costs, including attorney fees, and secondly to the judgment of the plaintiff herein, with any remaining proceeds, if any there be, to be paid into the registry of this Court pending resolution of the Cross Complaint filed by the defendants, Orval DeLozier and William H. Phillips.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by this Court that the plaintiff, Robert W. McLaughlin, have and recover judgment against the defendant, Discovery Oil & Gas, Inc., in the sum of \$25,000.00 with interest thereon at the rate of 18% per annum from the 10th day of March, 1981, until paid in full, and attorneys fees for the use and benefit of the plaintiff's attorneys of record in the sum of \$4,611.75 together with the costs of the action, accrued and accruing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by this Court that the plaintiff, Robert W. McLaughlin's, lien and security interest in and to the following described real property be considered and constitute a first and prior and superior lien upon said oil and gas leases, being described as follows, to-wit:

The South Half, Southwest Quarter, Northwest Quarter (S/2 SW/4 NW/4) and Northwest Quarter of the Southwest Quarter (NW/4 SW/4), and the West Half of the Southwest Quarter of the Southwest Quarter (W/2 SW/4 SW/4) of Section 33, Township 29 North, Range 15 East, Nowata County, State of Oklahoma; and

The Southeast Quarter of the Northeast Quarter of the Southeast Quarter (SE/4 NE/4 SE/4) and the East Half of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter (E/2 SE/4 SE/4 SE/4) of Section 32, Township 29 North, Range 15 East; and

The West Half of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter (W/2 SE/4 SE/4 SE/4) and the Southwest Quarter of the Southeast Quarter of the Southeast Quarter (SW/4 SE/4 SE/4) of Section 32, Township 29 North, Range 15 East, all located in Nowata County, State of Oklahoma.

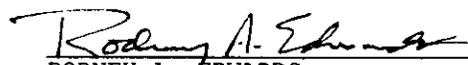
and, that any and all right, title and interest which the defendant, Discovery Oil & Gas, Inc., has or claims to have in and to said oil and gas leases is subsequent, junior and inferior to the lien of the plaintiff, Robert W. McLaughlin.

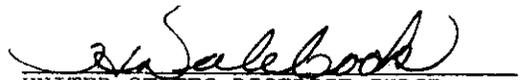
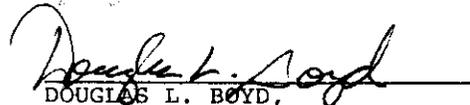
IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the lien of the plaintiff in the amounts hereinabove set forth be and the same adjudged to be foreclosed and upon a praecipe being filed, a special execution and order of sale shall issue from the Clerk of the United States District Court for the Northern District of Oklahoma, directing the Marshal of the United States District Court for the Northern District of Oklahoma, to levy upon, advertise, and sell, after due and legal appraisalment, the oil and gas leases hereinabove described, subject to the unpaid taxes, if any, and to pay the proceeds of said sale to the Clerk of this Court as provided by law for application as follows:

- First: To the payment of all costs herein accrued and accruing;
- Second: To the payment of the plaintiff's judgment of principal and interest, and attorneys fees;
- Third: The balance, if any, to be paid to the Clerk of the Court to await further Order of this Court pending resolution of the Cross-Complaint filed by the defendants, Orval DeLozier and William H. Phillips, against the defendant, Discovery Oil & Gas, Inc.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by this Court that upon confirmation of said sale, the defendant, Discovery Oil & Gas, Inc., herein be forever barred, foreclosed and enjoined from asserting any claim of any right, title, interest, estate, or equity of redemption in or to said oil and gas leases or any part thereof.

APPROVED AS TO FORM:

  
RODNEY A. EDWARDS,  
Attorney for Plaintiff

  
UNITED STATES DISTRICT JUDGE  
*for James C. Ellison*  
  
DOUGLAS L. BOYD,  
Attorney for Defendant,  
Discovery Oil & Gas, Inc.

STEPHEN C. WOLFE,  
Attorney for Defendants,  
Orval DeLozier and William H. Phillips

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

SOUTHWESTERN BELL TELEPHONE )  
COMPANY, a Missouri )  
corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
R. L. STAMPER and CLAUDE )  
STAMPER d/b/a R. L. and )  
CLAUDE STAMPER HOUSEMOVERS, )  
 )  
Defendants. )

No. 81-C-351-C

**FILED**  
JUL 19 1982  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER

Now on this 19 day of July, 1982, the above styled and number cause comes on for hearing on the Plaintiff's Motion to Dismiss. After reviewing the Court file and the representations of counsel, the Court finds that the Motion should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the above styled and numbered cause is dismissed with prejudice each party to bare their own costs.

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

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

JAMES A. MARINO and  
PATRICIA MARINO, husband  
and wife,

Plaintiffs

vs.

BECHTEL CORPORATION  
(formerly Bechtel, Inc.),  
a Nevada corporation;  
VULCAN TANK CORPORATION,  
a suspended Oklahoma  
corporation; and FRAM  
CORPORATION, a foreign  
corporation,

Defendants

No. 81-C-572-B

FILED

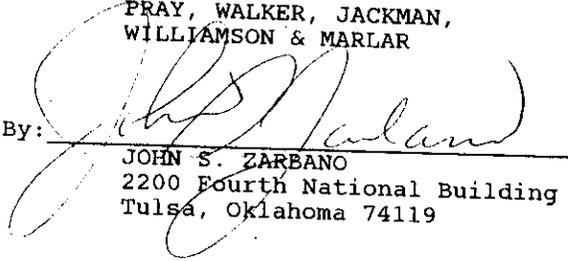
JUL 19 1981

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

NOTICE OF DISMISSAL

COME now the Plaintiffs, James A. Marino and Patricia Marino, pursuant to Federal Rules of Civil Procedure, Rule 41(a)(1), and dismiss without prejudice their action against the Defendant Vulcan Tank Corporation, a suspended Oklahoma corporation; Plaintiffs would show the Court that said Defendant has neither filed an Answer nor a Motion for Summary Judgment and Plaintiffs hereby give notice of such Dismissal without Prejudice to said Defendant Vulcan Tank Corporation.

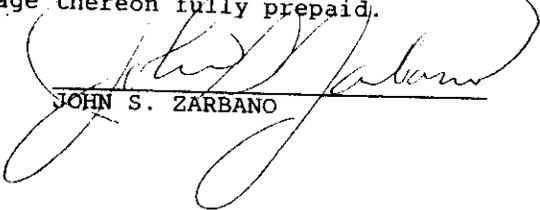
PRAY, WALKER, JACKMAN,  
WILLIAMSON & MARLAR

By: 

JOHN S. ZARBANO  
2200 Fourth National Building  
Tulsa, Oklahoma 74119

CERTIFICATE OF SERVICE

I hereby certify that on the 19<sup>th</sup> day of July, 1982, I mailed a true, correct and exact copy of the within and foregoing instrument to: CHARLES A. DeLay, President, Vulcan Tank Corporation, 1610 South 110th East Avenue, Tulsa, Oklahoma, with proper postage thereon fully prepaid.

  
\_\_\_\_\_  
JOHN S. ZARBANO

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

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. ) CIVIL ACTION NO. 81-C-709-E  
 )  
JOHN D. HOLT, )  
 )  
Defendant. )

O R D E R

For a good cause having been shown, it is hereby  
ordered, adjudged and decreed that the above-referenced action is  
hereby dismissed without prejudice against the United States of  
America.

Dated this 19<sup>th</sup> day of July, 1982.

  
UNITED STATES DISTRICT JUDGE  
*For James C. Robinson*

**FILED**

**JUL 19 1982**

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

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

FILED

JUL 16 1982

ORVELS BOWMAN, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 ANGUS J. DERRY, )  
 )  
 Defendant. )

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

NO. 82-C-247-B

ORDER OF DISMISSAL

ON This 16 day of July, 1982, upon the written application of the parties for A Dismissal with Prejudice of the Complaint and all causes of action, the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

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

S. Thomas R. Britt  
JUDGE, DISTRICT COURT OF THE UNITED STATES, NORTHERN DISTRICT OF OKLAHOMA

APPROVAL:

E. Terrill Corley

[Signature]  
Attorney for the Plaintiff

ALFRED B. KNIGHT

[Signature]  
Attorney for the Defendant.

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

BELCO CONSTRUCTION CO., INC. )  
a Delaware corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
BROKEN ARROW MUNICIPAL AUTHORITY, )  
an Oklahoma public trust; and )  
NICK ROBERT HOOD, JR., JAMES C. )  
REYNOLDS, JOHNNIE D. PARKS, )  
BOB HENRY, JR., and JIM YOUNG, )  
Trustees of the BROKEN ARROW )  
MUNICIPAL AUTHORITY, an Oklahoma )  
public trust, )  
 )  
Defendants. )

No. 81-C-268-B ✓

**FILED**

**JUL 16 1982**

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

J U D G M E N T

Pursuant to the Findings of Fact and Conclusions of Law filed April 9, 1982, and the Findings of Fact and Conclusions of Law reference attorney fees filed this date, IT IS ORDERED Judgment is entered as follows:

1. Pursuant to the Findings of Fact and Conclusions of Law filed April 9, 1982, Judgment is entered in favor of the defendants, Broken Arrow Municipal Authority, an Oklahoma public trust; and Nick Robert Hood, Jr., James C. Reynolds, Johnnie D. Parks, Bob Henry, Jr., and Jim Young, Trustees of the Broken Arrow Municipal Authority, an Oklahoma public trust, and against the plaintiff, Belco Construction, Inc.

2. The defendants are awarded attorney's fees, to be assessed as costs in this matter, in the amount of \$11,968.62,

157

pursuant to 12 O.S. §936 and the Findings of Fact and Conclusions of Law filed this date.

IT IS FURTHER ORDERED defendants are directed to file their Statement of Costs within 10 days, pursuant to 28 U.S.C. §1920 and Rule 7(e) of the Rules of the United States District Court for the Northern District of Oklahoma, to be thereafter taxed by the Clerk of the Court.

ENTERED this 16 day of July, 1982.

A handwritten signature in cursive script, appearing to read "Thomas R. Brett", is written over a horizontal line.

THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

FILED

JUL 15 1982

JACK L. SMITH, CLERK,  
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 82-C-347-B
	)	
DONALD E. FRANCIS,	)	
	)	
Defendant.	)	

DEFAULT JUDGMENT

This matter comes on for consideration this 15 day of July, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Philard L. Rounds, Jr., Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Donald E. Francis, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Donald E. Francis, was personally served with Summons and Complaint on June 9, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Donald E. Francis, for the principal sum of \$726.00, plus interest at the legal rate (15%) from the date of this Judgment until paid.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

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

BECKY DOTY, VICKY DOTY,  
DAVID PRICE AND ROY PRICE,

Plaintiffs,

vs.

EDDY ELIAS d/b/a EDDY'S  
STEAKHOUSE,

Defendant.

80-C-702-BT

**FILED**  
**JUL 15 1982**

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

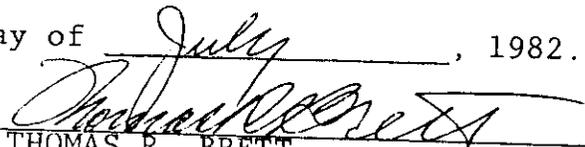
AMENDED JUDGMENT

Pursuant to the Order entered this date, the Judgement entered herein on April 16, 1982, is amended in the following particulars.

The Judgment entered on April 16, 1982, is amended to provide, in accordance with Conclusion of Law Number 8 in the Findings of Fact and Conclusions of Law filed March 17, 1982, that the Judgment in favor of the plaintiffs, Becky Doty, Vicky Doty, David Price and Roy Price should bear interest at the rate of 6% per annum from the median point of each employee's period of employment, to date, which would be as follows: Becky Doty--\$801.19; Vicky Doty--\$778.59; David Price, \$515.63; and Roy Price--\$118.97.

The Judgment entered on April 16, 1982, is amended to reflect defendant's name as Edward S. Elias.

ENTERED this 15 day of July, 1982.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

**FILED**

**JUL 14 1982**

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
WILLIAM E. RILEY,	)	
	)	Civil Action
Defendant.	)	No. 81-C-493-E
	)	
	)	

AGREED JUDGMENT

This matter comes for consideration this 14<sup>th</sup> day of July, 1982, the plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma through Don J. Guy, Assistant United States Attorney, and the defendant, William E. Riley, appearing by and through his attorney of record, Mark Harper.

The Court being fully advised and having examined the file herein, finds that the defendant was personally served with Summons and Complaint on September 23, 1981. The defendant has filed his Answer, but has agreed that he is indebted to the plaintiff in the amount alleged in the Complaint and that Judgment may accordingly be entered against him in the amount of \$770.98, plus 12% interest from date of this judgment until paid.

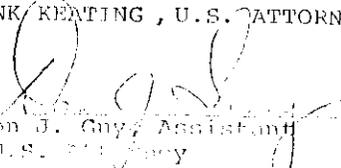
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against the defendant, William E. Riley, in the amount of \$770.98 plus 12% interest from date of judgment until paid.

s/H. DALE COOK

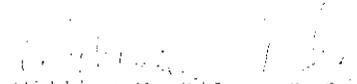
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA  
FRANK KEATING, U.S. ATTORNEY

By   
Don J. Guy, Assistant  
U.S. Attorney

Mark Harper,  
Attorney for Defendant

  
WILLIAM E. RILEY, Defendant

**FILED**  
**JUL 14 1982**  
Jack C. Silver, Clerk  
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. ) CIVIL ACTION NO. 82-C-593-E  
 )  
 JIMMY D. REYNOLDS, )  
 )  
 Defendant. )

DEFAULT JUDGMENT

This matter comes on for consideration this 14<sup>th</sup> day of July, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Nancy A. Nesbitt, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Jimmy D. Reynolds, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Jimmy D. Reynolds, was personally served with Summons and Complaint on June 4, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Jimmy D. Reynolds, for the principal sum of \$239.03, plus interest at the legal rate (15%) from the date of this Judgment until paid.

s/H. DALE COOK  
UNITED STATES DISTRICT JUDGE  
s/ [Signature]

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

**FILED**  
**JUL 14 1982**

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 RICKY J. POTTS, )  
 )  
 Defendant. )

CIVIL ACTION NO. 82-C-57-C

O R D E R

For a good cause having been shown, it is hereby  
ordered, adjudged and decreed that the above-referenced action is  
hereby dismissed without prejudice against the United States of  
America.

Dated this 14 day of July, 1982.

\_\_\_\_\_  
JAMES L. COOK

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

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

HEIDRICK AND STRUGGLES, INC. )  
a corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
BURNING HILLS GROUP OF COMPANIES, )  
LIMITED, an Oklahoma corporation, )  
 )  
Defendant. )

No. 81-C-541-C

JOURNAL ENTRY OF JUDGMENT

Now on this 13<sup>th</sup> day of July, 1982 the captioned matter comes on for hearing before the undersigned United States District Judge and the plaintiff Heidrick and Struggles, Inc. ("Heidrick and Struggles") appears by its attorneys, Lance Stockwell and Craig A. Stokes of Boesche, McDermott & Eskridge, and the defendant Burning Hills Group of Companies, Limited ("Burning Hills") appears by its attorney Dianne L. Smith of Chapel, Wilkinson, Riggs, Abney & Henson. The Court, having reviewed the pleadings and having further heard the statement of counsel for Burning Hills that Burning Hills agrees to confess judgment and waive its right to appeal and herein admits that the allegations set forth in Heidrick and Struggles' Complaint are true and correct, finds that Heidrick and Struggles should be granted judgment in its favor on the cause of action described in the Complaint in the principal sum of \$53,776.79, together with interest in the amount of \$4,702.89, and Heidrick and Struggles' court costs herein in the amount of \$177.18, excluding Heidrick and Struggles' attorney's fee.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Heidrick and Struggles be granted judgment in its favor against Burning Hills for the principal sum of \$53,776.79, together with interest to the date of judgment in the amount

of \$4,702.89 and Heidrick and Struggles' court costs herein  
in the amount of \$177.18, with the total judgment granted herein  
to bear interest at the rate of 15% until paid in full.

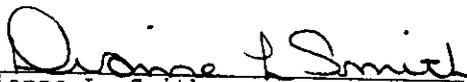
s/H. DALE COOK

H. Dale Cook  
Chief United States District Judge

APPROVED:



Lance Stockwell  
Craig A. Stokes  
Of BOESCHE, McDERMOTT & ESKRIDGE  
320 South Boston, Suite 1300  
Tulsa, Oklahoma 74103  
Attorneys for Plaintiff



Dianne L. Smith  
Dianne L. Smith  
Chapel, Wilkinson, Riggs, Abney,  
& Henson  
502 West Sixth Street  
Tulsa, Oklahoma 74119  
Attorney for Defendant

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. ) CIVIL ACTION NO. 82-C-314-C  
 )  
 DEWEY L. SUNDAY, )  
 )  
 Defendant. )

DEFAULT JUDGMENT

This matter comes on for consideration this 13th day of July, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Philard L. Rounds, Jr., Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Dewey L. Sunday, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Dewey L. Sunday, was personally served with Summons and Complaint on June 3, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Dewey L. Sunday, for the principal sum of \$725.67, plus interest at the legal rate (15%) from the date of this Judgment until paid.

S/H DALE COOK  
UNITED STATES DISTRICT JUDGE

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

WILLIAMS CENTER FORUM, INC., )  
an Oklahoma corporation, )  
et al., )  
Plaintiffs, )  
vs. )  
LEWIS REFRIGERATION CO., a )  
Washington corporation, )  
et al., )  
Defendants, )  
CARRIER CORPORATION, )  
Third-Party Defendant. )

No. 81-C-30-E ✓

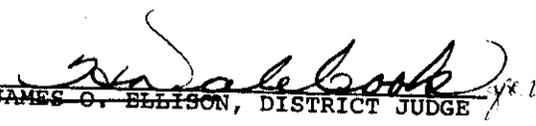
FILED

JUL 13 1982

JACK G. SUGEL, CLERK  
U. S. DISTRICT COURT

ORDER OF DISMISSAL WITH PREJUDICE

Now on this 12<sup>th</sup> day of July, 1982, the Court finds that the Plaintiffs' Application to Dismiss with Prejudice the above-styled and numbered matter against the Defendants, Lewis Refrigeration Co., a Washington corporation, Cimco Limited, a Canadian corporation, d/b/a Lewis Cimco, Neuhaus & Taylor, Inc., a Texas corporation, d/b/a 3D/International, Inc., a Texas corporation, Brady, Freeman & Lohrman Consulting Engineers, Inc., a Texas corporation, and Brady Lohrman & Pendleton, Consulting Engineers, Inc., a Texas corporation, is granted and said action is hereby dismissed with prejudice, each party to pay its own costs and attorneys' fees.

  
JAMES O. ELLISON, DISTRICT JUDGE

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

MICHAEL BUDDE and JULIE P. )  
BUDDE, individually and as )  
parents and next friends of )  
SABRINA Y. BUDDE and YVETTE )  
D. BUDDE, minors, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
INDEPENDENT SCHOOL DISTRICT )  
NUMBER TWO OF MAYES COUNTY, )  
OKLAHOMA, et al., )  
 )  
Defendants. )

Case No. 81-C-561-E

FILED

JUN 13 1982

JAMES C. BAKER, CLERK  
U. S. DISTRICT COURT

FINAL JUDGMENT BY CONSENT

The plaintiffs, MICHAEL BUDDE and JULIE P. BUDDE, individually and as parents and next friends of Sabrina Y. Budde and Yvette D. Budde by and through their attorneys of record, D. Gregory Bledsoe and Thomas E. Salisbury, having filed their Complaint herein on October 19th, 1981, alleging violations of the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. Section 1983, and seeking declaratory, injunctive and monetary relief and the defendants, INDEPENDENT SCHOOL DISTRICT NUMBER TWO OF MAYES COUNTY, OKLAHOMA, NOEL E. WINFIELD, ROBERT BOYD, BILLY F. HENDRICKSON, SAM ANDERSON, OLA MAE CLASS, JERRY TROYER and FRANK PALMER, and each of them, having appeared by and through their attorney of record, David R. Poplin, and plaintiffs and defendants by their respective attorneys having each consented to the making and entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and the Court having considered the matter and being duly advised,

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED as follows:

1. This Court has jurisdiction of the subject matter of this action and of the parties hereto. The Complaint states claims for relief against the defendants, and each of them, under the First and Fourteenth Amendments to the United States Constitution and under 42 U.S.C. Section 1983.

2. The provisions of this Final Judgment shall apply to the defendants and more specifically to defendant, INDEPENDENT SCHOOL DISTRICT NUMBER TWO OF MAYES COUNTY, OKLAHOMA, its officers, board members, agents, employees, successors and assigns, and to all persons, firms or corporations in active concert or participation with defendants who have received actual notice of this Final Judgment by personal service or otherwise.

3. The Court finds and it is hereby declared that, based upon the pleadings and the joint stipulation of the parties, that the acts complained of by the plaintiffs were, under the particular facts and circumstances herein, in violation of the plaintiffs rights under the First Amendment to the United States Constitution. The Court however makes no finding as to any violation of any rights of any person not a party hereto.

4. Defendants are hereby permanently enjoined and restrained from, in any manner, establishing, maintaining, or allowing the establishment or maintenance of a program of religious meetings, instruction and/or indoctrination at any time within the schools and classrooms of defendant, INDEPENDENT SCHOOL DISTRICT NUMBER TWO OF MAYES COUNTY, OKLAHOMA, and are further enjoined from, in any manner, either by actions or words, harassing, threatening, interfering with or molesting the plaintiffs or their children at any place where they might be.

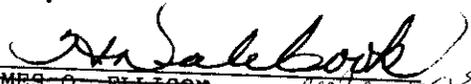
5. The Court finds that the plaintiffs and defendants have heretofore entered into a private settlement as to monetary damages and attorney's fees and have filed a joint stipulation for dismissal with prejudice as to those claims, of which the Court does hereby specifically approve.

6. This consent judgment shall not constitute an admission of liability or fault on the part of defendants as to any persons not a party hereto.

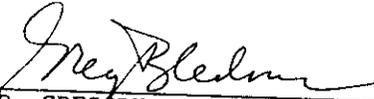
7. Jurisdiction is retained by this Court for the purpose of enabling either party to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification or termination of any of the

provisions herein, and for the enforcement of compliance  
therewith and the punishment of violations thereof.

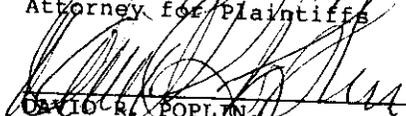
DATED this 13<sup>th</sup> day of July, 1982.

  
~~JAMES O. ELLISON,~~ *James O. Ellison*  
UNITED STATES DISTRICT JUDGE

We the undersigned, hereby consent to the entry of the  
foregoing Final Judgment without further notice.

  
D. GREGORY BLEDSOE,  
Attorney for Plaintiffs

  
THOMAS E. SALISBURY,  
Attorney for Plaintiffs

  
DAVID R. POPLIN,  
Attorney for Defendants

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

MICHAEL BUDDE and JULIE P. )  
BUDDE, individually and as )  
parents and next friends of )  
SABRINA Y. BUDDE and YVETTE )  
D. BUDDE, minors, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
INDEPENDENT SCHOOL DISTRICT )  
NUMBER TWO OF MAYES COUNTY, )  
OKLAHOMA, et al., )  
 )  
Defendants. )

FILED

JUL 13 1982

JACK C. ELLISON, CLERK  
U. S. DISTRICT COURT

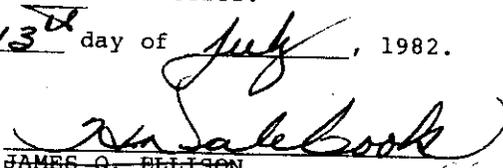
Case No. 81-C-561-E

ORDER REGARDING DISMISSAL OF  
DAMAGE CLAIMS

This cause having come before me pursuant to the Joint Stipulation for Dismissal of Damage Claims, the Court being fully advised in the premises, it is, therefore,

ORDERED, ADJUDGED AND DECREED that the claim for damages by the plaintiffs herein, be and hereby is dismissed with prejudice, with each party to bear its own costs.

IT IS SO ORDERED this 13<sup>th</sup> day of July, 1982.

  
~~JAMES O. ELLISON~~,  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

FILED  
JUN 13 1982

RAYMOND J. DONOVAN, Secretary  
of Labor, United States Department  
of Labor, )

Plaintiff, )

v. )

NANCY MASELLI, HARRY MASELLI &  
BABYSITTERS, INC., )

Defendants. )

Civil Action File

No. 81-C-412-E ✓

CONSENT JUDGMENT

Plaintiff has filed his complaint and defendants have waived their defenses and have agreed to the entry of judgment without contest. It is, therefore, upon motion of the plaintiff and for cause shown,

ORDERED, ADJUDGED and DECREED that defendants, their officers, agents, servants, employees and all persons in active concert or participation with them be and they hereby are permanently enjoined and restrained from violating the provisions of Sections 7, 15(a)(2), 11(c) and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. Section 201, et seq., hereinafter referred to as the Act, in any of the following manners:

1. Defendants shall not, contrary to sections 7 and 15(a)(2) of the Act, 29 U.S.C. §§207 and 215(a)(2) employ any employee in commerce or in the production of goods for commerce, or in an

enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, for workweeks longer than forty (40) hours, unless the employee receives compensation for his employment in excess of forty (40) hours at a rate not less than one and one-half times the regular rate at which he is employed.

2. Defendants shall not, contrary to sections 11(c) and 15(a)(5) of the Act, 29 U.S.C. §§211(c) and 215(a)(5), fail to make, keep and preserve adequate and accurate records of the persons employed by them, and the wages, hours and other conditions and practices of employment maintained by them as prescribed by regulations issued by the Administrator of the Employment Standards Administration, United States Department of Labor (29 C.F.R. Part 516).

It is further ORDERED, ADJUDGED and DECREED that the defendants be and they hereby are enjoined and restrained from withholding overtime compensation in the total amount of \$20,00.00, including interest computed at the rate of nine percent per annum which the Court finds is due under the Act to defendant's employees named in Exhibit "A" attached hereto, in the amounts stated for the period August 12, 1979 to present. To comply with this provision of this judgment defendants shall deliver to the plaintiff thirteen cashier's or certified checks payable to "Employment Standards Administration-Labor" in the amounts and the times herein set forth:

Payment of \$20,000.00, \$5,000.00 to be paid on July 31, 1982 and a total of twelve consecutive monthly installments including interest computed at the rate of nine percent per annum. The twelve installments shall be in the amount of \$1,335.94 The first installment is due and payable August 31, 1982 and the remaining installments will be due and payable on/or before the same day of each succeeding month thereafter until all installments have been paid.

From the proceeds of said payments, plaintiff shall make appropriate distribution to the employees named in Exhibit A attached or to their estate if necessary, in the respective amounts due said employees, less income tax and social security deductions. In the event that any of said money cannot be distributed and paid over by plaintiff within the period of one (1) year after payment in full pursuant to this judgment because of inability to locate the proper persons or because of their refusal to accept such sums, the money shall be deposited with the Clerk of this Court who shall forthwith deposit such money with the Treasurer of the United States pursuant to 28 U.S.C. §2041.

It is further ORDERED, that in the event of default by the defendants in the payment of any of the above-recited installments, the total balance remaining unpaid shall then become due and payable and interest shall be assessed against such remaining unpaid balance at the rate of nine percent per annum from the date of this judgment until the total amount is paid in full.

It is further ORDERED, that each of the parties shall bear his or her own costs.

Dated this 13<sup>th</sup> day of July, 1982.  
1982.

*James O. Ellison*  
UNITED STATES DISTRICT JUDGE  
/s/ JAMES O. ELLISON

Defendants waive their defenses to plaintiff's complaint and consent to the entry of this judgment:

Plaintiff moves for entry of this judgment:

*William D. Borders*  
WILLIAM D. BORDERS

T. TIMOTHY RYAN, JR.  
Solicitor of Labor

*John J. McQueen*  
JOHN J. MCQUEEN  
Attorneys for Defendants

JAMES E. WHITE  
Regional Solicitor

HERIBERTO DE LEON  
Counsel for Employment Standards

By:

*Patricia D. Keane*  
PATRICIA D. KEANE  
Trial Attorney

Attorneys for RAYMOND J. DONOVAN,  
Secretary of Labor, United States  
Department of Labor,

Plaintiff.

SOL Case No. 11964

EXHIBIT A

Alice Allen	\$ 716.60
Delores Ballard	91.95
Sharon Barnes	135.07
Velma Barnes	27.78
Verna Barthel	446.56
Liz Bates	117.97
Martha Bevelle	497.47
Esther Bingham	114.95
Rita Blackburn	111.09
Jan Blevins	95.43
JoAnn Blevins	148.61
Doris Boyd	75.73
Adriene Bogarth	196.47
Katherine Brewer	20.42
Ruth Bridges	218.14
Helen Briggs	178.58
Marlene Brothers	84.35
Ruth Brown	54.83
Kathy Burns	42.50
Joyce Butler	24.55
Genelle Beyeseda	38.87
Susan Canizzarro	19.23
Jerry Cantrell	241.64
Alice Carr	35.37
Doris Carter	500.17
Dorothy Carter	345.07
Dothula Carter	70.59
Odra Cecil	50.15
Maxine Clardy	38.33
Jane Clark	16.95
Lois Cleveland	315.65
Georgiana Cleveland	101.72
Mary Conrad	117.40
Ruby Cox	24.16
Mary Cumming	183.19
Jeanne Cunningham	36.59
Sybil Cunningham	195.59
Evelyn Davidson	103.31
Marclise Dawson	55.70
Betty Dill	213.38
Evelyn Duncan	261.96
Rachel Durant	150.28
Eldora Ebenback	11.50
Roberta Elmore	358.80
Virginia Engleit	57.63
Nancy Fears	30.00
Ollie Ferguson	398.63
Wyonna Fleming	94.72
Carolyn Foster	23.51
Louise Frederic	134.36
Helen Freeman	92.48
Judy Fuller	30.24

Laura Glory	169.85
Catherine Graves	54.85
Levita Gyles	108.61
Dorothy Hardesty	156.97
Sandra Huss	201.24
Virna Hill	565.70
Ella Hornsby	50.09
Darlene Huber	55.02
Gloria Hughes	164.67
Louise Hunter	55.67
Julie Icenogle	27.78
Linda Isaacs	342.06
Anita Jenkins	21.01
Iris Johnson	25.88
Ruth Johnson	136.99
Margie Jolly	55.92
Harriotte King	73.87
Brenda Klinge	17.73
Virginia Legg	91.89
Brenda Lincoln	12.19
Madeline Luper	25.04
Lois Mackewiz	37.07
Julie Martin	85.67
Doris Mason	148.11
Jean McClelland	28.76
Isabell McFall	16.62
Verda McGhee	130.71
Bessie McNamara	29.06
Edna Meadows	84.19
Lucille Miller	328.64
Deborah Milton	89.17
Jody Morton	21.42
Wanda Meyers	39.78
Delores Nichols	50.83
Marge Niemeyer	47.24
Letha Osburn	128.50
Othella Page	35.15
Richard Patterson	15.00
Melba Phillips	498.08
Ann Pisachubbe	144.65
Mable Powell	385.76
Mary Ramirez	265.69
Sonja Ransom	63.57
Luna Reed	374.17
Doris Renfro	200.78
Mildred Rajmoldo	80.85
Ruby Rhods	76.54
Vernicia Rife	623.44
Gayle Robbins	33.72
Pauline Roland	57.49
Melinda Rozzell	12.27
Mary Russell	287.31
Frances Ryan	70.03
Sue Sanders	13.03
Judy Scales	321.41

Carole Scott	195.14
Hattie Scott	124.06
Bobbie Sears	53.75
Emma Shade	300.53
Mary Shaw	78.84
Mary Shelton	203.44
Linda Sherridan	370.61
Carol Singleton	199.75
Bessie Smith	82.52
Cosetta Smith	23.05
Jackie Smith	14.25
Jan Stadler	79.94
Jean Stollard	161.76
Dorothy Stowers	74.43
Catherine Stromie	64.90
Beverly Taylor	72.05
Joy Thornburg	290.24
Racquel Thomas	42.14
Willie Thomas	38.73
Ruby Tensley	150.03
Geneva Trunnels	83.41
Betty Vaughn	193.20
Ellen Wade	29.92
Patti Waddley	45.58
Mamie Walker	52.35
Jean Ward	163.80
Lillian Washburn	98.86
Carolyn Washington	44.83
Catherine Watkins	150.52
Ella Watson	133.81
Lillian Webb	20.45
Barbara Weddle	35.70
Rachel Whisenhunt	53.18
Samaria Wilbirles	310.38
Erma Williams	15.67
Gerry Williams	21.37
Geraldine Williams	135.20
Helen Williams	229.70
Rosie Williams	12.87
Barbara Wilson	31.63
June Wilson	81.59
Maurene Wilson	114.26
Nyla Wright	232.78
Robin Wright	104.82
	<hr/>
TOTAL	\$20,000.00

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

MARY ANN McCLAIN, )  
 )  
 ) Plaintiff, )  
 )  
 vs. )  
 )  
 RICHARD SCHWEIKER, )  
 Secretary of Health and )  
 Human Services of the )  
 United States of America, )  
 )  
 Defendant. )

No. 81-C-670-B

**FILED**

JUL 12 1982

Clark O. Silver, Clerk

ORDER OF REMAND

This matter comes before the Court for consideration of defendant's Motion to Remand. For the reasons set forth below, the motion is granted.

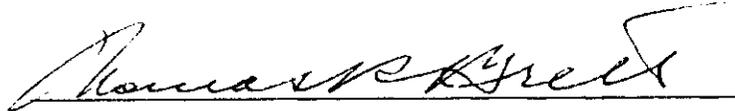
Section 405(g) of Title 42 of the United States Code provides in pertinent part:

[T]he court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary . . . .

A review of the file in this matter discloses the Secretary had not filed his answer when the motion to remand was made. Further, the Secretary states he desires a remand of the matter to obtain a consultative psychiatric examination with psychological testing and vocational expert testimony if needed, for the purpose of evaluating any nonexertional limitations plaintiff might have. Plaintiff states she has no objection to the motion for remand. Accordingly, the Court concludes good cause exists for remanding the matter to the Secretary for further administrative action.

IT IS THEREFORE ORDERED the motion of the Secretary to remand the instant matter is hereby granted, and the case is remanded to the Secretary for further administrative action in accordance with the reasons set forth above.

ENTERED this 17<sup>th</sup> day of July, 1982.

A handwritten signature in cursive script, appearing to read "Thomas R. Brett", written over a horizontal line.

THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

FILED

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

JUL 12 1982

Jack C. Silver, Clerk  
ST. 11-101

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 CHARLES M. COWEN, WANDA J. )  
 COWEN, R. PATRICK GILMORE, )  
 COUNTY TREASURER, Creek County, )  
 Oklahoma, BOARD OF COUNTY )  
 COMMISSIONERS, Creek County, )  
 Oklahoma, and JOHN JARDOE, )  
 )  
 Defendants. )

CIVIL ACTION NO. 81-C-857-C

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 12th day  
of July, 1982. The Plaintiff appearing by Frank Keating,  
United States Attorney for the Northern District of Oklahoma,  
through Philard L. Rounds, Jr., Assistant United States Attorney;  
the Defendant, Charles M. Cowen, appearing by his attorney,  
Ronald C. Bennett; the Defendant, Wanda J. Cowen, appearing by  
her attorney, R. Patrick Gilmore; and, the Defendants, County  
Treasurer, Creek County, Oklahoma, and Board of County  
Commissioners, Creek County, Oklahoma, appearing by their  
attorney, David Young.

The Court being fully advised and having examined the  
file herein finds that Defendant, Charles M. Cowen, was served  
with Summons, Complaint, and Amendment to Complaint on  
December 8, 1981, and February 25, 1982, respectively; that  
Defendant, Wanda J. Cowen, was served with Summons, Complaint,  
and Amendment to Complaint on December 10, 1981, and March 1,  
1982, respectively; that Defendant, R. Patrick Gilmore, was  
served with Summons, Complaint, and Amendment to Complaint on  
December 8, 1981, and February 24, 1982, respectively; that  
Defendant, County Treasurer, Creek County, Oklahoma, was served  
with Summons, Complaint, and Amendment to Complaint on  
December 8, 1981, and February 24, 1982, respectively; that

Defendant, Board of County Commissioners, Creek County, Oklahoma, was served with Summons, Complaint, and Amendment to Complaint on December 8, 1981, and February 25, 1982, respectively; that Defendant, John Jarboe, Trustee, was served with Summons, Complaint, and Amendment to Complaint on February 24, 1982; all as appears on the United States Marshal's Service herein.

It appears that the Defendants, County Treasurer, Creek County, Oklahoma, and Board of County Commissioners, Creek County, Oklahoma, have duly filed their Answer herein on December 18, 1981; that Defendant, Wanda J. Cowen, has duly filed her Answer herein on December 24, 1981; that Defendant, R. Patrick Gilmore, has duly filed his Disclaimer herein on December 24, 1981; that Defendant, Charles M. Cowen, has duly filed his Disclaimer and Consent to Judgment In Rem on December 28, 1981; and, that Defendant, John Jarboe, Trustee, has duly filed his Disclaimer herein on April 9, 1982.

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

The West Half of the Southwest Quarter (W/2 SW/4) and a tract of land beginning in the Southwest Corner of the East Half of the Southwest Quarter (E/2 SW/4) running thence East 417.5 feet; thence North 417.5 feet; thence West 417.5 feet; thence South 417.5 feet to the point of beginning, all in Section 33, Township 14 North, Range 7 East.

THAT the Defendants, Charles M. Cowen and Wanda J. Cowen, did, on the 19th day of December, 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 \$21,400.00 with 8 1/2 percent interest per annum, and further providing for the payment of annual installments of principal and interest.

The Court further finds that Defendants, Charles M. Cowen and Wanda J. Cowen, made default under the terms of the aforesaid mortgage note by reason of their failure to make annual 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 \$21,435.00 as unpaid principal plus accrued interest of \$3,069.99 as of August 27, 1980, with interest thereafter at the rate of \$4.9918 per day, until paid, plus the cost of this action accrued and accruing.

The Court further finds that Defendant, Wanda J. Cowen, has a lien interest in said real estate against Defendant, Charles M. Cowen, by reason of a Divorce Decree in the amount of \$54,000.00, dated July 14, 1980, entered on that date, style of case being: Charles Cowen v. Wanda Jean Cowen, Case No. JFD-79-3799, but that such judgment would be subject to and inferior to the first mortgage lien of the Plaintiff, herein; and that the sum of \$44,700.00 is owing as of June 18, 1982.

The Court further finds that there is due and owing to the County of Creek, State of Oklahoma, from Defendants, Charles M. Cowen and Wanda J. Cowen, the sum of \$160.14 as of December 12, 1981, plus interest according to the law for real estate taxes for the year 1981 and that Creek County should have judgment for said amount, and that such judgment is superior 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, Charles M. Cowen and Wanda J. Cowen, for the principal sum of \$21,435.00 plus accrued interest of \$3,069.99 as of August 27, 1980, with interest thereafter at the rate of \$4.9918 per day, 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 Wanda J. Cowen have and recover judgment against the Defendant, Charles M. Cowen, declaring the judgment entered in Case No. JFD-79-3799 in the amount of \$54,000.00 declared a lien upon the interest of the said Charles

M. Cowen in and to the real estate described hereinabove securing the amount remaining unpaid on the said judgment which unpaid amount is in the sum of \$44,700.00, but that such judgment and lien is subject to and inferior to the first mortgage lien of the Plaintiff herein.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the County of Creek have and recover judgment against Defendants, Charles M. Cowen and Wanda J. Cowen, for the sum of \$160.14 as of December 12, 1981, plus interest thereafter according to law for real estate taxes, and that such judgment is superior to the first mortgage lien of the Plaintiff herein.

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

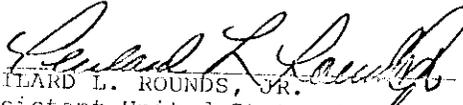
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint herein are forever barred and foreclosed of any right, title, interest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

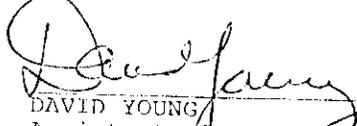
s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

APPROVED:

FRANK KEATING  
United States Attorney

  
PHILARD L. ROUNDS, JR.  
Assistant United States Attorney

  
DAVID YOUNG  
Assistant District Attorney  
Attorney for Defendants,  
County Treasurer and  
Board of County Commissioners,  
Creek County

  
R. PATRICK GILMORE  
Attorney for Defendant,  
Wanda J. Gilmore

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JUL 12 1982

Clark O. Silver, Clerk

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
WENDY S. TROXELL, )  
 )  
Defendant. )

CIVIL ACTION NO. 82-C-41-C

DEFAULT JUDGMENT

This matter comes on for consideration this 12<sup>th</sup> day of ~~June~~ <sup>July</sup>, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Don J. Guy, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Wendy S. Troxell, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Wendy S. Troxell, was personally served with Summons and Complaint on February 1, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Wendy S. Troxell, for the principal sum of \$602.67, (less the amount of \$200.00 which has been paid) plus interest at the legal rate (15%) from the date of this Judgment until paid.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED  
JUL 12 1982

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 82-C-346-B
	)	
LESTER A. DALTON,	)	
	)	
Defendant.	)	

DEFAULT JUDGMENT

This matter comes on for consideration this 12 day of July, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Philard L. Rounds, Jr., Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Lester A. Dalton, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Lester A. Dalton, was personally served with Summons and Complaint on May 4, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Lester A. Dalton, for the principal sum of \$32853, plus interest at the legal rate (15%) from the date of this Judgment until paid.

*S/* THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE



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

**FILED**

~~FILED~~ 1982

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

HERBERT J. FORREST, JR., )  
 )  
 Plaintiff, )

-vs- )

LARRY R. KRAFT; and )  
LAMAR EXPLORATION COMPANY; and )  
other controlling persons of Lamar )  
Exploration Company and other persons )  
who participated with or aided and )  
abetted the above named defendants in )  
the acts and omissions complained of )  
herein, )  
 )  
 Defendants. )

No. 82-C-575-B

~~FILED~~ 1982

ORDER

This action comes before the Court on the stipulation of the parties to dismiss this action with prejudice to the bringing of a future action for the same.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this action be dismissed with prejudice to the bringing of a future action for the same.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the costs of this action shall be borne by the party incurring the same.

S/ THOMAS R. BRETT

U. S. DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

Jul 12 1982

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 82-C-546-B
	)	
SHELLY R. LEFEVERS,	)	
	)	
Defendant.	)	

AGREED JUDGMENT

This matter comes on for consideration this 12 day of July, 1982, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Don J. Guy, Assistant United States Attorney, and the Defendant, Shelly R. LeFevers, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Shelly R. LeFevers, was personally served with Summons and Complaint on May 22, 1982. The Defendant has not filed her Answer but in lieu thereof has agreed that she is indebted to the Plaintiff in the amount alleged in the Complaint and that Judgment may accordingly be entered against her in the amount of \$584.57, plus 12% interest from the date of this Judgment until paid.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover Judgment against the Defendant, Shelly R. LeFevers, in the amount of \$584.57, plus 12% interest from the date of this Judgment until paid.

S/ THOMAS R. BRETT

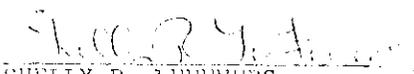
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

  
DON J. GUY  
Assistant U.S. Attorney

  
SHELLY R. LEFEVERS

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OKLAHOMA

CLERK'S OFFICE

UNITED STATES COURT HOUSE

TULSA, OKLAHOMA 74103

July 8, 1982

JACK C. SILVER  
CLERK

(918) 581-7796  
(FTS) 736-7796

T.S.I., LTD, an Oklahoma Corporation )

vs. )

THE WESTERN UNION TELEGRAPH COMPANY, )  
a New York Corporation )

82-C-260-E

**FILED**

JUL 8 1982

MINUTE ORDER

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

On July 2, 1982, Floyd Walker, counsel for the Plaintiff, notified this Court by letter that Plaintiff wishes to withdraw its previous objections to a motion by the Defendant to transfer this case to The United States District Court for the District of New Jersey.

The parties now being deemed to have joined in the motion to transfer, and for good cause shown, IT IS ORDERED THAT THIS ACTION BE TRANSFERRED TO THE UNITED STATES DISTRICT COURT OF NEW JERSEY FOR FURTHER PROCEEDINGS.

JAMES O. ELLISON  
United States District Judge

FILED

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

JUL - 8 1982

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 WILLIAM T. KEIRSEY, JR., )  
 )  
 Defendant. )

JACK C. JAMES, Clerk  
U. S. DISTRICT COURT

CIVIL ACTION NO. 82-C-372-C

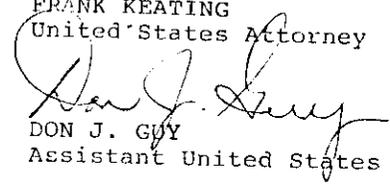
NOTICE OF DISMISSAL

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

Dated this 8th day of July, 1982.

UNITED STATES OF AMERICA

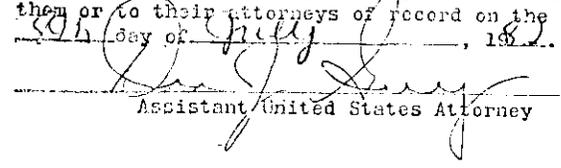
FRANK KEATING  
United States Attorney



DON J. GUY  
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy  
of the foregoing pleading was served on each  
of the parties hereto by mailing the same to  
them or to their attorneys of record on the  
5th day of July, 1982.

  
Assistant United States Attorney

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

FILE  
JUL 2 1982

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

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. ) CIVIL ACTION NO. 80-C-615-E  
 )  
DONALD SMITH, )  
 )  
Defendant. )

AGREED JUDGMENT

This matter comes on for consideration this 3<sup>rd</sup> day  
of July, 1982, the Plaintiff appearing by Frank Keating,  
United States Attorney for the Northern District of Oklahoma,  
through Philard L. Rounds, Jr., Assistant United States Attorney,  
and the Defendant, Donald Smith, appearing pro se.

The Court, being fully advised and having examined the  
file herein, finds that Defendant, Donald Smith, was personally  
served with Summons and Complaint on June 28, 1982. The  
Defendant has not filed his Answer but in lieu thereof has agreed  
that he is indebted to the Plaintiff in the amount of \$1,949.50,  
plus the accrued interest of \$212.80 as of September 1, 1980,  
plus interest at 7 percent per annum from September 1, 1980,  
until the date of this Judgment, plus 15 percent interest on the  
principal sum of \$1,949.50 from the date of this Judgment until  
paid.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that  
the Plaintiff have and recover Judgment against the Defendant,  
Donald Smith, for the principal sum of \$1,949.50, plus the  
accrued interest of \$212.80 as of September 1, 1980, plus  
interest at 7 percent per annum from September 1, 1980, until the

date of this Judgment, plus 15 percent interest on the principal sum of \$1,949.50 from the date of this Judgment until paid.

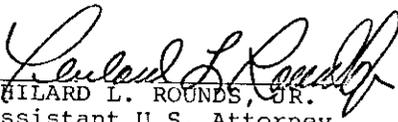
S/ JAMES O. WILSON

UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

  
PHILARD L. ROUNDS, JR.  
Assistant U.S. Attorney

  
DONALD SMITH

FILED

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

JUL - 2 1982

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 82-C-555-C
	)	
BYRON A. LABADIE,	)	
	)	
Defendant.	)	

DEFAULT JUDGMENT

This matter comes on for consideration this 2<sup>nd</sup> day of ~~June~~ <sup>July</sup>, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Philard L. Rounds, Jr., Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Byron A. Labadie, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Byron A. Labadie, was personally served with Summons and Complaint on May 20, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Byron A. Labadie, for the principal sum of \$974.59, plus interest at the rate of 15 percent from the date of this Judgment until paid.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

COLLEGIATE RECOVERY & CREDIT  
ASSISTANCE PROGRAMS, INC.,

Defendant.

No. 81-C-89-E

**FILED**

JUL 1 1982

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

CONSENT ORDER AND JUDGMENT

THIS ACTION having been commenced by the filing of the complaint herein; and brought to issue by the filing of the answer by the defendant herein; and the parties having been represented by the attorneys whose names appear hereafter; and the parties having entered into good faith negotiations in order to avoid the expense of litigation and to save the time and resources of the parties; and the parties having agreed to the settlement of this action upon the following terms and conditions, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. This Court has jurisdiction of the subject matter herein and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendant under sections 5(m)(1)(A), 9 and 13(b) of the Federal Trade Commission Act (FTC Act), 15 U.S.C., §§45(m)(1)(A), 49 and 53(b), 28 U.S.C., §§ 1331(a), 1337, 1345, and 1355 and section 814 of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692j.

2. Without admitting liability for the violations as charged in the complaint herein, the corporate defendant, Collegiate Recovery and Credit Assistance Programs, Inc. (hereinafter referred to as CRI) shall pay to the plaintiff, pursuant to section 5(m)(1)(A) of the FTC Act, 15 U.S.C. §45(m)(1)(A), as full satisfaction of all monetary claims asserted by the plaintiff in the complaint filed herein against it, the amount of thirty-two thousand five hundred dollars (\$32,500.00) due and payable as follows:

A. Six thousand five hundred dollars (\$6,500.00) within fifteen (15) days from the date of entry of this judgment;

B. Six thousand five hundred dollars (\$6,500.00) within one hundred eighty-three (183) days from the date of entry of this judgment;

C. Six thousand five hundred dollars (\$6,500.00) within three hundred sixty-five (365) days from the date of entry of this judgment;

D. Six thousand five hundred dollars (\$6,500.00) within five hundred forty-eight (548) days from the date of entry of this judgment;

E. Six thousand five hundred dollars (\$6,500.00) within seven hundred thirty (730) days from the date of entry of this judgment; said payments to be made by certified check payable to the Treasurer of the United States and delivered to the Associate Director for Compliance, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, with a copy forwarded to the Consumer Affairs Section, United States Department of Justice, P.O. Box 386, Washington, D.C., 20044.

In the event of the default in any payment, which default continues for ten (10) days beyond the due date of payment, interest at the rate of ten percent (10%) per annum shall accrue on the amount of the payment which remains delinquent from the date of default to the date of payment.

3. Defendant, CRI, its officers, agents, representatives, employees, and attorneys in fact, including Jon V. Chase only in his capacity as officer, agent, representative or employee of CRI, directly or through any corporation, subsidiary, division or other device, are hereby enjoined from engaging in the following acts or practices in connection with the collection of a "debt" from a "consumer" as those terms are defined in sections 803(3) and (5) of the FDCPA, 15 U.S.C. §§ 1692a(3) and (5):

- a. Communicating with consumers regarding a debt by postcard;
  - b. Misrepresenting directly or by implication the nature, import, or urgency of any communication;
  - c. Failing to disclose clearly in all communications made to collect a debt that the debt collector is attempting to collect a debt;
  - d. Misrepresenting directly or by implication the imminency of any action to be taken as a result of non-payment of an alleged debt;
  - e. Misrepresenting directly or by implication the likelihood of any action, communication, or referral.
  - f. In telephone communications using obscene or profane language, or language the natural consequence of which is to abuse hearers or readers.
4. The defendant, CRI, shall perform the following acts in connection with the collection of a debt:

A. With respect to consumer debts received for collection after the date of this judgment, defendant shall for a period of three years make the following disclosures clearly and conspicuously in the initial writing which is sent to a consumer:

"If you feel that this debt is being collected by unlawful means, you may contact the Division of Credit Practices, FTC, Washington, D.C., 20580.

"The law also gives you the right to stop us from communicating with you about this debt. You can do this by writing to us and asking us to stop communication. If you ask us to stop we will. But if you owe this debt, you will still owe it and your creditor (name of creditor) may continue to collect the debt."

B. Defendant, CRI, shall within sixty (60) days from the date of the entry of this judgment notify all employees involved in debt collection of the provisions of paragraphs 3 and 4 of this Order. Thereafter, once each year for three years, defendant, CRI, shall conduct training for the purpose of informing its employees and/or agents of the requirements of the Fair Debt Collection Practices Act. This training shall also inform employees of the provisions of paragraphs 3 and 4 of this order and recent developments in the laws governing debt collections.

C. Defendant, CRI, shall, within sixty (60) days from the entry of this judgment and once each year thereafter, on the anniversary of the entry of this judgment, for three years file with the Commission a written report setting forth in detail the manner and form of the defendant CRI's compliance with this order. This report shall include, but not be limited to, a copy of each form letter used by the defendant, CRI, during the twelve month period prior to the filing of each

report, in connection with the collection of consumer debts, and a report of the training conducted pursuant to subparagraph (B) above describing the material covered during the session and naming the persons in attendance and their job titles.

5. All claims, complaints, or causes of action which could be brought by the United States Department of Justice or the Federal Trade Commission against the Defendant, CRI, or its officers, agents, representatives, or employees for violation of the FDCP Act, or of the FTC Act as it applies to debt collection practices, based upon conduct prior to the date of entry of this consent judgment are expressly waived, and forever barred.

6. Defendant shall not be deemed to have violated the requirements of this judgment if the defendant can show by a preponderance of evidence that any alleged violation hereunder was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid such error; provided that on discovering the error, defendant shall correct it as soon as possible and take reasonable steps to avoid its recurrence.

7. This Court shall retain jurisdiction of this matter for the purpose of enabling any of the parties to this consent decree to apply to the court at any time for such further orders or directives as may be necessary or appropriate for the interpretation or modification of this consent decree, for the enforcement of compliance therewith, or for the punishment of violations thereof.

8. Defendant, CRI, hereby waives any claim concerning this action under the Equal Access to Justice Act, 28 U.S.C. § 2412.

9. The Defendant, CRI, shall pay the court costs of this action.

Dated: July 2, 1982

*James Dennis*  
UNITED STATES DISTRICT JUDGE  
NORTHERN DISTRICT OF OKLAHOMA

I hereby consent to the entry of this Consent Order and Judgment.

For Defendant:

For Plaintiff:

For COLLEGIATE RECOVERY  
AND CREDIT ASSISTANCE  
PROGRAMS, INC.

FRANK KEATING  
United States Attorney for the  
Northern District of Oklahoma

By: *[Signature]*

By: *[Signature]*  
DON J. GUY  
Assistant U.S. Attorney

*[Signature]*  
J. PATRICK GLYNN  
Chief, Consumer Affairs Section

*[Signature]*  
GRAYDON DEAN LUTHEY, Jr.  
Jones, Givens, Gotcher,  
Doyle, & Bogan, Inc.  
201 W. 5th Street  
Tulsa, Oklahoma 74103  
Attorneys for Defendants

*[Signature]*  
MARCIA A. JOHNSON  
Attorney  
Consumer Affairs Section  
Antitrust Division  
U.S. Department of Justice  
Washington, D.C. 20530  
(202) 724-8485

DATED: 21 June 1982

OF COUNSEL:

*[Signature]*  
CHARLYN BUSS

*[Signature]*  
LAWRENCE DEMILLE-WAGMAN  
Attorneys  
Division of Credit Practices  
Federal Trade Commission  
Washington, D.C. 20580

DATED:

JUN 29 1982

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 29 1982

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

United States of America, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
80.00 Acres of Land, More or )  
Less, Situate in Washington )  
County, State of Oklahoma, and )  
Jess J. Goodman, et al., and )  
Unknown Owners, )  
 )  
Defendants. )

CIVIL ACTION NO. 79-C-72-E

Tract No. 204-A

This action applies to all  
interests in the estate taken  
except the oil and gas lease-  
hold interest

(Master File #400-14)

J U D G M E N T

1.

NOW, on this 2<sup>nd</sup> day of July, 1982, 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 April 14, 1982, and the Court,  
after having examined the files in this action and being advised  
by counsel for the parties, finds that:

2.

This judgment applies to the entire estate condemned  
in Tract No. 204-A, as such estate and tract are described in  
the Complaint filed in this action.

3.

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

4.

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

5.

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

described above in paragraph 2. Pursuant thereto, on February 13, 1979, the United States of America filed its Declaration of Taking of a certain estate in such tract 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 tract 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 April 14, 1982, hereby is accepted and adopted as a finding of fact as to subject tract. The amount of just compensation for the estate taken in the subject tract, 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 tract 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 tract were 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.

Since the filing of the Declaration of Taking applicable to this case, Marie Arnold Matthews has died. To date counsel for the parties have been unable to advise the Court as to the identity of the successors to her interest in the subject property.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the subject tract, as such tract is 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 February 13, 1979, 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 ownership of the estate taken herein in subject tract was as shown below in paragraph 12, and the right to receive the just compensation for such estate became vested in the parties named in such paragraph.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on April 14, 1982, 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:

TRACT NO. 204-A

Owners, as of the date of taking:

1. Rosa Wilson Goodman, life estate;
2. Marie Arnold Matthews, remainder.

Provided: Since the filing of the Declaration of Taking applicable to this case, Marie Arnold Matthews has died and her successors in interest have not been determined.

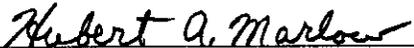
<u>Award</u> of just compensation pursuant to Commissioners' Report -----	\$24,000.00	\$24,000.00
<u>Deposited</u> as estimated compensation -	4,770.00	
<u>Disbursed</u> to owners -----		4,770.00
<u>Balance</u> due to owners -----		\$19,230.00
		plus
<u>Deposit</u> deficiency -----	\$19,230.00	interest
	plus interest	

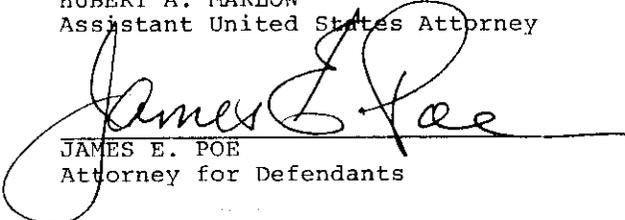
It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owners the deposit deficiency for the subject tract as shown in paragraph 12, in the amount of \$19,230.00, together with interest on such deficiency at the rate of 6% per annum from February 13, 1979, until the date of deposit of such deficiency sum; and such sum shall be placed in the deposit for subject tract in this civil action.

After such deficiency deposit has been made, and after the parties have advised the Court as to the successors to the interest of Marie Arnold Matthews, the Court will enter an appropriate order of disbursal of the balance of the award of just compensation for the subject property.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant United States Attorney

  
JAMES E. POE  
Attorney for Defendants

JUL 20 1982

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JUL 21 1982

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

United States of America,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO. 79-C-75-E
	)	
vs.	)	Tract No. 204-B
	)	
22.00 Acres of Land, More or	)	All Interests
Less, Situate in Washington	)	
County, State of Oklahoma, and	)	
Jess J. Goodman, et al., and	)	
Unknown Owners,	)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #400-14)

J U D G M E N T

1.

NOW, on this 2<sup>nd</sup> day of July, 1982, 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 April 14, 1982, and the Court, after having examined the files in this action and being advised by counsel for the parties, finds that:

2.

This judgment applies to the entire estate condemned in Tract No. 204-B, as such estate and tract are described in the Complaint filed in this action.

3.

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

4.

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

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the property described above in paragraph 2. Pursuant thereto, on Febru-

ary 13, 1979, the United States of America filed its Declaration of Taking of a certain estate in such tract 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 tract a certain sum of money, and none of this deposit has been disbursed, as set out below in paragraph 12.

7.

The Report of Commissioners filed herein on April 14, 1982, hereby is accepted and adopted as a finding of fact as to subject tract. The amount of just compensation for the estate taken in the subject tract, 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 tract 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.

On November 13, 1979 the defendants, Browder and Ratcliff, in an Application For Disbursal of Funds, claimed ownership of the working interest in an oil and gas lease covering the subject property. However, in a document filed herein on September 22, 1980, the defendants, Browder and Ratcliff, alleged that it had been determined that the said oil and gas lease had expired by its own terms and that therefore such defendants were not entitled to receive any of the funds on deposit.

The Court therefore specifically finds that the defendants Browder and Ratcliff had no interest in subject property on the date of taking and that their Application For Disbursal of Funds should be denied.

The defendants named in paragraph 12 as owners of the estate taken in subject tract were 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.

Since the filing of the Declaration of Taking applicable to this case, Marie Arnold Matthews has died. To date counsel for the parties have been unable to advise the Court as to the identity of the successors to her interest in the subject property.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the subject tract, as such tract is 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 February 13, 1979, 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 herein the defendants, Browder and Ratcliff, had no interest in the subject tract and their application For Disbursal of Funds is hereby denied.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the ownership of the estate taken herein in subject tract was as shown below in paragraph 12, and the right to receive the just compensation for such estate became vested in the parties named in such paragraph.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on April 14, 1982, 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:

Owners, as of the date of taking:

1. Rosa Wilson Goodman, life estate;
2. Marie Arnold Matthews, remainder.

Provided: Since the filing of the Declaration of Taking applicable to this case, Marie Arnold Matthews has died and her successors in interest have not been determined.

Award of just compensation pursuant to Commissioners' Report -----	\$1,980.00	\$1,980.00
<u>Deposited</u> as estimated compensation -	440.00	
<u>Disbursed</u> to owners -----		<u>None</u>
<u>Balance</u> due to owners -----		\$1,980.00 plus interest
<u>Deposit deficiency</u> -----	\$1,540.00 plus interest	

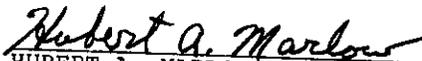
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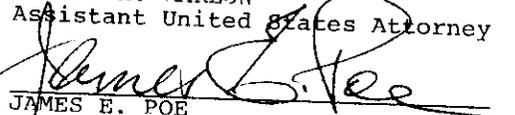
It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owners the deposit deficiency for the subject tract as shown in paragraph 12, in the amount of \$1,540.00, together with interest on such deficiency at the rate of 6% per annum from February 13, 1979, until the date of deposit of such deficiency sum; and such sum shall be placed in the deposit for subject tract in this civil action.

After such deficiency deposit has been made, and after the parties have advised the Court as to the successors to the interest of Marie Arnold Matthews, the Court will enter an appropriate order of disbursal of the balance of the award of just compensation for the subject property.

APPROVED:

  
 UNITED STATES DISTRICT JUDGE

  
 HUBERT A. MARLOW  
 Assistant United States Attorney

  
 JAMES E. POE  
 Attorney for Defendants

JUN 26 1982

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JUN 26 1982

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

United States of America,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO. 79-C-76-E
	)	
vs.	)	Tract No. 204-C
	)	
10.00 Acres of Land, More or	)	All Interests
Less, Situate in Washington	)	
County, State of Oklahoma, and	)	
Jess J. Goodman, et al., and	)	
Unknown Owners,	)	
	)	(Included in D.T. Filed in
Defendants.	)	Master File #400-14)

J U D G M E N T

1.

NOW, on this 2<sup>d</sup> day of July, 1982, 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 April 14, 1982, and the Court, after having examined the files in this action and being advised by counsel for the parties, finds that:

2.

This judgment applies to the entire estate condemned in Tract No. 204-C, as such estate and tract are described in the Complaint filed in this action.

3.

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

4.

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

5.

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

described above in paragraph 2. Pursuant thereto, on February 13, 1979, the United States of America filed its Declaration of Taking of a certain estate in such tract 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 tract a certain sum of money, and part of this deposit has been disbursed, as set out below in paragraph 12.

7.

The Report of Commissioners filed herein on April 14, 1982, hereby is accepted and adopted as a finding of fact as to subject tract. The amount of just compensation for the estate taken in the subject tract, 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 tract 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 tract were 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.

Since the filing of the Declaration of Taking applicable to this case, Marie Arnold Matthews has died. To date counsel for the parties have been unable to advise the Court as to the identity of the successors to her interest in the subject property.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the subject tract, as such tract is 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 February 13, 1979, 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 ownership of the estate taken herein in subject tract was as shown below in paragraph 12, and the right to receive the just compensation for such estate became vested in the parties named in such paragraph.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on April 14, 1982, 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:

TRACT NO. 204-C

Owners, as of the date of taking:

1/2 interest ---- Fanny Banty Phillips

1/2 interest ----

Rosa Wilson Goodman, life estate; and  
Marie Arnold Matthews, remainder.

Provided: Since the filing of the Declaration of Taking applicable to this case, Marie Arnold Matthews has died and her successors in interest have not been determined.

<u>Award</u> of just compensation pursuant to Commissioners' Report -----	\$900.00	\$900.00
<u>Deposited</u> as estimated compensation -	200.00	
<u>Disbursed</u> to Rosa Wilson Goodman and Marie Arnold Matthews, jointly -----		<u>100.00</u>
<u>Balance</u> due to owners -----		\$800.00
		plus interest

(To Goodman and the successor to Matthews)  
( \$350.00 plus interest )  
(To Phillips - \$450.00 plus interest. )

Deposit deficiency ----- \$700.00  
plus 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 tract as shown in paragraph 12, in the amount of \$700.00, together with interest on such deficiency at the rate of 6% per annum from February 13, 1979, until the date of deposit of such deficiency sum; and such sum shall be placed in the deposit for subject tract in this civil action.

After such deficiency deposit has been made, and after the parties have advised the Court as to the successors to the interest of Marie Arnold Matthews, the Court will enter an appropriate order of disbursal of the balance of the Goodman and Matthews share of the award of just compensation for the subject property.

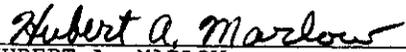
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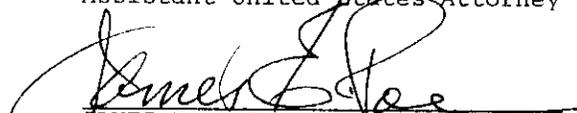
It Is Further ORDERED that the share of the award due to Fanny Banty Phillips shall not be disbursed at the present time because the said defendant cannot be located and is reported deceased, and no determination of heirs can be found. If said defendant is located or if heirs are determined then the Court will enter an appropriate order of disbursal.

In the event that the balance due to such defendant remains on deposit for a period of five years from the date of filing this judgment, then, after that period, the Clerk of this Court, without further order shall disburse the balance on deposit for subject tract to the Treasurer of the United States of America, pursuant to the provisions of Title 28, section 2042, U.S.C.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant United States Attorney

  
JAMES E. POE  
Attorney for Defendants

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

1982

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

United States of America,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO. 79-C-89-E
	)	
vs.	)	Tracts Nos. 244, 244E-1,
	)	244E-2 and 244E-3
17.90 Acres of Land, More or	)	
Less, Situate in Washington	)	As to all interests in the
County, State of Oklahoma, and	)	estate taken <u>except</u> the oil
Jess Goodman, et al., and	)	and gas leasehold interest.
Unknown Owners,	)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #400-14)

J U D G M E N T

1.

NOW, on this 10<sup>th</sup> day of July, 1982, 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 April 14, 1982, and the Court, after having examined the files in this action and being advised by counsel for the parties, finds that:

2.

This judgment applies to the entire estate condemned in Tracts Nos. 244, 244E-1, 244E-2, and 244E-3, 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 personally, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause, who are interested in subject property.

5.

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

described above in paragraph 2. Pursuant thereto, on February 13, 1979, 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 April 14, 1992, hereby is accepted and adopted as a finding 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 were 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.

Since the filing of the Declaration of Taking applicable to this case, Marie Arnold Matthews has died. To date counsel for the parties have been unable to advise the Court as to the identity of the successors to her interest in the subject property.

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 February 13, 1979, 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 ownership of the estate taken herein in subject tracts was as shown below in paragraph 12, and the right to receive the just compensation for such estate became vested in the parties named in such paragraph.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on April 14, 1982, 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. 244, 244E-1, 244E-2, and 244E-3

Owners, as of the date of taking:

1. Rosa Wilson Goodman, life estate;
2. Marie Arnold Matthews, remainder.

Provided: Since the filing of the Declaration of Taking applicable to this case, Marie Arnold Matthews has died and her successors in interest have not been determined.

<u>Award of just compensation pursuant to Commissioners' Report</u> -----	\$3,138.00	\$3,138.00
<u>Deposited as estimated compensation</u> --	442.00	
<u>Disbursed to owners</u> -----		<u>442.00</u>
<u>Balance due to owners</u> -----		\$2,696.00
		plus interest
<u>Deposit deficiency</u> -----	\$2,696.00	
	plus interest	

13.

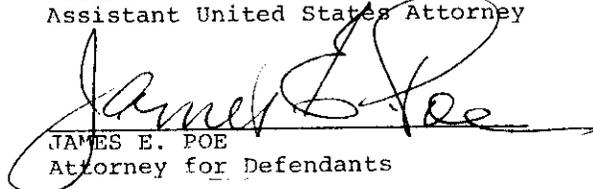
It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owners the deposit deficiency for the subject tracts as shown in paragraph 12, in the amount of \$2,696.00, together with interest on such deficiency at the rate of 6% per annum from February 13, 1979, 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, and after the parties have advised the Court as to the successors to the interest of Marie Arnold Matthews, the Court will enter an appropriate order of disbursal of the balance of the award of just compensation for the subject property.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant United States Attorney

  
JAMES E. POE  
Attorney for Defendants

JUL 20 1982

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 14 1982

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

United States of America,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO. 79-C-91-E
	)	
vs.	)	Tracts Nos. 244, 244E-1
	)	244E-2 and 244E-3
17.90 Acres of Land, More or	)	
Less, Situate in Washington	)	As to the <u>Overriding Royalty</u>
County, State of Oklahoma, and	)	<u>Interest only in the oil and</u>
Rosa A. Goodman, et al., and	)	<u>gas leasehold interest in</u>
Unknown Owners,	)	<u>the estate taken.</u>
	)	
	)	(Included in D.T. filed in
Defendants.	)	Master File #400-14)

J U D G M E N T

1.

NOW, on this 22 day of July, 1982, 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 April 14, 1982, and the Court, after having examined the files in this action and being advised by counsel for the parties, finds that:

2.

This judgment applies to the entire estate condemned in Tracts Nos. 244, 244E-1, 244E-2 and 244E-3, 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 personally, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause, who are interested in subject property.

5.

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

described above in paragraph 2. Pursuant thereto, on February 13, 1979, 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 April 14, 1982, hereby is accepted and adopted as a finding 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 were 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.

Since the filing of the Declaration of Taking applicable to this case, Marie Arnold Matthews has died. To date counsel for the parties have been unable to advise the Court as to the identity of the successors to her interest in the subject property.

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 February 13, 1979, 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 ownership of the estate taken herein in subject tracts was as shown below in paragraph 12, and the right to receive the just compensation for such estate became vested in the parties named in such paragraph.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on April 14, 1982, 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. 244, 244E-1, 244E-2 and 244E-3

Owners, as of date of taking:

1. Rosa Wilson Goodman, life estate;
2. Marie Arnold Matthews, remainder.

Provided: Since the filing of the Declaration of Taking applicable to this case, Marie Arnold Matthews has died and her successors in interest have not been determined.

<u>Award of just compensation, pursuant to Commissioners' Report</u> -----	\$778.00	\$778.00
<u>Deposited as estimated compensation</u> ----	50.00	
<u>Disbursed to owners</u> -----		<u>50.00</u>
<u>Balance due to owners</u> -----		\$728.00
		plus interest
<u>Deposit deficiency</u> -----	\$728.00	
	plus interest	

13.

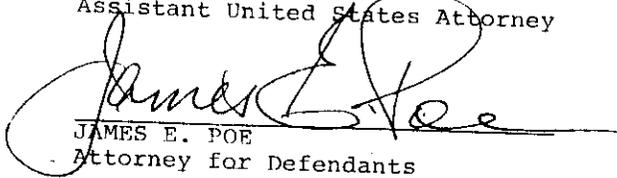
It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owners the deposit deficiency for the subject tracts as shown in paragraph 12, in the amount of \$728.00, together with interest on such deficiency at the rate of 6% per annum from February 13, 1979, 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, and after the parties have advised the Court as to the successors to the interest of Marie Arnold Matthews, the Court will enter an appropriate order of disbursal of the balance of the award of just compensation for the subject property.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
HUBERT A. MARLOW  
Assistant United States Attorney

  
JAMES E. POE  
Attorney for Defendants

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

FILED

JUN 30 1982

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

PEAVEY COMPANY, a Minnesota corporation,	)
	)
Plaintiff,	)
	)
vs.	)
	)
T & J INVESTMENTS, a partner- ship; JOE MCKELLAR, an individual; and THOMAS THOMPSON, an individual,	)
	)
Defendants.	)

No. 81-C-307-E

ORDER FOR DISMISSAL

UPON the Parties' Joint Stipulation for Dismissal,  
filed herein on June 30, 1982, and for good cause shown,  
IT IS HEREBY ORDERED, ADJUDGED AND DECREED as  
follows:

- (i) that the Plaintiff's Complaint  
and the captioned case be dis-  
missed, with prejudice, as to  
the Defendant Thomas Thompson;
- (ii) that the Plaintiff's Complaint  
and the captioned case be dis-  
missed, without prejudice, as to  
each of the Defendants T & J  
Investments and Joe McKellar;  
and
- (iii) that each side shall bear its  
own costs and attorneys' fees.

DATED this 30th day of July, 1982.

S/ JAMES O. ELLISON  
United States District Judge

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

FILED

1982

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

LOREN W. ROBBINS; MARION M. WINSTEAD; )  
HAROLD J. YATES; EARL L. JENNINGS, JR.; )  
HOWARD MCDUGALL; ROBERT J. BAKKER; )  
THOMAS F. O'MALLEY; and R. V. PULLIAM, )  
SR., as TRUSTEES OF THE CENTRAL STATES )  
SOUTHEAST AND SOUTHWEST AREAS PENSION )  
FUND, A TAFT HARTLEY TRUST, )

Plaintiffs, )

vs. )

No. 81-C-415-E

CONSOLIDATED DELIVERIES, INC., a )  
corporation, )

Defendant. )

DEFAULT JUDGMENT AS AGAINST  
DEPENDANT, CONSOLIDATED DELIVERIES, INC.

At Tulsa, Oklahoma in said district on this 2 day  
of May, 1982,

This cause came on for hearing on Complaint of Loren W. Robbins, Marion M. Winstead, Harold J. Yates, Earl L. Jennings, Jr., Howard McDougall, Robert J. Bakker, Thomas F. O'Malley and R. V. Pulliam, Sr., as Trustees of the Central States Southeast and Southwest Areas Pension Fund, a Taft Hartley Trust, plaintiff in the above entitled cause, for a default judgment, pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, and it appearing to the Court that the Complaint in the above cause was filed in this court on August 13, 1981, and that Summons and Complaint were duly served on the defendant, Consolidated Deliveries, Inc. on March 1, 1982 by service on the Secretary of State of Oklahoma, statutory service agent by reason of the defendant's failure to maintain a registered service agent as required by law, and that no answer or other defense has been filed by said defendant, and that default was entered on the 3<sup>rd</sup> day of May, 1982, in the office of the Clerk of this Court and that no proceedings have been taken by said defendant since said default was entered, it is hereby

ORDERED, ADJUDGED AND DECREED that plaintiff, Loren W. Robbins, Marion M. Winstead, Harold J. Yates, Earl L. Jennings, Jr., Howard McDougall, Robert J. Bakker, Thomas F. O'Malley and

R. V. Pulliam, Sr., as Trustees of the Central States Southeast and Southwest Areas Pension Fund, a Taft Hartley Trust, have and recover of and from the defendant, Consolidated Deliveries, Inc., the sum of \$8,570.12 with interest at the rate of 12% per annum from the date hereof, until paid, reasonable attorneys' fee of \$ 737.50 and all costs assessed herein.

  
James H. Bellingham  
600 Hightower Building  
Oklahoma City, Oklahoma 73102  
(405) 235-9371  
Attorney for Plaintiff

  
UNITED STATES DISTRICT JUDGE

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

**FILED**

JUL 1 1982

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

BOARD OF TRUSTEES OF THE PLUMBERS )  
AND PIPEFITTERS NATIONAL PENSION )  
FUND; BOARD OF TRUSTEES OF THE )  
HEALTH AND WELFARE FUND OF THE )  
PLUMBERS AND PIPEFITTERS LOCAL )  
UNION 205, Tulsa, Oklahoma; )  
BOARD OF TRUSTEES OF THE PLUMBERS )  
AND PIPEFITTERS LOCAL UNION 351 )  
EDUCATIONAL FUND, )  
  
Plaintiffs, )  
  
vs. )  
  
D. M. COMPANY, )  
  
Defendant. )

No. 81-C-865-E

ORDER OF DISMISSAL

Now on this 2<sup>nd</sup> day of July, 1982, it appearing to the Court that the parties hereto have entered into a Stipulation of Settlement and all issues between the parties have been resolved and settled. That the above captioned case should be dismissed with prejudice.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, by the Court that the above entitled cause is hereby dismissed with prejudice.

Judge *James A. ...*

Approved:

*W. O. ...*  
Attorney for Plaintiffs

*Ernest ...*  
Attorney for Defendant

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED  
JUL - 1 1982 *Rm*

JACK B. SIMON, CLERK  
U. S. DISTRICT COURT

United States of America, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
7.87 Acres of Land, More or )  
Less, Situate in Osage County, )  
State of Oklahoma, and James E. )  
Barnett, et al., and Unknown )  
Owners, )  
 )  
Defendants. )

CIVIL ACTION NO. 76-C-580-Bt ✓

Tracts Nos. 327 and 327E

(Included in D.T. Filed in  
Master File #398-6)

J U D G M E N T

1.

NOW, on this 1st day of July, 1982, 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, 1981, and the Court, after having examined the files in this action and being advised by counsel for the parties, finds that:

2.

This judgment applies to the entire estates taken in Tracts Nos. 327 and 327E, as such estates and tracts are described in the Complaint filed in this case.

3.

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

4.

Service of Process has been perfected personally, 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 subject property. Pursuant thereto, on November 19, 1976, the United States of America filed its Declaration of Taking of certain estates 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 of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the described estates 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, 1981, hereby is accepted and adopted as findings of fact as to subject tracts. The just compensation for the estates 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 estates 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.

On June 29, 1982 a hearing was held before this Court to determine who is entitled to receive the award of just compensation for the estates taken in the subject property.

Mr. Gene P. Dennison, Attorney, appeared on behalf of the defendants, Tom L. Taylor and Glyn Erle Taylor. Mr. Taylor also personally appeared. Mr. William Mattingly, Attorney, appeared representing the Exchange Bank of Skiatook. Hubert A. Marlow, Assistant United States Attorney, appeared for the Plaintiff.

The parties stipulated in open Court that:

1. Although the said Bank's endorsement appears on the Court Clerk's check disbursing the deposit of estimated compensation made in this case, the Bank did not receive any money from

such check, and that all of such money was received by the above named defendant landowners.

2. The Exchange Bank of Skiatook claims no interest in the deposit of estimated compensation made in this case or in the final award of just compensation made by this judgment.

3. The above named defendant landowners were the persons entitled to receive the deposit of estimated compensation made in this case and are the persons entitled to receive the balance of the award of just compensation fixed by this judgment.

The stipulation of the parties should be approved by the Court.

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 estates described in such Complaint is condemned, and title thereto is vested in the United States of America, as of November 19, 1976, and all defendants herein and all other persons are forever barred from asserting any claim to such estates.

11.

It Is Further ORDERED, ADJUDGED and DECREED that the stipulation made by the parties in open Court, as described above in paragraph 9, hereby is approved and adopted by this Court. Therefore, on the date of taking in this case, the owners of the estates 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 estates 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, 1981, hereby is confirmed and the sum therein fixed is adopted as the award of just compensation for the estates taken in subject tracts, as shown by the following schedule:

TRACTS NOS. 327 and 327E

Owners: Tom L. Taylor and Glyn Erle Taylor		
Award of just compensation pursuant to Commissioners' Report -----	\$5,860.00	\$5,860.00
Deposited as estimated compensation --	\$5,000.00	
Disbursed to owners -----		<u>5,000.00</u>
Balance due to owners -----		\$ 860.00 plus interest
Deposit deficiency -----	\$ 860.00 plus interest	

13.

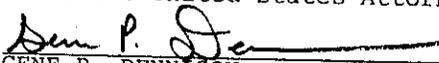
It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owners the deposit deficiency for the subject tracts as shown in paragraph 12, in the total amount of \$860.00, together with interest on such deficiency at the rate of 6% per annum from November 19, 1976, 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.

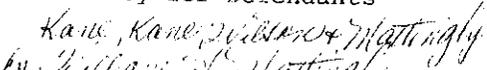
After such deficiency deposit has been made, the Clerk of this Court shall disburse the entire sum then on deposit for the subject tracts, jointly, to Tom L. Taylor and Glyn Erle Taylor.

  
UNITED STATES DISTRICT JUDGE  
For: Thomas R. Brett

APPROVED:

  
HUBERT A. MARLOW  
Assistant United States Attorney

  
GENE P. DENNISON  
Attorney for Defendants

  
WILLIAM MATTINGLY,  
Attorney for Exchange Bank of Skiatook

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JUL - 1 1982 *hm*

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

United States of America, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
0.20 Acre of Land, More or Less, )  
Situat e in Osage County, State )  
of Oklahoma, and Tom L. Taylor, )  
et al., and Unknown Owners, )  
 )  
Defendants. )

CIVIL ACTION NO. 76-C-581-Bt ✓

Tract No. 331E

(Included in D.T. Filed in  
Master File #398-6)

J U D G M E N T

1.

NOW, on this 1<sup>st</sup> day of July, 1982, 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, 1981, and the Court, after having examined the files in this action and being advised by counsel for the parties, finds that:

2.

This judgment applies to the entire estate taken in Tract No. 331E, as such estate and tract are described in the Complaint filed in this case.

3.

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

4.

Service of Process has been perfected personally, 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 subject property. Pursuant thereto, on November 19, 1976, the United States of America filed its Declaration of Taking of a certain estate in such tract 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 of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the described estate in the subject tract a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 12.

7.

The Report of Commissioners filed herein on December 30, 1981, hereby is accepted and adopted as findings of fact as to subject tract. The just compensation for the estate taken in the subject tract, as fixed by the Commission, is set out below in paragraph 12.

8.

This judgment will create an overdeposit in the deposit for Tract No. 331E, and an overpayment to the owners of this tract. The Plaintiff should have judgment against the owners of Tract No. 331E for the overpayment to them.

9.

On June 29, 1982 a hearing was held before this Court to determine who is responsible for payment to the Plaintiff of the difference between the disbursed deposit of estimated compensation made in this case and the final award of just compensation fixed by this judgment.

Mr. Gene P. Dennison, Attorney, appeared on behalf of the defendants, Tom L. Taylor and Glyn Earle Taylor. Mr. Taylor also personally appeared. Mr. William Mattingly, Attorney, appeared representing the Exchange Bank of Skiatook. Hubert A. Marlow, Assistant United States Attorney, appeared for the Plaintiff.

The parties stipulated in open court that:

1. Although the said Bank's endorsement appears on the Court Clerk's check disbursing the deposit of estimated compensation made in this case, the Bank did not receive any money from such check, and that all of such money was received by the above named defendant landowners.

2. The Exchange Bank of Skiatook claims no interest in the deposit of estimated compensation made in this case or in the final award of just compensation made by this judgment.

3. The above named defendant landowners were the persons entitled to receive the deposit of estimated compensation made in this case and are the persons responsible for repayment to the Plaintiff of the difference between the said disbursal and the final award of just compensation fixed by this judgment.

The stipulation of the parties should be approved by the Court.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint is condemned, and title thereto is vested in the United States of America, as of November 19, 1976, 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 the stipulation made by the parties in open Court, as described above in paragraph 9, hereby is approved and adopted by this Court. Therefore, on the date of taking in this case, the owners of the estates taken herein in subject tract were the defendants whose names appear below in paragraph 12. Thus such named defendants were entitled to receive the disbursal of the deposit of estimated compensation made in this case, and are, on the other hand, the persons responsible for repayment to the Plaintiff of the difference between the said disbursal and the final award of just compensation fixed by this judgment.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on December 30, 1981, hereby is confirmed and the sum therein fixed is adopted as the award of

just compensation for the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 331E

Owners: Tom L. Taylor and  
Glyn Earle Taylor

Award of just compensation  
pursuant to Commissioners'  
Report ----- No monetary compensation

Just compensation has been given to the owners in the  
form of benefits to the remainder of their property.

Deposited as estimated compensation ----- \$100.00  
Disbursed to owners ----- \$100.00  
Overdeposit and overpayment to owners ----- \$100.00

13.

It Is Further ORDERED that the Plaintiff, United States of America, have judgment against Tom L. Taylor and Glyn Earle Taylor for the overpayment made to them from the deposit for Tract No. 331E in the amount of \$100.00, together with interest thereon at the rate of 6% per annum from the date of filing this judgment until payment be made.

To make payment of this judgment the defendant owners shall deposit the amount of the judgment, together with all accrued interest, with the Clerk of the United States District Court for the Northern District of Oklahoma.

When payment of this judgment against the said defendant owners has been made, the Clerk of this Court shall disburse the full amount of the payment to The Treasurer of the United States.

APPROVED:

W. Dale Cook  
UNITED STATES DISTRICT JUDGE

For: Thomas R. Brett

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

Gene P. Dennison  
GENE P. DENNISON  
Attorney for Defendants

Kane, Kane, Wilson & Mattingly  
By: William H. Mattingly  
WILLIAM MATTINGLY, Attorney  
for Exchange Bank of Skiatook

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JUL - 1 1982 *fm*

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

United States of America, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 6.92 Acres of Land, More or )  
 Less, Situate in Osage County, )  
 State of Oklahoma, and Tom L. )  
 Taylor, et al., and Unknown )  
 Owners, )  
 )  
 Defendants. )

CIVIL ACTION NO. 76-C-582-Bt ✓

Tract No. 332

(Included in D.T. filed in  
Master File #398-6)

J U D G M E N T

1.

NOW, on this 1st day of July, 1982, 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, 1981, and the Court, after having examined the files in this action and being advised by counsel for the parties, finds that:

2.

This judgment applies to the entire estate taken in Tract No. 332, as such estate and tract are described in the Complaint filed in this case.

3.

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

4.

Service of Process has been perfected personally, 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 subject property. Pursuant thereto, on November 19, 1976, the United States of America

filed its Declaration of Taking of a certain estate in such tract 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 of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the described estate in the subject tract a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 12.

7.

The Report of Commissioners filed herein on December 30, 1981, hereby is accepted and adopted as findings of fact as to subject tract. The just compensation for the estate taken in the subject tract, 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 tract 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.

On June 29, 1982 a hearing was held before this Court to determine who is entitled to receive the award of just compensation for the estate taken in the subject property.

Mr. Gene P. Dennison, Attorney, appeared on behalf of the defendants, Tom L. Taylor and Glyn Erle Taylor. Mr. Taylor also personally appeared. Mr. William Mattingly, Attorney, appeared representing the Exchange Bank of Skiatook. Hubert A. Marlow, Assistant United States Attorney, appeared for the Plaintiff.

The parties stipulated in open Court that:

1. Although the said Bank's endorsement appears on the Court Clerk's check disbursing the deposit of estimated compensation made in this case, the Bank did not receive any money from

such check, and that all of such money was received by the above named defendant landowners.

2. The Exchange Bank of Skiatook claims no interest in the deposit of estimated compensation made in this case or in the final award of just compensation made by this judgment.

3. The above named defendant landowners were the persons entitled to receive the deposit of estimated compensation made in this case and are the persons entitled to receive the balance of the award of just compensation fixed by this judgment.

The stipulation of the parties should be approved by the Court.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint is condemned, and title thereto is vested in the United States of America, as of November 19, 1976, 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 the stipulation made by the parties in open Court, as described above in paragraph 9, hereby is approved and adopted by this Court. Therefore, on the date of taking in this case, the owners of the estate taken herein in subject tract 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, 1981, hereby is confirmed and the sum therein fixed is adopted as the award of just compensation for the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 332

Owners: Tom L. Taylor and  
Glyn Erle Taylor

Award of just compensation pursuant to Commissioners' Report -----	\$4,700.00	\$4,700.00
Deposited as estimated compensation --	\$4,525.00	
Disbursed to owners -----		\$4,525.00
Balance due to owners -----		\$ 175.00 plus interest
Deposit deficiency -----	\$ 175.00 plus 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 tract as shown in paragraph 12, in the total amount of \$175.00, together with interest on such deficiency at the rate of 6% per annum from November 19, 1976, until the date of deposit of such deficiency sum; and such sum shall be placed in the deposit for subject tract 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 tract, jointly, to Tom L. Taylor and Glyn Erle Taylor.

*Thomas R. Curt*  
UNITED STATES DISTRICT JUDGE  
for: *Thomas R. Curt*

APPROVED:

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

*Gene P. Dennison*  
GENE P. DENNISON  
Attorney for Defendants  
*Kane, Kane, Wilson & Mattingly*  
*William H. Mattingly*  
WILLIAM MATTINGLY,  
Attorney for Exchange Bank of Skiatook

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUL - 1 1982 *hm*

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

United States of America, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
5.14 Acres of Land, More or )  
Less, Situate in Osage County, )  
State of Oklahoma, and J. E. )  
Hisaw, et al., and Unknown )  
Owners, )  
 )  
Defendants. )

CIVIL ACTION NO. 76-C-584-Bt

Tract No. 334

(Included in D.T. filed in  
Master File #398-6)

J U D G M E N T

1.

NOW, on this 1<sup>st</sup> day of July, 1982, 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, 1981, and the Court, after having examined the files in this action and being advised by counsel for the parties, finds that:

2.

This judgment applies to the entire estate taken in Tract No. 334, as such estate and tract are described in the Complaint filed in this case.

3.

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

4.

Service of Process has been perfected personally, 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 subject property. Pursuant thereto, on November 19, 1976, the United States of America filed its Declaration of Taking of a certain estate in such tract 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 of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the described estate in the subject tract a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 12.

7.

The Report of Commissioners filed herein on December 30, 1981, hereby is accepted and adopted as findings of fact as to subject tract. The just compensation for the estate taken in the subject tract, as fixed by the Commission, is set out below in paragraph 12.

8.

This judgment will create an overdeposit in the deposit for Tract No. 334, and an overpayment to the owners of this tract. The Plaintiff should have judgment against the owners of Tract No. 334 for the overpayment to them.

9.

On June 29, 1982 a hearing was held before this Court to determine who is responsible for payment to the Plaintiff of the difference between the disbursed deposit of estimated compensation made in this case and the final award of just compensation fixed by this judgment.

Mr. Gene P. Dennison, Attorney, appeared on behalf of the defendants, J. E. Hisaw and Rita Hisaw. Mr. Hisaw also personally appeared. Mr. William Mattingly, Attorney, appeared representing the Exchange Bank of Skiatook. Hubert A. Marlow, Assistant United States Attorney, appeared for the Plaintiff.

The parties stipulated in open court that:

1. Although the said Bank's endorsement appears on the Court Clerk's check disbursing the deposit of estimated compensation made in this case, the Bank did not receive any money from such check, and that all of such money was received by the above named defendant landowners.

2. The Exchange Bank of Skiatook claims no interest in the deposit of estimated compensation made in this case or in the final award of just compensation made by this judgment.

3. The above named defendant landowners were the persons entitled to receive the deposit of estimated compensation made in this case and are the persons responsible for repayment to the Plaintiff of the difference between the said disbursal and the final award of just compensation fixed by this judgment.

The stipulation of the parties should be approved by the Court.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint is condemned, and title thereto is vested in the United States of America, as of November 19, 1976, 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 the stipulation made by the parties in open Court, as described above in paragraph 9, hereby is approved and adopted by this Court. Therefore, on the date of taking in this case, the owners of the estates taken herein in subject tract were the defendants whose names appear below in paragraph 12. Thus such named defendants were entitled to receive the disbursal of the deposit of estimated compensation made in this case, and are, on the other hand, the persons responsible for repayment to the Plaintiff of the difference between the said disbursal and the final award of just compensation fixed by this judgment.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on December 30, 1981, hereby is confirmed and the sum therein fixed is adopted as the award of

just compensation for the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 334

Owners: J. E. Hisaw and Rita Hisaw		
Deposited as estimated compensation --	\$3,450.00	\$3,450.00
Disbursed to owners -----	<u>\$3,450.00</u>	\$3,450.00
Award of just compensation pursuant to Commissioners' Report -----		\$2,200.00
Overdeposit and overpayment to owners -----		\$1,250.00

13.

It is further ORDERED that the Plaintiff, United States of America, have judgment against J. E. Hisaw and Rita Hisaw for the overpayment made to them from the deposit for Tract No. 334, in the amount of \$1,250.00, together with interest thereon at the rate of 6% per annum from the date of filing this judgment until payment be made.

To make payment of this judgment the defendant owners shall deposit the amount of the judgment, together with all accrued interest, with the Clerk of the United States District Court for the Northern District of Oklahoma.

When payment of this judgment against the said defendant owners has been made, the Clerk of this Court shall disburse the full amount of the payment to The Treasurer of the United States.

APPROVED:

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

Gene P. Dennison  
GENE P. DENNISON  
Attorney for Defendants  
Kane, Kane, Wilson & Mattingly  
by William S. Mattingly  
WILLIAM MATTINGLY, Attorney for  
Exchange Bank of Skiatook

Thomas R. O'Connell  
UNITED STATES DISTRICT JUDGE  
By: Thomas R. O'Connell

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUL - 1 1982 *Rm*

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

United States of America, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 0.74 Acre of Land, More or )  
 Less, Situate in Osage County, )  
 State of Oklahoma, and J. E. )  
 Hisaw, et al., and Unknown )  
 Owners, )  
 )  
 Defendants. )

CIVIL ACTION NO. 76-C-585-Bt  
Tract No. 336  
  
(Included in D.T. filed in  
Master File #398-6)

J U D G M E N T

1.

NOW, on this 1st day of July, 1982, 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, 1981, and the Court, after having examined the files in this action and being advised by counsel for the parties, finds that:

2.

This judgment applies to the entire estate taken in Tract No. 336, as such estate and tract are described in the Complaint filed in this case.

3.

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

4.

Service of Process has been perfected personally, 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 subject property. Pursuant thereto, on November 19, 1976, the United States of America filed its Declaration of Taking of a certain estate in such tract 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 of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the described estate in the subject tract a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 12.

7.

The Report of Commissioners filed herein on December 30, 1981, hereby is accepted and adopted as findings of fact as to subject tract. The just compensation for the estate taken in the subject tract, as fixed by the Commission, is set out below in paragraph 12.

8.

This judgment will create an overdeposit in the deposit for Tract No. 336, and an overpayment to the owners of this tract. The Plaintiff should have judgment against the owners of Tract No. 336 for the overpayment to them.

9.

On June 29, 1982 a hearing was held before this Court to determine who is responsible for payment to the Plaintiff of the difference between the disbursed deposit of estimated compensation made in this case and the final award of just compensation fixed by this judgment.

Mr. Gene P. Dennison, Attorney, appeared on behalf of the defendants, J. E. Hisaw and Rita Hisaw. Mr. Hisaw also personally appeared. Mr. William Mattingly, Attorney, appeared representing the Exchange Bank of Skiatook. Hubert A. Marlow, Assistant United States Attorney, appeared for the Plaintiff.

The parties stipulated in open court that:

1. Although the said Bank's endorsement appears on the Court Clerk's check disbursing the deposit of estimated compensation made in this case, the Bank did not receive any money from such check, and that all of such money was received by the above named defendant landowners.

2. The Exchange Bank of Skiätook claims no interest in the deposit of estimated compensation made in this case or in the final award of just compensation made by this judgment.

3. The above named defendant landowners were the persons entitled to receive the deposit of estimated compensation made in this case and are the persons responsible for repayment to the Plaintiff of the difference between the said disbursal and the final award of just compensation fixed by this judgment.

The stipulation of the parties should be approved by the Court.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint is condemned, and title thereto is vested in the United States of America, as of November 19, 1976, 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 the stipulation made by the parties in open Court, as described above in paragraph 9, hereby is approved and adopted by this Court. Therefore, on the date of taking in this case, the owners of the estates taken herein in subject tract were the defendants whose names appear below in paragraph 12. Thus such named defendants were entitled to receive the disbursal of the deposit of estimated compensation made in this case, and are, on the other hand, the persons responsible for repayment to the Plaintiff of the difference between the said disbursal and the final award of just compensation fixed by this judgment.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on December 30, 1981, hereby is confirmed and the sum therein fixed is adopted as the award of

just compensation for the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 336

Owners: J. E. Hisaw and  
Rita Hisaw

Award of just compensation pursuant to Commissioners' Report ----- No monetary compensation

Just compensation has been given to the owners in the form of benefits to the remainder of their property.

Deposited as estimated compensation ----- \$575.00

Disbursed to owners ----- \$575.00

Over-deposit and overpayment to owners ----- \$575.00

13.

It Is Further ORDERED that the Plaintiff, United States of America, have judgment against J. E. Hisaw and Rita Hisaw for the overpayment made to them from the deposit for Tract No.336 in the amount of \$575.00, together with interest thereon at the rate of 6% per annum from the date of filing this judgment until payment be made.

To make payment of this judgment the defendant owners shall deposit the amount of the judgment, together with all accrued interest, with the Clerk of the United States District Court for the Northern District of Oklahoma.

When payment of this judgment against the said defendant owners has been made, the Clerk of this Court shall disburse the full amount of the payment to The Treasurer of the United States.

*(Signature)*  
UNITED STATES DISTRICT JUDGE  
*For: Thomas R. Brett*

APPROVED:

*(Signature)*  
HUBERT A. MARLOW  
Assistant United States Attorney

*(Signature)*  
GENE P. DENNISON  
Attorney for Defendants  
*Kane, Kane, Wilson & Mattingly*  
*(Signature)*  
WILLIAM MATTINGLY, Attorney  
for Exchange Bank of Skiatook

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

BETTE (WAGNER) CASARINI, )  
RANDALL LEE SCHAEFFER, and )  
DR. LEWIS DANIEL SCHAEFFER, )  
Plaintiffs, )  
vs. )  
CLYDE GENE SCHAEFFER, )  
Defendant. )

No. 81-C-162-C ✓

**FILED**

JUL 31 1991 *hm*

O R D E R

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

Now before the Court for its consideration is the motion of defendant for summary judgment on the first claim for relief in the plaintiff's Amended Complaint. Since all plaintiffs have confessed the motion to dismiss the second claim for relief, only the first claim for relief, involving Mrs. Casarini only, remains for consideration. Defendant claims that there is no genuine issue as to any material fact; that the alleged agreement is within the Statute of Frauds and must fail; and therefore that defendant is entitled to a judgment as a matter of law.

No dispute exists between the parties as to the material issues of fact herein. Plaintiff Bette Casarini and her father were joint tenants in the subject property. After a long illness and emergency hospitalization, the father died. On the day before his death, the father was taken to the offices of the attorney for defendant Clyde Gene Schaeffer, where he signed a deed later signed by plaintiff Casarini. Following her father's funeral, Mrs. Casarini offered to deed the property to the brother; she signed the deed, conveying the property to her brother. There was no consideration. Later the same day, by separate oral agreement, defendant agreed with Mrs. Casarini that he would not sell the property, but would reconvey the property to plaintiff if defendant should ever choose to cease living

there, and agreed further to maintain the property and not to commit waste or allow the premises to deteriorate. Defendant promised to have an appropriate legal document drawn reflecting these agreements, but never did so.

The parties disagree on the issue of the competency of Mrs. Casarini's father on the day he signed the deed. However, it is the opinion of this Court that the competency of the father, Clyde Owen Schaeffer, is not material to the legal issues which determine the outcome of this litigation. If Mrs. Casarini's father, Clyde Owen Schaeffer was competent to convey his interest in the property in issue, his half interest was a valid, gratuitous, inter vivos gift to defendant. If Clyde Owen Schaeffer was not competent to convey his interest in the joint tenancy to his son, Clyde Gene Schaeffer, nonetheless the interest of the father passed to the surviving joint tenant, Mrs. Casarini, upon his death. Mrs. Casarini then conveyed the full interest in the property at issue to her brother, Clyde Gene Schaeffer.

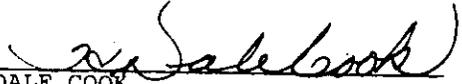
A deed, in the absence of a contrary statutory provision, takes effect from the date of its delivery. May v. Archer, 302 P.2d 768 (Ok1. 1956). The deed herein was signed and delivered to defendant by plaintiff prior to any expression on plaintiff's part of any conditions. An inter vivos gift is valid if all of the following conditions exist: delivery, intent to give, acceptance by the donee and parting with dominion by the donor. Gibbs v. Barkdale, 184 P.2d 755 (Ok1. 1947); Foster v. Rose, 238 P.2d 332 (Ok1. 1951). Where a valid and completed gift inter vivos has been made, including all these elements, it is irrevocable. Jonte v. English, 40 P.2d 646 (Ok1. 1935).

It is the ruling of the Court that, as a matter of law, based on the uncontested facts recited above, that Mrs. Casarini unconditionally conveyed her interest by signed deed in the property at issue to defendant, that the conveyance was a valid inter vivos gift, delivered, accepted, gratuitous, of immediate

effect, and irrevocable. Waitman v. Waitman, 505 P.2d 171, 174 (Okla. 1972). Any subsequent attempts by plaintiff alone or by plaintiff and defendant together to revoke the original gift or to attach conditions to the gift were either ineffective or unenforceable.

Thereby, it is the order of the Court that defendant's Motion for Summary Judgment should be and hereby is sustained and judgment is hereby entered in favor of defendant and against plaintiff.

It is so Ordered this 1st day of July, 1982.

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

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JUL - 1 1982 *hm*

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

United States of America, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 6.43 Acres of Land, More or )  
 Less, Situate in Osage County, )  
 State of Oklahoma, and Fred M. )  
 Beasley, et al., and Unknown )  
 Owners, )  
 )  
 Defendants. )

CIVIL ACTION NO. 76-C-588-Bt ✓

Tract No. 339

(Included in D.T. filed in  
Master File #398-6)

J U D G M E N T

1.

NOW, on this 1st day of July, 1982, 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, 1981, and the Court, after having examined the files in this action and being advised by counsel for the parties, finds that:

2.

This judgment applies to the entire estate taken in Tract No. 339, as such estate and tract are described in the Complaint filed in this case.

3.

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

4.

Service of Process has been perfected personally, 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 subject property. Pursuant thereto, on November 19, 1976, the United States of America

filed its Declaration of Taking of a certain estate in such tract 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 of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the described estate in the subject tract a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 12.

7.

The Report of Commissioners filed herein on December 30, 1981, hereby is accepted and adopted as findings of fact as to subject tract. The just compensation for the estate taken in the subject tract, 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 tract 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.

On June 29, 1982 a hearing was held before this Court to determine who is entitled to receive the award of just compensation for the estate taken in the subject property.

Mr. Gene P. Dennison, Attorney, appeared on behalf of the defendants, Fred M. Beasley and Grace Beasley. Mr. William Mattingly, Attorney, appeared representing the Exchange Bank of Skiatook. Hubert A. Marlow, Assistant United States Attorney, appeared for the Plaintiff.

The parties stipulated in open Court that:

1. Although the said Bank's endorsement appears on the Court Clerk's check disbursing the deposit of estimated compensation made in this case, the Bank did not receive any money from

such check, and that all of such money was received by the above named defendant landowners.

2. The Exchange Bank of Skiatook claims no interest in the deposit of estimated compensation made in this case or in the final award of just compensation made by this judgment.

3. The above named defendant landowners were the persons entitled to receive the deposit of estimated compensation made in this case and are the persons entitled to receive the balance of the award of just compensation fixed by this judgment.

The stipulation of the parties should be approved by the Court.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint is condemned, and title thereto is vested in the United States of America, as of November 19, 1976, 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 the stipulation made by the parties in open Court, as described above in paragraph 9, hereby is approved and adopted by this Court. Therefore, on the date of taking in this case, the owners of the estate taken herein in subject tract 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, 1981, hereby is confirmed and the sum therein fixed is adopted as the award of just compensation for the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 339

Owners: Fred M. Beasley and  
Grace Beasley

Award of just compensation pursuant  
to Commissioners' Report ----- \$4,290.00      \$4,290.00

Deposited as estimated compensation -- \$4,250.00

Disbursed to owners ----- 4,250.00

Balance due to owners ----- \$ 40.00  
plus  
interest

Deposit deficiency ----- \$ 40.00  
plus 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 tract as shown in paragraph 12, in the total amount of \$40.00, together with interest on such deficiency at the rate of 6% per annum from November 19, 1976, until the date of deposit of such deficiency sum; and such sum shall be placed in the deposit for subject tract 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 tract, jointly, to Fred M. Beasley and Grace Beasley.

*Thomas R. Dineen*  
UNITED STATES DISTRICT JUDGE  
*For: Thomas R. Dineen*

APPROVED:

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

*Gene P. Dennison*  
GENE P. DENNISON  
Attorney for Defendants  
*Kane, Kane, Dineen & Mattingly*  
*William A. Mattingly*  
WILLIAM MATTINGLY,  
Attorney for Exchange Bank of Skiatook

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL - 1 1982 *lu*

JACK C. SILVER, CLERK  
U. S. DISTRICT COURT

United States of America, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
18.85 Acres of Land, More or )  
Less, Situate in Osage County, )  
State of Oklahoma, and Sam D. )  
Rose, et al., and Unknown )  
Owners, )  
 )  
Defendants. )

CIVIL ACTION NO. 76-C-589-Bt ✓  
Tract No. 341

(Included in D.T. filed in  
Master File #398-6)

J U D G M E N T

1.

NOW, on this 1<sup>st</sup> day of July, 1982, 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, 1981, and the Court, after having examined the files in this action and being advised by counsel for the parties, finds that:

2.

This judgment applies to the entire estate taken in Tract No. 341, as such estate and tract are described in the Complaint filed in this case.

3.

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

4.

Service of Process has been perfected personally, 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 subject property. Pursuant thereto, on November 19, 1976, the United States of America filed its Declaration of Taking of a certain estate in such tract 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 of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the described estate in the subject tract a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 12.

7.

The Report of Commissioners filed herein on December 30, 1981, hereby is accepted and adopted as findings of fact as to subject tract. The just compensation for the estate taken in the subject tract, as fixed by the Commission, is set out below in paragraph 12.

8.

This judgment will create an overdeposit in the deposit for Tract No. 341, and an overpayment to the owners of this tract. The Plaintiff should have judgment against the owners of Tract No. 341 for the overpayment to them.

9.

On June 29, 1982 a hearing was held before this Court to determine who is responsible for payment to the Plaintiff of the difference between the disbursed deposit of estimated compensation made in this case and the final award of just compensation fixed by this judgment.

Mr. Gene P. Dennison, Attorney, appeared on behalf of the defendants, Sam D. Rose and Edith Rose. Mr. Rose also personally appeared. Mr. William Mattingly, Attorney, appeared representing the Exchange Bank of Skiatook. Hubert A. Marlow, Assistant United States Attorney, appeared for the Plaintiff.

The parties stipulated in open court that:

1. Although the said Bank's endorsement appears on the Court Clerk's check disbursing the deposit of estimated compensation made in this case, the Bank did not receive any money from such check, and that all of such money was received by the above named defendant landowners.

2. The Exchange Bank of Skiatook claims no interest in the deposit of estimated compensation made in this case or in the final award of just compensation made by this judgment.

3. The above named defendant landowners were the persons entitled to receive the deposit of estimated compensation made in this case and are the persons responsible for repayment to the Plaintiff of the difference between the said disbursal and the final award of just compensation fixed by this judgment.

The stipulation of the parties should be approved by the Court.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power and authority to condemn for public use the subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint is condemned, and title thereto is vested in the United States of America, as of November 19, 1976, 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 the stipulation made by the parties in open Court, as described above in paragraph 9, hereby is approved and adopted by this Court. Therefore, on the date of taking in this case, the owners of the estates taken herein in subject tract were the defendants whose names appear below in paragraph 12. Thus such named defendants were entitled to receive the disbursal of the deposit of estimated compensation made in this case, and are, on the other hand, the persons responsible for repayment to the Plaintiff of the difference between the said disbursal and the final award of just compensation fixed by this judgment.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on December 30, 1981, hereby is confirmed and the sum therein fixed is adopted as the award of

just compensation for the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 341

Owners: Sam D. Rose and Edith Rose		
Deposited as estimated compensation --	\$11,960.00	\$11,960.00
Disbursed to owners -----	<u>\$11,960.00</u>	\$11,960.00
Award of just compensation pursuant to Commissioners' Report -----		<u>\$ 6,160.00</u>
Overdeposit and overpayment to owners -----		\$ 5,800.00

13.

It Is Further ORDERED that the Plaintiff, United States of America, have judgment against Sam D. Rose and Edith Rose for the overpayment made to them from the deposit for Tract No. 341 in the amount of \$5,800.00, together with interest thereon at the rate of 6% per annum from the date of filing this judgment until payment be made.

To make payment of this judgment the defendant owners shall deposit the amount of the judgment, together with all accrued interest, with the Clerk of the United States District Court for the Northern District of Oklahoma.

When payment of this judgment against the said defendant owners has been made, the Clerk of this Court shall disburse the full amount of the payment to The Treasurer of the United States.

  
UNITED STATES DISTRICT JUDGE

For: Thomas R. Overt

APPROVED:

  
HUBERT A. MARLOW  
Assistant United States Attorney

  
GENE P. DENNISON  
Attorney for Defendants

*Kane, Kane, Wilson & Mattingly*  
*by William J. Mattingly*  
WILLIAM MATTINGLY, Attorney  
For Exchange Bank of Skiatook

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JUL - 1 1982

CLERK OF COURT, Clerk  
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 82-C-374-B
	)	
JOHN E. SADLER,	)	
	)	
Defendant.	)	

DEFAULT JUDGMENT

This matter comes on for consideration this 30 day of June, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Nancy A. Nesbitt, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, John E. Sadler, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, John E. Sadler, was personally served with Summons and Complaint on April 23, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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. Sadler, for the principal sum of \$250.80 (less the amount of \$50.00 which has been paid)., plus interest at the legal rate (15%) from the date of this Judgment until paid.

S. Thomas R. Burt  
UNITED STATES DISTRICT JUDGE

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE JUL - 1 1982  
NORTHERN DISTRICT OF OKLAHOMA

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

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
JERRY W. BOLEN, )  
 )  
Defendant. )

CIVIL ACTION NO. 82-C-561-B

DEFAULT JUDGMENT

This matter comes on for consideration this 30<sup>th</sup> day of June, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Nancy A. Nesbitt, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Jerry W. Bolen, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Jerry W. Bolen, was personally served with Summons and Complaint on May 20, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. 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, Jerry W. Bolen, for the principal sum of \$427.00, plus interest at the rate of 15 percent from the date of this Judgment until paid.

S/Thomas R. Butt  
UNITED STATES DISTRICT JUDGE

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

In Re: )  
RIFFE PETROLEUM COMPANY, )  
et al., )  
Debtors,, )  
----- )  
RIFFE PETROLEUM COMPANY, )  
et al., )  
Appellants, )  
vs. )  
JOHN G. McMILLIAN and )  
THOMAS W. diZEREGA, )  
TRUSTEES of the APCO )  
LIQUIDATING TRUST, )  
Appellee. )

In Proceedings for an  
Arrangement Under Chapter  
XI of the Bankruptcy Act

Bk. No. 78-B-509

Appeal No. 80-C-101-C

**FILED**

JUL -11 1982

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

O R D E R

This is an appeal from the allowance of a \$3,543,440.54 proof of claim proceeding under Chapter XI of the Bankruptcy Act. The appeal was instituted by the debtors in the bankruptcy proceeding, Riffe Petroleum Company (hereafter Riffe), its four corporate subsidiaries and by Charter Oil Company, which is funding the debtors' plan of arrangement. Riffe, its subsidiaries and Charter Oil Company will hereafter be collectively referred to as appellants. The disputed claim, which is the subject of this appeal, was filed by Apco Oil Company (hereafter Apco). John G. McMillian and Thomas W. diZerega, Trustees of the Apco Liquidating Trust, represent the interest of Apco on appeal. Apco and the Trustees will hereafter be collectively referred to as appellees.

The appellants contend that the Bankruptcy Judge erred in a pretrial ruling which foreclosed them from raising at trial four objections to appellee's claim and that the Bankruptcy Judge erred in computing Riffe's liability under a guaranty agreement it had with Apco. The specific issues raised in this appeal are

set out in appellants' brief at page two and they are as follows:

1. Did the Bankruptcy Judge err in eliminating four of Riffe's objections to Apco's proof of claim without giving any consideration to their merit?

2. Did the Bankruptcy Judge err, as a matter of law, in construing the guaranty Agreement to impose liability on Riffe for \$2,030,934.80 of Mid-America's debts to Apco when Riffe had only guaranteed General Energy's obligation to pay those debts and, in fact, General Energy had no such obligation?

3. Did the Bankruptcy Judge err, as a matter of law, in finding that Riffe's liability for the gasoline exchange balance was not limited by the guaranty agreement?

4. Did Apco's release of security, made with knowledge of the insolvency of General Energy and Mid-America, exonerate Riffe from liability under the guaranty agreement?

5. Did Riffe's repudiation of the guaranty agreement discharge Riffe from a liability arising after the repudiation?

The Court would note that the above issues are set out as they are framed by the appellants. Appellees do not completely agree with such characterization and where necessary such distinction will be noted by this Court.

The first issue raised by appellants is whether the Bankruptcy Judge erred by eliminating four of Riffe's objections to Apco's proof of claim from the pretrial order without considering the merits of these objections. The appellees disagree with appellants' characterization of the alleged error in that they assert that the Bankruptcy Court did not eliminate or strike any objections from the pretrial order, but that it ruled said objections should not be included in that order in the first instance because they were raised after the final pretrial conference. The appellees' characterization is correct. The four new objections were never included in a court approved pretrial order. The objections were refused because the Bankruptcy Court found that three of the objections were known

by appellants early in the bankruptcy proceeding and the other was known or should have been known prior to the final pretrial conference of January 18, 1980. Transcript of February 7, 1980, Pleading 25 on Appeal.

The questions are 1) whether the Bankruptcy Court had the discretion, under the circumstances of the case before it, to limit the objections to the claim when it did and, 2) whether limiting the objections was an abuse of discretion. The second question need not be answered if the answer to the first is in the negative. This Court concludes the Bankruptcy Court did have the discretion to so limit the objections and that such limitation was not an abuse of discretion.

The relevant Bankruptcy Rule in this instance is found at 11 U.S.C., Rule 914. That rule reads in pertinent part,

In a contested matter in a bankruptcy case not otherwise governed by these rules, relief shall be requested by motion, and reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought. . . . In all contested matters, unless the court otherwise directs, the following rules shall also apply: 721, 725, 726, 728-737, 741, 742, 752, 754-756, 762, 764, 769 and 771. The court may at any stage in a particular matter direct that one or more of the other rules in Part VII shall apply. . . . Notice of an order or direction under this rule shall be given when necessary or appropriate to assure to the parties affected a reasonable opportunity to comply with the procedures made applicable by the order. (emphasis added)

The parties appear to agree that the Bankruptcy Court began to utilize the pretrial procedures contemplated by Bankruptcy Rules 715 and 716 which generally incorporate Fed.R.Civ.P. 15 and 16, at an early stage in the bankruptcy proceedings. Though the appellants may impliedly contend that the five or six pretrial conferences were not, in fact, pretrial conferences contemplated by Bankruptcy Rule 716 and Fed.R.Civ.P. 16, they admit in their main brief that the parties and the Bankruptcy Court referred to such conferences as pretrial conferences. The appellants provide this Court with no explanation of what the conferences were if

they were not pretrial conferences as contemplated by the rules in question. Indeed, Fed.R.Civ.P. 16 begins, "[i]n any action, the Court may in its discretion direct the attorneys for the parties to appear before it for a conference . . . ." When the Bankruptcy Judge made such direction for the attorneys to so appear he was simply taking the step contemplated by Bankruptcy Rule 914 and directing that Bankruptcy Rule 716 would apply to the case before him. As this Court reads Bankruptcy Rule 914 that is all that is required. Additional notice of the applicability of Bankruptcy Rule 716 would not be "necessary and appropriate to assure to the parties affected a reasonable opportunity to comply with the procedures made applicable by the order." The procedure had already been made known to the parties over one year before the final pretrial conference of January 18, 1980. In addition, appellants make no assertion that they did not have adequate notice of the applicability of the procedures contemplated by Bankruptcy Rule 716. They only argue that because the Bankruptcy Court did not specifically inform them that it was utilizing a procedure which had, in fact, been utilized, with full knowledge and acquiescence of all the parties for over one year, that the Bankruptcy Judge was ousted or foreclosed from utilizing the discretionary power granted by such rule. In other words, the appellants apparently contend that some "magic" words had to be used to inform them that said procedures were in effect. This Court does not agree with the appellants' argument. It would have been redundant and unnecessary for the Bankruptcy Court to inform the parties that it was utilizing procedures that all parties knew it was utilizing at least one year before the final pretrial conference.

In any event, the interpretation of this Court as to the applicability of Bankruptcy Rule 716, as utilized by the Bankruptcy Court in this case makes the appellants' contentions concerning the doctrine of laches inapplicable. The citations of the appellants are simply not relevant to this case because

Bankruptcy Rules 715 and 716 were utilized from the beginning of the bankruptcy proceedings. See In Re Cushman Bankery, 526 F.2d 23 (1st Cir. 1975); 3 Collier on Bankruptcy §57.18(2), p.291 (14th Ed.) The Court would also note that appellants' counsel agreed at the February 7, 1980 hearing concerning these belated objections that the Bankruptcy Court had the discretion to allow or disallow these new objections. Transcript 25, p.12. Appellants' counsel also signed and approved, as to form, the February 11, 1980 order of the Bankruptcy Court, which recited that "[t]he parties do not dispute that allowance of additional issues and contentions after the final pretrial conference is in the discretion of the Court." Appendix to Appellants' Brief, Vol. II, pp 394-5. Surely, parties to an action have some affirmative duty to inform a court of the legal basis for their respective positions and they cannot on appeal argue an issue in a manner completely inconsistent with their positions before the lower court. Therefore, the Court also determines that appellees waived any objection they may have had to the Bankruptcy Court's alleged lack of discretion in this matter. The applicability of the other Bankruptcy Rules relied on by the appellees need not be reached by this Court.

The only remaining issue on this first assignment of error is whether the Bankruptcy Court abused its discretion in disallowing the objections. Appellees do not argue in their briefs that, if the Bankruptcy Court had discretion to limit the inclusion of the new objections, it abused its discretion in the matter, but only that, even if the Bankruptcy Court had such discretion, it was limited by the doctrine of laches. The final pretrial conference was held on January 18, 1980. Neither at this pretrial or any of the earlier pretrial conferences were the four objections at issue raised by appellants. Appendix to Appellants' Brief, Vol. II, pp 394-5, Transcript 25. At the February 7, 1980 proceeding these four new objections were discussed by the parties and the Bankruptcy Court. The court

found that the appellants had full knowledge of the first three objections early in the proceedings and they either had or should have had knowledge of the fourth objection before the final pretrial conference. At the time of the final hearing of February 7, 1980 the trial was less than one week away, having been scheduled to commence on February 11, 1980. None of these objections had been brought to the attention of the Bankruptcy Court prior to February 7, 1980 and they had been brought to the attention of appellees some time between January 18, 1980 and February 7, 1980. None were brought up at the final pretrial conference of January 18, 1980. Allowing the objections would, in all likelihood, have necessitated the loss of the trial date.

Though the ultimate goal of bankruptcy proceedings is to oversee the correct distribution of the bankrupt's estate, the Bankruptcy Rules provide, in appropriate cases, for the use of Bankruptcy Rules 715 and 716, as those rules incorporate Fed.R.Civ.P. 15 and 16. Those rules must have been promulgated with the intent that they be utilized. To say that such rules, even if applicable, have no effect because a bankruptcy court must determine the merits of objections raised after the final pretrial or any objections whenever raised before the final allowance of a claim would, indeed, be an anomaly. In this day of court backlog and ever increasing litigation, including bankruptcy filings, the courts - state and federal - must have sufficient ability to control their dockets and put to rest the claims of opposing factions. This is one of the main purposes of Fed.R.Civ.P. 15 and 16. See Mercantile Trust Company v. Inland Marine Products Corporation, 542 F.2d 1010 (8th Cir. 1976); Nevels v. Ford Motor Company, 439 F.2d 251 (5th Cir. 1971); Komie v. Buehler Corporation, 449 F.2d 644 (9th Cir. 1971). As mentioned above, the trial date would have, in all probability, been lost had the new objections been allowed. One of the new objections would have required additional discovery. The Bankruptcy Court was provided with no adequate reason for the

delay in presenting the objections and from the record before this Court no adequate reason for the undue delay is apparent. As it was said in Nevels, supra, "While it is generally true that leave to file amendments should be freely given . . . amendments should be tendered no later than the time for pretrial, unless compelling reasons why this could not have been done are presented." Id at 257. This Court determines that no compelling reason was given to the Bankruptcy Court or shown to this Court.

The case cited by appellants, Cushman, supra and subsequent cases partially relying on the holding in Cushman did not have before them the applicability of Bankruptcy Rules 715 and 716. See In Re Good Hope Industries, Inc., 16 B.R. 719 (1982); Matter of Rea Holding Corp., 8 B.R. 75 (1980); Matter of Supreme Synthetic Dyers, Inc., 3 B.R. 189 (1980). As mentioned before, only if the above rules were not applicable in the present situation does this Court feel a determination of the applicability of the doctrine of laches would be involved. As appellees point out, it would again be anomalous to grant a bankruptcy court discretion to control the issues before it under Bankruptcy Rules 715 and 716 and not let such court utilize that discretion unless it made a finding that the common law doctrine of laches applied. Laches is nowhere contained in Fed.R.Civ.P. 15 and 16 and no competent authority has been cited to this Court that would warrant such a determination. Accordingly, this Court concludes that the Bankruptcy Court did not abuse its discretion in this matter and the four belated objections were properly excluded as issues at the trial on the appellees proof of claim.

The second issue raised by appellants in this appeal is whether the Bankruptcy Court erred, as a matter of law, in construing the guaranty agreement between Riffe and Apco, to impose liability on Riffe for \$2,030,394.80 of Mid-America's debts to Apco. In this regard, the appellants contend that Riffe was not guaranteeing Mid-America's obligation to pay the specific debts, but that Riffe was only guaranteeing General Energy

Corporation's obligation to pay the debts if such were incurred by General Energy Corporation. They further contend that because General Energy Corporation did not incur the debts and had no legal obligation to pay them, then, under Oklahoma law, Riffe as guarantor, could not be held liable for the debts. The Court determines that appellants' argument is without merit in this case.

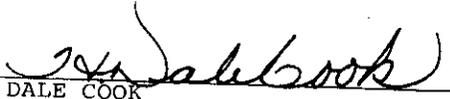
Contrary to appellees' first contention that this issue was not adjudicated by the Bankruptcy Court this Court is in accord with the appellants that this issue was litigated by the parties and determined by the Bankruptcy Court. Furthermore, the findings of the Bankruptcy Court were not clearly erroneous. The findings of a bankruptcy court must be judged by an appeals court via the clearly erroneous standard. In Re White House Decorating Co. v. Eckles, 607 F.2d 907 (10th Cir. 1979). Of course, if the conclusions reached by a bankruptcy court on those findings are not warranted an appeals court has a duty to apply the correct law to the findings. Id at 910; Washington v. Houston Lumber Co., 310 F.2d 881, 883 (10th Cir. 1962). However, in this case the conclusions reached by the Bankruptcy Court were valid. There is ample evidence in the record before this Court and the record that was before the Bankruptcy Court, both documentary and testimonial, to warrant the conclusion reached by the Bankruptcy Court that Riffe was guaranteeing the debts of both General Energy Corporation and Mid-America when it executed the March 10, 1978 Guaranty Agreement. Riffe was guaranteeing the debts owed to Apco specified in the Guaranty Agreement, which included the debts of Mid-America. Indeed, if appellants' contention is correct, the language of vast portions of the Guaranty Agreement would be completely meaningless, if the language only applied to non-existent obligations of General Energy Corporation. The Bankruptcy Court will, therefore, be affirmed on this issue.

The findings in regard to the third, fourth and fifth issues decided by the Bankruptcy Court are, likewise, not clearly

erroneous. The findings, as determined by the Bankruptcy Court, reasonably lead to the legal conclusions reached thereon. In such a situation this Court is in no position and has no authority to re-determine the findings of the Bankruptcy Court and fit them into a legal framework that would not lend itself to the original findings. Accordingly, the Bankruptcy Court will be affirmed on the final three issues raised by the appellants.

It is therefore the determination and the Order of this Court that the findings and conclusions of the Bankruptcy Court and the Judgment entered thereon are affirmed in all respects.

It is so Ordered this 30th day of June, 1982.

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