

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

FILED

FEB 18 1983

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
DONALD GENE COX, et al.,)
)
Defendants.)

No. 82-C-729-E

JUDGMENT DISMISSING ACTION
BY REASON OF SETTLEMENT

The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Therefore it is not necessary that the action remain upon the calendar of the Court.

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this order within ninety (90) days and to reopen the action upon cause shown that settlement has not been completed within that time and further litigation is necessary.

IT IS FURTHER ORDERED that the Clerk forthwith serve copies of this judgment by United States mail upon the attorneys for the parties appearing in this action.

Dated this 28th day of February, 1983.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

GARY HOWELL,)
)
Plaintiff,)
)
vs.) No. 83-C-136-E
)
A. I. MURPHY, et al.,)
)
Defendants.)

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

O R D E R

This action is before the Court upon the Petition of Petitioner Gary Howell, #89074, for a Writ of Habeas Corpus, which is to be tested under 28 U.S.C. § 1915(d). A motion to proceed in forma pauperis was filed December 17, 1982, and the petition thereafter promptly filed. See Henriksen v. Bentley, 644 F.2d 852 (10th Cir. 1981). Under 28 U.S.C. § 1915(d) the petition, if found to be frivolous, improper, or obviously without merit, is subject to dismissal. Henriksen, supra at 854. The Tenth Circuit Court of Appeals has reiterated its position on numerous occasions that a trial court need not require service of the petition and filing of an answer in cases where on the face of it, the action is frivolous or malicious. Id at 854. This Court has determined that the instant action is such a case.

The Petitioner alleges that two of his sentences are void because he was required to serve them in installments. After completing a two-year sentence given in CRF-69-615, Washington County, Petitioner was re-billed to a consecutive sentence also received in Washington County of seven years in CRF-71-127 (re-billed 6-13-73). Petitioner escaped while serving this sentence on July 11, 1974, and while on escape was convicted in Oklahoma County, case numbers CRF-74-2708, CRF-74-2709, and CRF-74-2715, and given three twenty-five year sentences, all to run con-

currently. (Note: Petitioner also has a seven year sentence to serve from a Cherokee County case, CRF-71-26, which is to be served after the seven year sentence from Washington County, and before the twenty-five year concurrent sentences.)

Petitioner claims that when he was returned to confinement, he was not placed back on the seven year Washington County sentence or on the next consecutive seven year sentence from Cherokee County, but was in fact placed on the Oklahoma County twenty-five year sentences.

Petitioner then escaped for a second time on June 20, 1978, was apprehended in Kansas, and was charged and convicted there to serve a term of fifteen to sixty years before being returned to Oklahoma. He was paroled by Kansas to Oklahoma on August 16, 1982, at which time he was placed on the Cherokee County seven year sentence, and the time he had already served was credited to the first Washington County seven year sentence. The Washington County sentence was thereby discharged, and the time left over was applied toward the Cherokee County sentence.

Petitioner argues that these administrative changes voided his Oklahoma County twenty-five year sentences and the Washington County seven year sentence, and that beginning to serve a second sentence fulfills all obligations of the prior sentence.

Only the "suffering of the imprisonment" can satisfy a judgment and sentence lawfully imposed. In Re Baldrige, 224 P.2d 608, 610 (1950). Officials of the Department of Corrections cannot, by administrative action, relieve the Petitioner of the responsibility of serving the full sentences given him.

Title 21 O.S.A. § 61 requires that a second sentence imposed begin at the termination of the first term of imprisonment. Here, Petitioner

must serve each sentence in full, in the order that they were imposed. Penitentiary officials do not have the discretion of crediting time served by inmates to any of their sentences, but must credit time on each conviction sustained until it has been satisfied. Fox v. State, 501 P.2d 834 (Ok.Cr. 1972); Application of Richardson, 346 P.2d 954 (Ok.Cr. 1959). However, the fact that his sentences were not handled in this way, if such be true, would be an administrative matter, subject to correction. Ex Parte Ward, 257 P.2d 1099 (Ok.Cr. 1953). Petitioner would not be entitled to have his sentences voided.

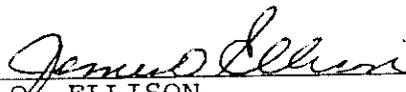
It must be noted here that the time supposedly served on his twenty-five year sentences has been correctly credited toward his seven year sentences, and the records, if the facts in the complaint be accepted as true, are now corrected.

Assuming the allegations in the Petition to be true, the Court finds that no "rational argument" can be made on the law in support of Petitioner's claim. He is entitled to no relief under the law, and thus his claim is wholly without merit. Bennett v. Passic, 545 F.2d 1260, 1261 (10th Cir. 1976).

On the basis of the foregoing authorities and having undertaken a careful review of the Petitioner's request, it is the determination of this Court that the Petition for Writ of Habeas Corpus herein is without foundation or merit.

IT IS THEREFORE THE ORDER OF THIS COURT that the Petition for Writ of Habeas Corpus of Gary Howell, #89074, is hereby dismissed.

DATED this 28TH day of February, 1983.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT FOR THE **FEB 28 1983**
NORTHERN DISTRICT OF OKLAHOMA

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
LAWRENCE W. SEANIOR,)
)
Defendant.)

CIVIL ACTION NO. 82-C-1200-B

DEFAULT JUDGMENT

This matter comes on for consideration this 28th day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Lawrence W. Seanior, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Lawrence W. Seanior, was personally served with Summons and Complaint on January 11, 1983. 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, Lawrence W. Seanior, for the principal sum of \$256.21, plus interest at the legal rate from the date of this Judgment until paid.

s/H. DALE COOK
UNITED STATES DISTRICT JUDGE
For THOMAS R. BRETT, JUDGE

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

FILED

FEB 18 1983

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

METRIC METALS CORPORATION,
a Missouri corporation,

Plaintiff,

vs.

THOMAS R. HADDOCK d/b/a
T. HADDOCK PIPE & EQUIPMENT,

Defendant.

)
)
)
)
)
)
)
)
)
)
)

Case No. 82-C-1207E

JUDGMENT AFTER DEFAULT BY CLERK

Defendant, Thomas R. Haddock, d/b/a T. Haddock Pipe & Equipment, has been regularly served with process. He has failed to appear and answer the plaintiff's complaint filed herein. The default of defendant has been entered. It appears that defendant is not an infant or an incompetent person. An Affidavit of Nonmilitary Service has been filed herein. It appears from the Affidavit that the plaintiff is entitled to judgment.

IT IS ORDER AND ADJUDGED that plaintiff recover from defendant the sum of \$39,743.12, with interest thereon at the legal rate until paid, together with costs in the sum of \$60.00.

DATED: 2/28/83

S/ JAMES O. ELLISON

HONORABLE JAMES E. ELLISON
UNITED STATES DISTRICT COURT JUDGE

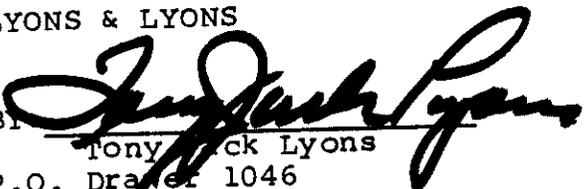
APPROVED:

JACKSON, WALKER, WINSTEAD,
CANTWELL & MILLER

BY: 
J. Kyle DuVall
4300 First Natl. Bank Bldg.
Dallas, Texas 75202

Attorneys for Plaintiffs

LYONS & LYONS

BY: 
Tony Jack Lyons
P.O. Drawer 1046
Pryor, Oklahoma 74361

Attorneys for Defendant

1181M

IN THE UNITED STATES DISTRICT COURT FOR
NORTHERN DISTRICT OF OKLAHOMA

FILED

FEB 28 1983

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

Commercial Credit Equipment
Corporation, a Corporation,

Plaintiff,

vs.

Jack J. Gray, et al.

Defendant.

Civil Case
No. 82-C-528-E

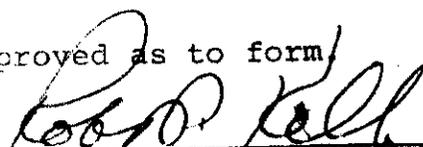
DISMISSAL WITH PREJUDICE

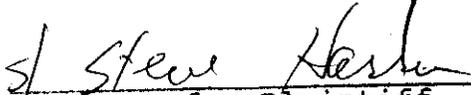
On this 10th day of February, 1983, this matter comes on for disposition, pursuant to notice issued by the Clerk on January 31, 1983. The plaintiff appears not, and the defendant appears by his attorney, Robert P. Kelly.

After review of the file, the Court finds that no activity has been had in the said cause since June, 1982; that said action has served its purpose; that replevin bond filed herein should be exonerated and the case dismissed with prejudice. It is, therefore,

ORDERED, ADJUDGED AND DECREED by the Court that the Aetna Casualty & Surety Company, surety on the replevin bond filed herein, be and the same hereby is exonerated, and the said cause dismissed with prejudice.

S/ JAMES O. ELLISON

Approved as to form

Robert P. Kelly
Attorney for Defendant


Attorney for Plaintiff

James O. Ellison
United States District Judge

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

MARIA C. LAYER,
LARRY L. FORD,
MICHAEL W. CHASE,
CHARLES W. ADAIR,
JEFFERY S. WOOD,
JAMES R. CLARK,
STEVE A. CAPANSKY,
ANTHONY W. HAWTHORNE,
JERRY L. MCGHEE,
DANIEL E. MURRAY,
DARRELL K. CAMPBELL,
WILLIAM R. SEMMLER,
RICHARD NABOURS,
JOE A. LYONS,

Defendants.

CIVIL ACTION NOS. 82-C-104-E
82-C-191-E
82-C-202-E
82-C-231-E
82-C-278-E
82-C-286-E
82-C-287-E
82-C-355-E
82-C-393-E
82-C-422-E
82-C-432-E
82-C-468-E
82-C-478-E
82-C-869-E

FILED

John C. Silver

ORDER

NOW on this 28th day of February, 1983, it appears that the Defendants in the above-captioned cases have not been located within the Northern District of Oklahoma and therefore attempts to serve them have been unsuccessful.

IT IS THEREFORE ORDERED, that the Complaints against each of the above-named Defendants are dismissed without prejudice pursuant to Minute Order dated December 21, 1982.

UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FEB 8 1983

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 HARVEY R. RAMSEY,)
)
 Defendant.)

CIVIL ACTION NO. 82-C-1203-E

DEFAULT JUDGMENT

This matter comes on for consideration this ^{4h} 28 day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Harvey R. Ramsey, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Harvey R. Ramsey, was personally served with Summons and Complaint on January 14, 1983. 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, Harvey R. Ramsey, for the principal sum of \$384.00, plus interest at the legal rate from the date of this Judgment until paid.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

FILED

FEB 28 1983

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

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 STEPHEN G. YOCHAM,)
)
 Defendant.)

CIVIL ACTION NO. 82-C-134-E

DEFAULT JUDGMENT

This matter comes on for consideration this 28th day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Nancy A. Nesbitt, Assistant United States Attorney, and the Defendant, Stephen G. Yocham, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Stephen G. Yocham, was served with an Alias Summons and Complaint on January 17, 1983. 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, Stephen G. Yocham, for the principal sum of \$317.85, plus interest at the legal rate from the date of this Judgment until paid.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 PRINCE M. PARRIS,)
)
 Defendant.)

CIVIL ACTION NO. 82-C-209-E

FILED

FEB 25 1983

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

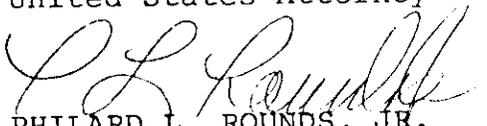
NOTICE OF DISMISSAL

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 24th day of February, 1983.

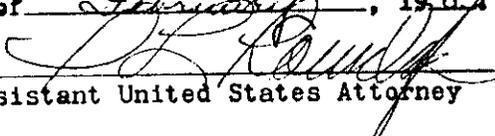
UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney


PHILARD L. ROUNDS, JR.
Assistant United States Attorney
460 U.S. Courthouse
Tulsa, OK 74103
(918) 581-7463

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
24th day of February, 1983


Assistant United States Attorney

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FEB 25 1983

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 GREGORY MACK,)
)
 Defendant.)

CIVIL ACTION NO. 83-C-73-C

DEFAULT JUDGMENT

This matter comes on for consideration this 25 day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Nancy A. Nesbitt, Assistant United States Attorney, and the Defendant, Gregory Mack, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Gregory Mack, was served with Summons and Complaint on January 25, 1983. 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, Gregory Mack, for the principal sum of \$370.00, plus interest at the legal rate from the date of this Judgment until paid.

SEN. DALE COOK
UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FEB 25 1983

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 EDWARD J. LaTOUR,)
)
 Defendant.)

CIVIL ACTION NO. 82-C-1162-C

DEFAULT JUDGMENT

This matter comes on for consideration this 25 day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Edward J. LaTour, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Edward J. LaTour, was personally served with Summons and Complaint on January 11, 1983. 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, Edward J. LaTour, for the principal sum of \$1,149.17, plus interest at the legal rate from the date of this Judgment until paid.

UNITED STATES DISTRICT JUDGE

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

FILED

SEP 2 1982

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

PENNANT AVIATION, INC., An
Oklahoma Corporation,

Plaintiff,

v.

THE CONTINENTAL INSURANCE COMPANY,
A New Hampshire Corporation,

Defendant.

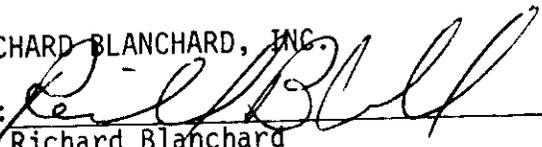
No. 82-C-1137-C

NOTICE OF DISMISSAL WITH PREJUDICE

COMES NOW the Plaintiff and pursuant to Rule 41 of the Federal Rules of Civil Procedure and dismisses its action against the Defendant herein with prejudice, with said Plaintiff bearing its own costs.

RICHARD BLANCHARD, INC.

By:


Richard Blanchard
Attorney at Law
715 Atlas Life Building
Tulsa, Oklahoma 74103
(918) 583-2112

FILED

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

23 24 1983

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

STEVEN DWIGHT TAYLOR,)
)
 Plaintiff,)
)
 vs.)
)
 MISSOURI PACIFIC RAILROAD COMPANY)
 and BURLINGTON NORTHERN RAILWAY)
 COMPANY and VERLON A. GRAY,)
)
 Defendants.)

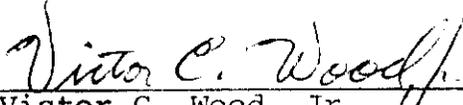
No. 82-C-566-C

STIPULATION FOR DISMISSAL WITH PREJUDICE

Comes now the plaintiff, Steven Dwight Taylor, joined by the defendants, Missouri Pacific Railroad Company, Burlington Northern Railway Company and Verlon A. Gray, and respectfully shows the Court as follows:

Plaintiff would show the Court that plaintiff filed this action for personal injuries against the defendants. Plaintiff and defendants would show the Court that the parties hereto have settled and compromised their differences without the admission of fault of either party and have agreed to the entry by the Court of a Dismissal with Prejudice for and in consideration of the payment of money by the defendants to this plaintiff.

IT IS FURTHER STIPULATED AND AGREED by all parties that this Court may enter an Order of Dismissal with Prejudice to the bringing of any further cause of action by this plaintiff.



Victor C. Wood, Jr.
Attorney for Plaintiff
2814 First National Center
Oklahoma City, Oklahoma 73102

John B. Nicks
Attorney for Plaintiff
5800 South Lewis
Tulsa, Oklahoma 74105



Tom L. Armstrong
DYER, POWERS, MARSH, TURNER & ARMSTRONG
Attorneys for Defendants
525 South Main, Suite 210
Tulsa, Oklahoma 74103

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

FILED

MARY BARBARA FOUST,)
)
Plaintiff,)
)
vs.)
)
ALENE BUNCE, and LORENE)
McCOIN d/b/a THE AFTON)
HOUSE RESTAURANT)

FEB 24 1983

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

No. 82-C-722-C

STIPULATED ORDER OF DISMISSAL

It is hereby stipulated by and between counsel for all parties hereto, subject to the approval of the Court, as follows:

All claims presented by the Complaint shall be dismissed without prejudice pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.

Each party shall bear his or its own costs and attorney fees. -

Dated this 23rd day of February 1983.


THOMAS M. BINGHAM
Attorneys for Plaintiff


WALTER D. HASKINS
Attorney for Defendants


U. S. DISTRICT JUDGE

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

MARVIN L. SCOTT,)
)
Plaintiff,)
)
v.)
)
RICHARD S. SCHWEIKER,)
Secretary of Health and)
Human Services,)
)
Defendant.)

No. 82-C-452-C

FILED
FEB 23 1983
Jack C. Cook, Clerk
U. S. DISTRICT COURT

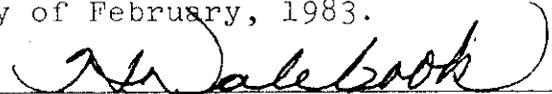
O R D E R

The Court has for consideration the Findings and Recommendations of the Magistrate filed on February 8, 1983 in which it is recommended that this case be remanded to the Secretary for further administrative proceedings. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the matters presented to it, the Court has concluded that the Findings and Recommendations of the Magistrate should be and hereby are affirmed.

Accordingly, it is Ordered that this case be remanded to the Secretary for the purpose of hearing additional evidence, including the testimony of a vocational expert and such other evidence as the Secretary or claimant desires to offer as to the availability of light and sedentary jobs and claimant's ability to engage in significant gainful activity with respect to such jobs.

Dated this 22nd day of February, 1983.


H. DALE COOK
CHIEF JUDGE

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

FILED

1983 6

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

OPAL M. HULSMAN,)
)
 Plaintiff,)
)
 vs.)
)
 FIBREBOARD CORPORATION,)
 et al.,)
)
 Defendants.)

NO. 82-C-648-BT

O R D E R

This matter comes before the Court on Motions to Dismiss filed by Armstrong Cork Co. and Motions for Summary Judgment filed or made orally by Owens Illinois, Inc., Pittsburgh Corning Corp.; Raymark Industries (formerly Raybestos-Manhattan, Inc.); Nicolet Industries, Inc.; Owens Corning, Inc.; Flintkote Co.; Keene Corp.; Fibreboard Corp.; Armstrong Cork Co.; Rock Wool Manufacturing Co.; G.A.F. Corp.; Standard Asbestos Manufacturing and Insulating Co.; and Combustion Engineering, Inc.

Defendant Armstrong Cork Co., has made two separate Motions to Dismiss on the basis of insufficiency of service of process. Defendant's Motions are hereby denied.

Defendants' Motions for Summary Judgment

Plaintiff has sued on a manufacturer's product liability theory for injuries she suffered as a result of exposure to asbestos. All moving defendants herein except Standard Asbestos base their motions on plaintiff's failure to show use of the defendant's product.

In order to prevail on a manufacturer's product liability claim, plaintiff must prove that the product contained a defect which existed at the time it left the hands of the manufacturer, that the defect rendered the product unreasonably dangerous, and that the defect was the proximate cause of injury. Kirkland v. General Motors Corp., 521 P.2d 1353 (Okl.1974).

With regard to a number of defendants, plaintiff has been unable to show exposure to that particular defendant's product. Nevertheless, plaintiff contends that in the present situation, the burden of proof of product usage should be shifted to defendants, on the basic theory that defendants are in a better position to prove or disprove causation.

Plaintiff urges application of the "market share" theory propounded in Sindell v. Abbott Laboratories, 607 P.2d 924 (Ca. 1980). In that case, women progeny brought class actions against drug companies seeking damages for injuries they sustained as a result of administration of the drug D.E.S. to their mothers during pregnancies. The plaintiff in these cases knew the type of drug taken by their mothers but could not identify the manufacturer of the precise product. Id. at 925. The court in Sindell held it to be reasonable to measure the likelihood that any of the defendants had supplied the product allegedly injuring the plaintiffs by the percentage of D.E.S. sold by the manufacturer to the entire production. The burden of proof then shifted to the defendants to show that they could not have possibly supplied the drug which injured the plaintiffs. Id. at 937.

Alternatively, plaintiff suggests application of the "enterprise liability" theory set forth in Hall v. E.I. Du Pont de Nemours & Co., Inc., 345 F.Supp. 353 (E.D.N.Y. 1972). The case arose out of 18 separate accidents in which children were injured using blasting caps. In most cases, the manufacturer of the cap was unknown. Plaintiffs in Hall and other cases contended that the practice of the explosives industry during that period of not placing any warning on individual blasting caps and of failing to take other safety measures created an unreasonable risk of harm that resulted in plaintiffs' injuries. Consequently, they sought damages from the manufacturers and their trade associations. The question then arose of whether a group of manufacturers and their trade association, comprising almost the entire blasting cap industry, could be held jointly liable for injuries caused by their products. Id. at 358.

The Court found evidence that the defendants had adhered to industry-wide safety standards on the blasting caps, that they had delegated some functions of safety design to the trade association, and that there was industry-wide cooperation in the manufacture and design of the blasting caps. Therefore, the court held that the defendants had jointly controlled the risk. Id. at 375, 376. The court concluded that if the plaintiff could show by a preponderance of evidence his injury resulted from use of a product made by some unknown one of the named defendants, the burden of proof as to lack of causation would shift to the defendant. Id. at 380.

Oklahoma has adopted neither the "market share" nor the "enterprise liability" theory for burden of proof of causation in products liability. Under Kirkland, supra, the burden of proof of product usage and causation is on the plaintiff.

Plaintiff cites the Oklahoma Supreme Court opinion in Cities Service Oil Co. v. Merritt, 332 P.2d 677 (1958), for the proposition that the burden of proof of product usage in this case should be shifted to defendants. The Court disagrees. In that case, the plaintiff sued the defendant oil company for pollution of subterranean water-producing formations underlying plaintiff's land. Some of the pollution of plaintiff's property by defendant was permissible, and some was impermissible. The court said the burden of establishing lack of causation in such a situation rested on the defendant. Id. at 682, 683. The situation here is distinguishable. Plaintiff has not yet shown to which, if any, of the defendants' products she was exposed. Until this element can be satisfied, the issue of damages cannot be reached.

Plaintiff concedes that product usage cannot be demonstrated as to these defendants: Owens Illinois, Inc., Pittsburgh Corning Corp.; Raymark Industries; and Nicolet Industries. Therefore, the Court sustains these defendants' Motions for Summary Judgment.

Defendants Owens Corning, Inc., and Flintkote Co., have filed Motions for Summary Judgment, to which plaintiff has not yet had an opportunity to respond. Plaintiff during oral arguments waived the right to a response and hearing on the motions under

Rule 56, F.R.Civ.P., and conceded lack of evidence of product usage for these two defendants. Because of the lack of product usage, the Motions for Summary Judgment made by Owens Corning, Inc. and Flinkote Co., are hereby sustained.

During hearing on the summary judgment issue, oral Motions for Summary Judgment were made by defendants Keene Corp., Fibre-board Corp.; Armstrong Cork Co.; Rock Wool Manufacturing Co.; and G.A.F. Plaintiff during oral argument waived the right to respond and a hearing on these motions under Rule 56, F.R.Civ.P., and conceded lack of evidence of product usage for these defendants. Because of the lack of product usage, the Motions for Summary Judgment by these defendants are hereby sustained. -

The plaintiff excepted to the court's ruling and persisted in urging the "market share" and "enterprise liability" theories previously discussed.

Defendant Standard Asbestos Manufacturing and Insulating Co., has also filed a Motion for Summary Judgment. The evidence shows that plaintiff's husband, now deceased, was an employee of defendant during the year 1956. Defendant argues that the Oklahoma workers compensation laws therefore preclude this action. The Court disagrees. Oklahoma's workers compensation laws, 85 Okl.Stat. Ann. limit common law actions by employees of a business. The plaintiff in this action was not herself an employee of defendant. Defendant Standard Asbestos Manufacturing and Insulating Co.'s Motion for Summary Judgment is hereby denied.

Defendant Combustion Engineering, Inc., has filed a Motion for Summary Judgment on the grounds that plaintiff has not shown product usage. Defendant is hereby directed to answer plaintiff's interrogatories within seven days of this Order, and plaintiff is directed to advise the Court within fourteen days of this Order whether any factual issues remain concerning plaintiff's use or exposure to any of Combustion Engineering's asbestos products. The Court will then rule on defendant's Motion.

IT IS SO ORDERED.

ENTERED this 22nd day of February, 1983.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FRANCES VIRGINIA BROWNING,)
personally and as the re-)
presentative of the heirs)
of Clarence A. Browning,)
Deceased,)
)
Plaintiff,)
)
vs.)
)
FIBREBOARD CORPORATION,)
et al.,)
)
Defendants.)

FILED

9-13-83

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

NO. 82-C-131-BT ✓

ORDER

This matter comes before the Court on the Rule 56 F.R.Civ.P. Motions for Summary Judgment filed by defendants Raymark Industries (formerly Raybestos-Manhattan, Inc.); Flintkote Co.; Nicolet Industries, Inc.; Armstrong Cork Co.; Keene Corp.; Rock Wool Manufacturing Co.; Combustion Engineering, Inc.; Owens Illinois, Inc.; and Standard Asbestos Manufacturing and Insulating Co. The Court has considered both written briefs and oral arguments of the parties in this matter.

Plaintiff has sued on a manufacturer's product liability theory for injuries her decedent sustained as a result of exposure to asbestos. All moving defendants herein except Standard Asbestos base their motions on plaintiff's failure to show use of the defendant's product by plaintiff's decedent.

In order to prevail on a manufacturer's product liability claim, plaintiff must prove that the product contained a defect

which existed at the time it left the hands of the manufacturer, that the defendant rendered the product unreasonably dangerous, and that the defect was the proximate cause of plaintiff's injury. Kirkland v. General Motors Corp., 521 P.2d 1353 (Okl. 1974).

With regard to a number of defendants, plaintiff has been unable to show her decedent used that particular defendant's product. Nevertheless, plaintiff contends that in the present fact situation, the burden of proof of no product usage should be shifted to defendants, on the basic theory that defendants are in a better position to prove or disprove their product was not involved.

Plaintiff urges application of the "market share" theory propounded in Sindell v. Abbott Laboratories, 607 P.2d 924 (Ca. 1980). In that case, women progeny brought class actions against drug companies seeking damages for injuries they sustained as a result of administration of the drug D.E.S. to their mothers during pregnancies. The plaintiffs in these cases knew the type of drug taken by their mothers but could not identify the manufacturer of the precise product. Id. at 925. The court in Sindell held it to be reasonable to measure the likelihood that any of the defendants had supplied the product allegedly injuring the plaintiffs by the percentage of D.E.S. sold by the manufacturer bore to the entire production. The burden of proof was then shifted to the defendants to show that they could not have possibly supplied the drug which injured the plaintiffs. Id. at 937.

Alternatively, plaintiff suggests application of the "enterprise liability" theory set forth in Hall v. E.I. DuPont de Nemours & Co., Inc., 345 F.Supp. 353 (E.D.N.Y. 1972). The case arose out of 18 separate accidents in which children were injured using blasting caps. In most cases, the manufacturer of the cap was unknown. Plaintiffs in Hall and other cases contended that the practice of the explosives industry during that period of not placing any warning on individual blasting caps and of failing to take other safety measures created an unreasonable risk of harm that resulted in plaintiff's injuries. Consequently, they sought damages from the manufacturers and their trade associations. The question then arose of whether a group of manufacturers and their trade association, comprising almost the entire blasting cap industry, could be held jointly liable for injuries caused by their products. Id. at 358.

The court found evidence that the defendants had adhered to industry-wide safety standards on the blasting caps, that they had delegated some functions of safety design and function to the trade association, and that there was industry-wide cooperation in the manufacture and design of the blasting caps. Therefore, the court held that the defendants had jointly controlled the risk. Id. at 375, 376. The court concluded that if the plaintiff could show by a preponderance of evidence his injury resulted from use of a product made by some unknown one of the named defendants, the burden of proof as to lack of causation would shift to the defendant. Id. at 380.

Oklahoma has adopted neither the "market share" nor the "enterprise liability" theory for burden of proof of causation in products liability. Under Kirkland, supra, the burden of proof of product usage and causation is on the plaintiff.

Plaintiff cites the Oklahoma Supreme Court opinion in Cities Service Oil Co. v. Merritt, 332 P.2d 677 (1958), for the proposition that the burden of proof of product usage in this case should be shifted to defendants. The Court disagrees. In that case, the plaintiff sued the defendant oil company for pollution of subterranean water-producing formations underlying plaintiff's land. Some of the pollution of plaintiff's property by defendant was permissible and some was impermissible. The court said that the burden of establishing lack of damage causation in such a situation rested on the defendant. Id. at 682, 683. The situation here is distinguishable. Plaintiff has not yet shown to which, if any, of the defendants' products her decedent was exposed or used. Until this element can be satisfied, the issue of damages cannot be reached.

Plaintiff concedes that product usage cannot be demonstrated as to these defendants: Raymark Industries, Flintkote Co., Nicolet Industries, Inc., and Armstrong Cork Co. Therefore, the Court hereby sustains these defendants' Motion for Summary Judgment.

Keene Corporation and Rock Wool Manufacturing Co., have filed Motions for Summary Judgment, to which plaintiff has not yet responded. Plaintiff during oral arguments waived the right to

respond or to a hearing on the motions under Rule 56, F.R.Civ.P., and conceded lack of evidence of product usage for these two defendants. Because of the lack of product usage, the Motions for Summary Judgment made by Keene Corporation and Rock Wool Manufacturing Co., are hereby sustained.

The plaintiff excepted to the Court's ruling and persisted in urging the "market share" and "enterprise liability" theories previously discussed.

Defendant Combustion Engineering, Inc., is hereby directed to answer plaintiff's interrogatories within seven days of this Order, and plaintiff is directed to advise the Court within fourteen days of this Order whether any factual issues remain about plaintiff's use of Combustion Engineering's product. The Court will then rule on Combustion Engineering's Motion for Summary Judgment.

Plaintiff contends that her decedent used products manufactured by defendant Owens Illinois from 1968 through 1974. Owens Illinois, however, claims it has manufactured only one asbestos product, Kaylo, in its history, and that it ceased manufacture of Kaylo in 1958. Plaintiff and defendant Owens Illinois are directed to advise the Court within 15 days of this Order whether any factual issues remain as to plaintiff's use of defendant's asbestos-containing product. The Court will then rule on the Motion for Summary Judgment filed by Owens Illinois.

Defendant Standard Asbestos Manufacturing and Insulating Co., has moved for summary judgment on the grounds that plain-

tiff's decedent was employed by Standard Asbestos during the years 1943 and 1955, the time of exposure to its asbestos products, and that worker's compensation laws therefore preclude this action. The Court agrees that under 85 Okl.St. Ann. §12, plaintiff's decedent was limited to remedies provided by Oklahoma's worker's compensation law as prescribed in 58 Okl.St. Ann. Gay v. E.H. Moore, Inc., 26 F.Supp. 749 (D.C. Okl. 1939). Defendant's Motion for Summary Judgment is hereby sustained.

IT IS SO ORDERED.

ENTERED this 22nd day of February, 1983.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

FEB 13 1983

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

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

FRANCES VIRGINIA BROWNING,)
personally and as the)
representative of the heirs)
of CLARENCE A. BROWNING,)
deceased,)
)
Plaintiff,)
)
v.)
)
FIBREBOARD CORPORATION,)
et al.,)
)
Defendants.)

Case No. 82-C-131-BT ✓

O R D E R

On this 8th day February, 1983, there comes on for hearing the Motion for Summary Judgment of defendant, Owens-Illinois, Inc., and the Court being fully advised in the premises finds that the Motion for Summary Judgment of defendant, Owens-Illinois, Inc., should be sustained as hereinafter ordered.

IT IS ORDERED by the Court as follows:

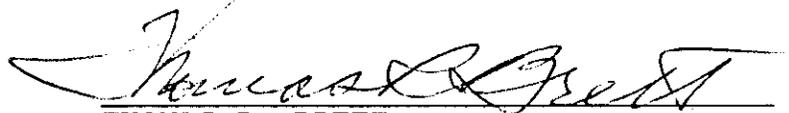
1. That plaintiff, Frances Virginia Browning's, deceased husband, Clarence A. Browning, during the period of his occupation as an insulator did not use asbestos-containing products manufactured, sold or distributed by defendant, Owens-Illinois, Inc.

2. That plaintiff alleges that defendant, Owens-Illinois, Inc., is liable to plaintiff under a market-share liability theory as set forth in the decision of Sindell v. Abbott Laboratories, 26 Cal.3d 588, 163 Cal. Rptr. 132 (1980), but the Court finds that said decision is contrary to the laws of the State of Oklahoma and is therefore not applicable to the liability of

155

defendant, Owens-Illinois, Inc.

3. That the Motion for Summary Judgment of defendant, Owens-Illinois, Inc., be and the same is hereby sustained and the above-entitled cause is hereby dismissed as to defendant, Owens-Illinois, Inc.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

APPROVED:



MAYNARD I. UNGERMAN

UNGERMAN, CONNER & LITTLE
Post Office Box 2099
Tulsa, Oklahoma 74101
(918) 745-0101
Attorneys for Plaintiff



JACK R. DURLAND, JR.

CROWE & DUNLEVY
1800 Mid-America Tower
20 North Broadway
Oklahoma City, Oklahoma 73102
(405) 235-7700
Attorneys for Defendant,
Owens-Illinois, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OKLAHOMA

CLERK'S OFFICE

UNITED STATES COURT HOUSE

TULSA, OKLAHOMA 74103

February 23, 1983

JACK C. SILVER
CLERK

Mr. David M. Hoover #110278
P. O. Box 97
McAlester, Oklahoma 74501

Mr. James W. Fransein
Attorney at Law
406 Petroleum Club Building
Tulsa, Oklahoma 74119

Mr. Keith Whiteley
Attorney at Law
239 East Cherokee
Wagoner, Oklahoma 74467

Re: 82-C-1020-C
Hoover v. Fransein and Whiteley

Gentlemen:

This is to advise you that Chief Judge H. Dale Cook entered the following Minute Order this date in the above case:

"UPON CONSIDERATION of plaintiff's Motion to dismiss, it is ORDERED that said motion is granted and this cause of action is dismissed without prejudice."

Very truly yours,

JACK C. SILVER, CLERK

Rosemary J. Miller

Deputy

rfm

FILED

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

FEB 23 1983

VICKI McCULLOUGH,
Plaintiff,

vs.

RAYMOND CARL MURPHY and
HAROLD JULIAN BROWN,
Defendants.

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

No. 82-C-669-C

STIPULATION OF DISMISSAL WITH PREJUDICE

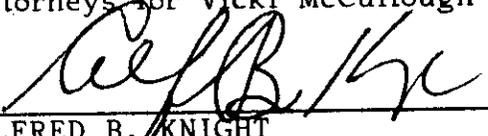
It is hereby stipulated by Vicki McCullough, Raymond Carl
Murphy and Harold Julian Brown that the above-entitled action be
dismissed with prejudice.

Dated this 23 day of February, 1983.



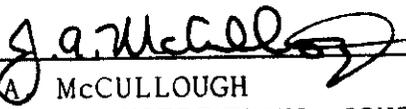
JACK B. SELLERS LAW ASSOCIATES, INC.
P.O. Box 730
Sapulpa, Oklahoma 74066

Attorneys for Vicki McCullough



ALFRED B. KNIGHT
616 S. Main, Suite 205
Tulsa, Oklahoma 74119

Attorney for Raymond Carl Murphy



J.A. McCULLOUGH
RHODES, HIERONYMUS, JONES, TUCKER,
AND GABLE
2900 Fourth National Bank Building
Tulsa, Oklahoma 74119

Attorneys for Harold Julian Brown

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

FILED

125 1983

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

SOUTHWESTERN BELL TELEPHONE)
COMPANY, A Missouri Corporation,)
))
Plaintiff,)
))
vs.)
))
KEN'S RESTAURANT SYSTEMS, INC.,)
an Oklahoma corporation, A-MAX)
SIGN COMPANY, an Oklahoma)
corporation, and McKISICK)
FOUNDATION PIER DRILLING COMPANY,)
an Oklahoma corporation,)
))
Defendants.)

NO. 82-C-702-B

ORDER OF DISMISSAL

ON this 23rd day of February, 1983, upon
the written application of the parties for a dismissal with
prejudice of the Complaint and all causes of action and Cross-
Complaints, 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 appli-
cation.

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

S/ THOMAS R. BRETT

JUDGE BRETT
District Court of the United
States, Northern District of
Oklahoma

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

FILED

GENERAL CORROSION SERVICES,)
CORPORATION,)
)
Plaintiff,)
)
vs.) NO. 82-C-735-B
)
C. E. EQUIPMENT COMPANY,)
INC., and HARCO CORPORATION,)
)
Defendants.)

ORDER SUSTAINING MOTION TO DISMISS
OF DEFENDANTS, C. E. EQUIPMENT
COMPANY, INC., AND HARCO CORPORATION

The Court has for consideration the Motion to Dismiss of C.E. Equipment Company, Inc., ("C.E.") and Harco Corporation ("Harco") based upon lack of in personam jurisdiction over the defendant C.E., and/or the existence of pre-existing dispositive litigation involving the same parties in the Federal Court of Louisiana. It is contended C.E., as the owner of the patent in dispute, is an indispensable party so lacking personal jurisdiction against C.E., precludes proceeding against Harco, the patent licensee. The instant action is one for declaratory judgment filed July 27, 1982 in which General Corrosion Services Corporation ("General Corrosion") seeks a declaration the subject C.E. 1973 United States Patent No. 3,725,669 entitled "Deep Anode Bed for Cathodic Protection" is invalid and not infringed by General Corrosion. A month and a half earlier, on June 8, 1982, C.E. and Harco filed a complaint for alleged patent infringement against the plaintiff

herein, General Corrosion. A copy of the complaint styled C.E. Equipment Company, Inc., a corporation, and Harco Corporation, a corporation, Plaintiffs, vs. Southern Natural Gas Company, a corporation, and General Corrosion Services Corporation, a corporation, and Corrosion Control, Inc., a corporation, Defendants, Civil Action No. 82-1438 in the United States District Court for the Western District of Louisiana is attached to the defendants' brief in support of the Motion to Dismiss herein. The parties herein concede the patent infringement issue involved in the instant declaratory judgment action is also an issue involved in the previously filed Louisiana Federal Court plenary action between the same parties. In the Louisiana Federal Court case, General Corrosion, the plaintiff herein, and a defendant there, has filed a Motion to Transfer for improper venue pursuant to 28 U.S.C. §1406(a). That motion is presently pending before the United States District Court for the Western District of Louisiana, Shreveport Division.

There is substantial authority, both in quality and quantity, that a declaratory judgment action involving the same patent infringement and/or validity issue as already pending in another case between the same parties, should not be permitted to continue. National Lead Co. v. Rosaire, 96 F.Supp. 263 (N.D. Tex. 1951); Technical Tape Corporation v. Minnesota Mining and Manufacturing Company, 135 F.Supp. 505 (S.D.N.Y. 1955); I-T-E Circuit Breaker Company v. McGraw Electric Company, 121 F.Supp. 435 (E.D.Pa. 1954); McGraw-Edison Company v. Preferred Line

Products Company, 362 F.2d 339 (9th Cir. 1966), cert. denied 87 S.Ct. 229, 385 U.S. 919, 17 L.Ed.2d 143; Eastman Kodak Company v. Studiengesellschaft Kohle mbH, 392 F.Supp. 1152 (D.C.Delaware 1975); Hypro, Inc. v. Seeger-Wanner Corp., 292 F.Supp. 342 (D.C. Minn. 1968); and Staley Elevator Company v. Otis Elevator Company, 35 F.Supp. 778 (D.C.N.J. 1940).

IT IS THEREFORE ORDERED the Motion to Dismiss of the defendants C.E. and Harco is hereby sustained without prejudice.¹

ENTERED this 22nd day of February, 1983.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

¹ There is no need for the Court to pass on the in personam jurisdiction question raised by C.E. at this time. Neither is there any need for the Court to comment on the pros and cons of the pending General Corrosion motion to transfer for improper venue pursuant to 28 U.S.C. §1406(a) in the Louisiana Federal Court action, as it is presently under consideration before that Court.

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FEB 22 1983

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

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

DALE P. WILLIAMS,)

Defendant.)

CIVIL ACTION NO. 82-C-1159-B

AGREED JUDGMENT

This matter comes on for consideration this 22nd day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Dale P. Williams, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Dale P. Williams, was served with Summons and Complaint on January 10, 1983. 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 \$296.40, plus interest at the legal rate 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,

Dale P. Williams, in the amount of \$296.40, plus interest at the legal rate from the date of this Judgment until paid.

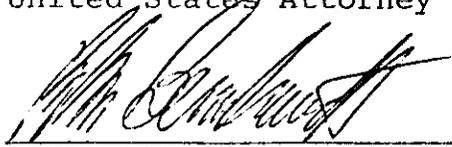
S/ THOMAS R. BREIT

UNITED STATES DISTRICT JUDGE

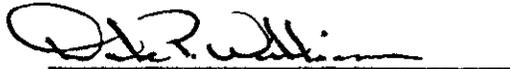
APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney



PETER BERNHARDT
Assistant U.S. Attorney



DALE P. WILLIAMS

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

WILBURN AMES,

Plaintiff,

vs.

DEAN AUSTIN, Individually,
et al.,

Defendants.

No. 82-C-586-C

FILED

FEB 24 1983

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

J U D G M E N T

Pursuant to the Order filed simultaneously herein sustaining the Motion for Summary Judgment of all defendants herein except Dean Austin, judgment is hereby entered in favor of all defendants except Dean Austin and against plaintiff, Wilburn Ames.

It is so Ordered this 22nd day of February, 1983.


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

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

FILED

NOV 23 1983

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

PAUL R. BURNS, as Personal Representative
of the Estate of Calvin S. Burns,
Deceased,

Plaintiff,

v.

CHARLES G. HARGER, JR., D.D.S.,

Defendant.

No. 82-C-508-B

ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

A Motion having been regularly made by Plaintiff herein for summary judgment in Plaintiff's favor pursuant to Rule 56 of the Federal Rules of Civil Procedure, and the Court having considered the pleadings in the action, the admissions on file, and the affidavit of W. Thomas Finley, dated November 2, 1982, in support of the Motion, the affidavit of Charles G. Harger, Jr., D.D.S., dated November 16, 1982, in opposition thereto, and having heard oral argument and having found that there is no genuine issue of fact to be submitted to the trial court, and having concluded that Plaintiff is entitled to judgment as a matter of law, it is hereby

ORDERED, that Plaintiff's motion for a summary judgment is in all respects granted, and it is further

ORDERED, ADJUDGED, AND DECREED that Plaintiff, Paul R. Burns as Personal Representative of the Estate of Calvin S. Burns, recover of Defendant, Charles G. Harger, Jr., D.D.S., the sum of Forty Thousand Dollars (\$40,000.00) with interest thereon at the rate of twenty-two percent (22%) per annum, attorneys' fees, and all other costs of this action.

DATED at Tulsa, Oklahoma, this 22nd day of February, 1983.

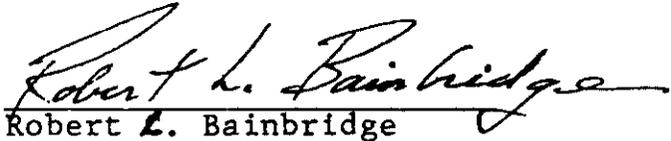
S/ THOMAS R. BRETT

Judge of the District Court

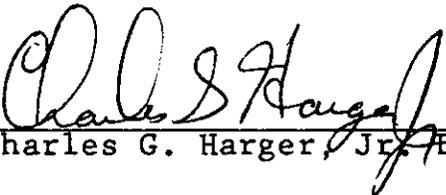
APPROVED AS TO FORM:

Law Offices of
CRAWFORD, CROWE & BAINBRIDGE

By:


Robert L. Bainbridge
1714 First National Building
Tulsa, Oklahoma 74103
(918) 587-1128

ATTORNEY FOR DEFENDANT


Charles G. Harger, Jr. D.D.S.

DEFENDANT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

FEB 22 1983

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 DAVID E. RASH,)
)
 Defendant.)

CIVIL ACTION NO. 83-C-67-E

AGREED JUDGMENT

This matter comes on for consideration this 22^d day of Feb, 1983, 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, David E. Rash, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, David E. Rash, was served with Summons and Complaint on January 24, 1983. 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 \$1,192.67, plus interest at the legal rate 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, David E. Rash, in the amount of \$1,192.67, plus interest at the legal rate from the date of this Judgment until paid.

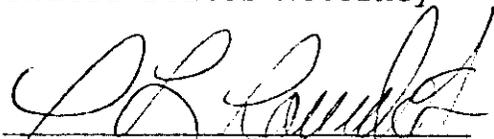
S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

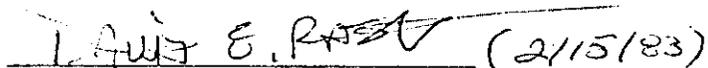
APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney



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



DAVID E. RASH (2/15/83)

FILED

FEB 28 1983

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO. 83-C-114-C
)	
PAUL D. McDONALD,)	
)	
Defendant.)	

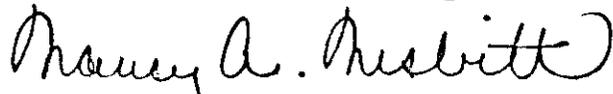
NOTICE OF DISMISSAL

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 without prejudice.

Dated this 22nd day of February, 1983.

UNITED STATES OF AMERICA

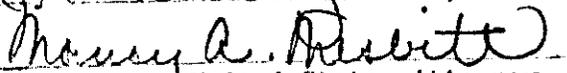
FRANK KEATING
United States Attorney



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 22nd day of February, 1983.


Assistant United States Attorney

FILED
FEB 15 1983
Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ANTHONY E. DIXON,)
)
 Defendant.)

CIVIL ACTION NO. 82-C-361-E

DEFAULT JUDGMENT

This matter comes on for consideration this 11 day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Anthony E. Dixon, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Anthony E. Dixon, was served with Summons and Complaint on April 5, 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, Anthony E. Dixon, for the principal sum of \$967.60, plus interest at the legal rate from the date of this Judgment until paid.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

FILED

FEB 1 1983

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. 83-C-36-E
)
 TROY DRIVER, JR.,)
)
 Defendant.)

DEFAULT JUDGMENT

This matter comes on for consideration this 18 day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Troy Driver, Jr., appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Troy Driver, Jr., was served with Summons and Complaint on January 17, 1983. 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, Troy Driver, Jr., for the principal sum of \$1,250.00, plus the accrued interest of \$303.76 as of August 31, 1982, plus interest on the

principal sum of \$1,250.00 at 7 percent from August 31, 1982,
until the date of Judgment, plus interest on the Judgment at the
legal rate until paid.

S/ JAMES C. LINDSEY

UNITED STATES DISTRICT JUDGE

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

KRISTY KAMINS,)
)
 Plaintiff,)
)
 vs.)
)
 FLYNN ENERGY INC., a)
 domestic corporation,)
)
 Defendant.)

No. 82-C-1009-E

FILED
JACK C. SILVER, Clerk
U. S. DISTRICT COURT

ORDER

Upon the Joint Stipulation of the Plaintiff Kristy Kamins and the Defendant Flynn Energy Corp. that the above-captioned cause be dismissed with prejudice, it is hereby ordered, adjudged, and decreed that the case of Kristy Kamins vs. Flynn Energy Inc., a domestic corporation, No. 82-C-1009-E, be dismissed with prejudice, each party thereto to bear her or its own costs, expenses, and attorneys' fees.

S/ JAMES O. ELLISON

Honorable Judge James O. Ellison,
Judge of the United States
District Court for the Northern
District of Oklahoma

FILED
FEB 21 1983
Jack C. Silver, Clerk
U. S. DISTRICT COURT

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

RIDLEY SOUND COMPANY,)
)
 Plaintiff,)
)
 vs.) NO. 82-C-463-E
)
 M. L. JAMES CONSTRUCTION CO.)
 and SAFECO INSURANCE COMPANY)
 OF AMERICA,)
)
 Defendants.)

ORDER

IT APPEARS to the Court that the above entitled action has been fully settled, adjusted and compromised and based on stipulation; therefore,

IT IS ORDERED AND ADJUDGED that the above entitled action be and it is hereby dismissed without cost to any party and with prejudice to all the parties.

Dated 2/18, 1983.

ST. JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FARMERS INSURANCE COMPANY,)
)
Plaintiff,)
)
vs.) No. 82-C-123-E
)
MARY G. BOUDREAUX, et al.,)
)
Defendants.)

JUDGMENT

This action came on for hearing before the Court, Honorable James O. Ellison, District Judge, presiding, and the issues having been duly heard and a decision having been duly rendered,

IT IS ORDERED AND ADJUDGED

that the Plaintiff, Farmers Insurance Company, be and hereby is granted declaratory judgment pursuant to the Court's granting of Plaintiff's motion for summary judgment of equal date.

DATED this 18th day of February, 1983.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

FEB 16 1983

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

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ROGER A. JONES,)
)
 Defendant.)

CIVIL ACTION NO. 82-C-20-E

DEFAULT JUDGMENT

This matter comes on for consideration this 18th day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Nancy A. Nesbitt, Assistant United States Attorney, and the Defendant, Roger A. Jones, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Roger A. Jones, was served with an Alias Summons and Complaint on December 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, Roger A. Jones, for the principal sum of \$851.76, plus interest at the legal rate from the date of this Judgment until paid.

S/ JAMES O. FULSON

UNITED STATES DISTRICT JUDGE

FILED
1983 FEB 17
Jack U. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 JIMMY D. HEARD,)
)
 Defendant.)

CIVIL ACTION NO. 83-C-33-C

DEFAULT JUDGMENT

This matter comes on for consideration this 18th day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Jimmy D. Heard, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Jimmy D. Heard, was personally served with Summons and Complaint on January 17, 1983. 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. Heard, for the principal sum of \$748.00, plus interest at the legal rate 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

FEB 1 1983

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 RAYMOND R. RUSSELL, JR.,)
)
 Defendant.)

CIVIL ACTION NO. 82-C-1201-C

AGREED JUDGMENT

This matter comes on for consideration this 17th day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Raymond R. Russell, Jr., appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Raymond R. Russell, Jr., was personally served with Summons and Complaint on January 14, 1983. The Defendant has not filed an 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 256.50, plus interest at the legal rate 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, Raymond R. Russell, Jr., in the amount of \$256.50, plus interest at the legal rate from the date of this Judgment until paid.

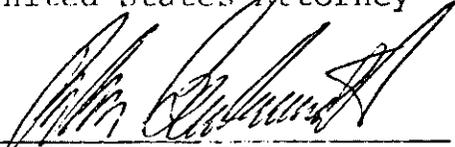
s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney



PETER BERNHARDT
Assistant U.S. Attorney



RAYMOND R. RUSSELL, JR.

FILED

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

FEB 16 1983

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

PETRO HUNTER ENERGY, INC.,)
an Oklahoma corporation,)
)
Plaintiff,)
)
-vs-)
)
DEAN WITTER REYNOLDS,)
INC., a Delaware)
corporation,)
)
Defendant.)

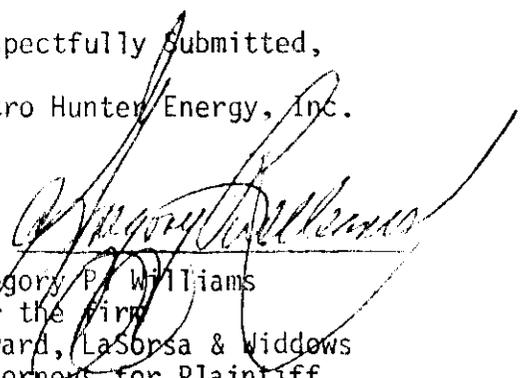
82 - C - 1168B

Civil Action

DISMISSAL

COMES NOW the Plaintiff, Petro Hunter Energy, Inc. ("Petro"),
this 16th day of February 1983, and dismisses, with prejudice, its
cause of action against the defendants, Dean Witter Reynolds, Inc.

Respectfully Submitted,
Petro Hunter Energy, Inc.

BY: 
Gregory P. Williams
for the firm
Howard, LaSorsa & Widdows
Attorneys for Plaintiff
1640 South Boston Avenue
Tulsa, Oklahoma 74119
(918) 583-2624

FILED

FEB 16 1983

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

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

SHARON ELIZABETH ASHE,)
)
 Plaintiff,)
)
 vs.)
)
 GREEN RENAULT, GREEN AUTO)
 CENTER, INC., an Oklahoma)
 corporation; and WARREN)
 GREEN, President, DUTCH)
 VAN DEN BORN, Vice Presi-)
 dent, and J. CHARLES)
 "CHUCK" WEISS, Salesman,)
 in their individual)
 capacities,)
)
 Defendants.)

NO. 81-C-522-B ✓

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law entered herein on December 30, 1983 and on this date in reference to attorney's fees, the Court hereby enters judgment for the plaintiff, Sharon Elizabeth Ashe, and against the defendants, Green Renault, Green Auto Center, Inc., Warren Green, individually, and Dutch Van Den Born, individually, for compensatory damages in the amount of \$1,500.00, and for punitive damages in the amount of \$3,000.00. Interest on said sum totaling \$4,500.00 at the rate of 6% per annum runs from May 18, 1979 to this date, and at the rate of 8.65% per annum on said sum after this date.

Further, judgment is hereby entered for the plaintiff and against said defendants in the amount of \$12,611.53, as and for attorney's fees and reimbursement of expense, plus the costs of this action.

ENTERED this 16th day of February, 1983.

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

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

FILED
FEB 16 1983
Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
vs.) NO. 82-C-421-B
)
BOARD OF COUNTY COMMISSIONERS,)
OTTAWA COUNTY, OKLAHOMA,)
)
 Defendant.)

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law entered this date, Judgment is hereby entered for the plaintiff on behalf of Pearl Crawfish Whitecrow and against the defendant, Board of County Commissioners, Ottawa County, Oklahoma, in the amount of \$1,632.50, plus interest at 6% per annum calculated at \$1,062.56 as of August 31, 1981, plus interest on the sum of \$1,632.50 at 6% per annum until the date of this judgment and interest thereafter in the amount of 8.65% per annum, plus the costs of this action. Further, IT IS ORDERED the defendant, Board of County Commissioners, Ottawa County, Oklahoma, appropriate funds from the general fund to refund these taxes illegally assessed and collected plus interest accrued and accruing as aforesaid. (68 O.S. §24341(c); Oklahoma Attorney General Opinion 73-143 (January 3, 1973).

IT IS FURTHER ORDERED the defendant, Board of County Commissioners, Ottawa County, Oklahoma, is hereby enjoined and prohibited from hereafter assessing any ad valorem taxes on the 5/6ths interest of the subject property, to-wit:

SE/4 of the SW/4, Section 22, Township 29
North, Range 24 East of the Indian Meridian,
Ottawa County, State of Oklahoma,

as long as such interest is held in trust by the United States.

ENTERED this 16th day of February, 1983.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

In The Matter of:

JOHNNY R. HALLFORD AND
JUDY G. HALLFORD

Bankrupt

PHILIP R. CAMPBELL,

Trustee,

Plaintiff

-vs-

GLENN McCAULEY and
MAVERIC MINI-MART, INC.,

Defendant.

No. 81-C-530
Bankruptcy No. 81-00178
Adversary No. 81-0225

FILED

FEB 16 1983

U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

Notice of

DISMISSAL OF APPEAL

COMES NOW the Defendant, Maveric Mini-Mart, Inc., an Oklahoma Corporation, by its attorney herein, J. Stewart Arthurs, and dismisses the above styled and numbered appeal initiated herein based upon a prior settlement between the Plaintiff and this Defendant.

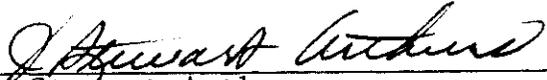
Dated this 15 day of February, 1983.

J. Stewart Arthurs

J. Stewart Arthurs
Attorney for appellant
317 West Broadway
Cushing, Oklahoma 74023
(918) 225-5757

CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the above and foregoing Dismissal of Appeal to Philip R. Campbell, Trustee, Plaintiff, 1717 South Cheyenne, Tulsa, Oklahoma 74119 on this 15 day of February, 1983.


J. Stewart Arthurs

FILED

FEB 15 1983

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-400-E
)	
JAMES P. EUBANKS,)	
)	
Defendant.)	

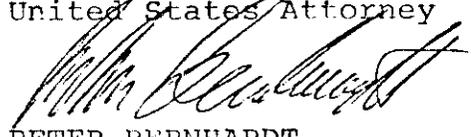
NOTICE OF DISMISSAL

COMES NOW the United States of America by Frank Keating, United States Attorney for the Northern District of Oklahoma, Plaintiff herein, through Peter Bernhardt, 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 15th day of February, 1983.

UNITED STATES OF AMERICA

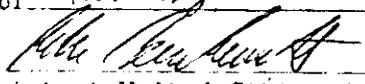
FRANK KEATING
United States Attorney



PETER BERNHARDT
Assistant United States Attorney
460 U.S. Courthouse
Tulsa, OK 74103
(918) 581-7463

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 15th day of February, 1983.


Assistant United States Attorney

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FEB 15 1983

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 STEPHEN L. HUNTER,)
)
 Defendant.)

CIVIL ACTION NO. 82-C-1016-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 15th day of February, 1983.

UNITED STATES OF AMERICA

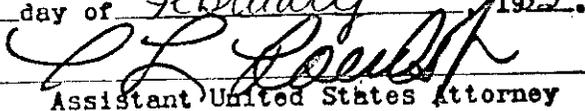
FRANK KEATING
United States Attorney



PHILARD L. ROUNDS, JR.
Assistant United States Attorney
460 U.S. Courthouse
Tulsa, OK 74103
(918) 581-7463

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 15th day of February, 1983.


Assistant United States Attorney

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

FILED

FEB 10 1983

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

LINDA S. CLINTON and)
LUCILLE FINLEY,)
)
Plaintiffs,)
)
vs.) No. 82-C-706-C
)
HOUSING AUTHORITY OF THE CITY)
OF TULSA, a public corporation,)
)
Defendant.)

ORDER OF DISMISSAL OF PLAINTIFF
LUCILLE FINLEY'S CLAIMS

Now on this 15th day of February, 1983, this matter comes on for consideration by the Court on the Joint Stipulation for Dismissal of the Claims of plaintiff, LUCILLE FINLEY, only and the Court having reviewed the same and being fully advised in the premises finds that the parties have reached a mutually satisfactory resolution and private settlement of plaintiff FINLEY's claims and that accordingly, any and all claims of plaintiff FINLEY against the defendant and raised by her Complaint herein should be and is hereby dismissed with prejudice, with each party to bear its own costs and attorneys' fees.

IT IS THEREFORE SO ORDERED.

s/H. DALE COOK
JUDGE OF THE DISTRICT COURT

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

FILED

FEB 15 1983

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

WILLIAM E. WHITEAKER, by and)
through CONNIE BETH GEMMEL as)
conservator of his estate,)

PLAINTIFF)

VS.)

W. D. CARTER, d/b/a CARTER L P GAS)
COMPANY,)

DEFENDANT)

CASE NO.79-C-716-B

ADMINISTRATIVE CLOSING ORDER

On the representations of all counsel that the parties have reached a settlement and compromise, it is ordered that the Clerk administratively terminate this action in his records without prejudice to the rights of the parties to reopen the proceedings for good cause shown, for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

If the parties have not reopened this case on or before the 11th day of March, 1983 for the purpose of dismissal pursuant to the settlement compromise, Plaintiff's action shall be deemed to be dismissed.

Further, the Court finds that all responses, pleadings,

filings or other documents which had previously been ordered to be filed in the above-styled, entitled and numbered matter are no longer required by this Court.

IT IS SO ORDERED this 15th day of February, 1983.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

COPIES TO:

John M. Merritt
Stephen C. Wilkerson

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

FRANK MUSIC CORP., RINIMER)
CORPORATION, LIVINGSTON &)
EVANS, INC., EDWIN H. MORRIS &)
CO., INC., SOUTHERN NIGHTS)
MUSIC CO., DAYDAN MUSIC CORP.,)
MILENE MUSIC, INC., FAMOUS)
MUSIC CORPORATION, BOBBY)
GOLDSBORO MUSIC, INC., ANGEL)
WING MUSIC, BUZZ CASON PUBLI-)
CATIONS, PIXRUSS MUSIC, CHERRY)
LANE MUSIC CO., MILLS MUSIC,)
INC., WORD, INCORPORATED, SABAL)
MUSIC, INC., SHAPIRO, BERN-)
STEIN & CO., INC., LEXICON)
MUSIC, INC., CROUCH MUSIC)
CORPORATION, WORLD SONG PUB-)
LISHING, INC., and CHAPPEL &)
CO., INC.,)
Plaintiffs,)
vs.)
OTTAWA COUNTY BROADCASTING,)
INC., and JERYL L. SMITH,)
Defendants.)

FILED

FEB 15 1983

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

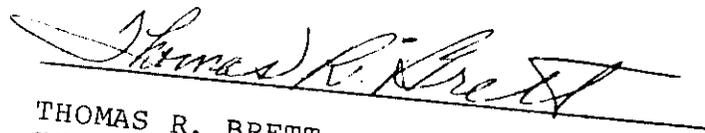
NO. 81-C-535-BT

JUDGMENT

In accordance with the Findings of Fact and Conclusions of Law filed herein on February 15, 1983, Judgment is entered in favor of plaintiffs, Frank Music Corp., Rinimer Corporation, Livingston & Evans, Inc., Edwin H. Morris & Co., Inc., Southern Nights Music Co., Daydan Music Corp., Milene Music, Inc., Famous Music Corporation, Bobby Goldsboro Music, Inc., Angel Wing Music, Buzz Cason Publications, Pixruss Music, Cherry Lane Music Co., Mills Music, Inc., Word, Incorporated, Sabal Music, Inc., Shapiro, Bernstein & Co., Inc., Lexicon Music, Inc., Crouch Music

Corporation, World Song Publishing, Inc., and Chappel & Co., Inc., and against defendants, Ottawa County Broadcasting, Inc., and Jeryl L. Smith, jointly and severally, in the amount of \$18,750.00 statutory damages with interest from February 15, 198 at 8.65% per annum (28 U.S.C. §1961). Judgment is further entered in favor of plaintiffs and against defendants for \$6,000.00 attorney's fees and the costs of this action.

ENTERED this 15th day of February, 1983.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

FEB 14 1983

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

ROBERT WAYNE DeLANCY,)
)
Plaintiff,)
)
-vs-)
)
JACK MARSHALL CHEVROLET CO.,)
)
Defendant.)

Case No. 83-C-51 C

ORDER OF DISMISSAL

THIS matter comes on for hearing on this 14 day
of February, 1983, by application of the parties
herein, and the parties, having entered into a Stipulation of
Dismissal and for good cause being shown, the Court hereby
dismisses the above entitled cause of action with prejudice
to the re-filing thereof.



JUDGE OF THE DISTRICT COURT

R. Jack Freeman
100 Center Plaza Suite A
Tulsa, Oklahoma 74119
(918) 583-7144

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

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

SUN OIL COMPANY OF PENNSYLVANIA,)
)
) Plaintiff,)

vs.)

JIM WOODS, RICHARD A. NAVE,)
)
) MAIN STREET AUTOMOTIVE, INC.,)
)
) AND UNITED STATES FIRE INSURANCE)
)
) COMPANY,)

Defendants,)

and)

CAROL J. NAVE,)
)
) Additional Defendant.)

FILED

FEB 14 1993

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

No. 81-C-289-E

JUDGMENT

This action came on for trial before a court and a jury, the Honorable James O. Ellison, United States District Judge, presiding, and the Court at the close of the Plaintiff's evidence having heard the motion of the Defendant, Carol J. Nave, to dismiss the action on the grounds the Plaintiff be denied relief against the Defendant, Carol J. Nave, and the Court having granted the motion; and the trial having proceeded against the Defendants Richard A. Nave and Main Street Automotive, Inc., the Court after the issues had been duly tried against the Defendants Richard A. Nave and Main Street Automotive, Inc. and on motion of the Plaintiff having directed a verdict for the Plaintiff and against the Defendant Richard A. Nave and also against the Defendant Main Street Automotive, Inc., a corporation, it is hereby,

ORDERED, ADJUDGED AND DECREED that the action be dismissed on the merits against the Defendant, Carol J. Nave, and that the Defendant, Carol J. Nave, recover her costs and such attorney's fees as may be awarded by the Court; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Plaintiff, Sun Oil Company of Pennsylvania, a corporation, recover of the Defendant, Richard A. Nave, the sum of \$79,553.63 with interest from July 15, 1980 to date of judgment at the rate of six percent (6%) per annum in the amount of \$12,201.13 for a total judgment of principle and interest in the sum of \$91,754.76 plus interest on the above and foregoing amounts at the rate of fifteen percent (15%) per annum from the date of judgment until paid, together with the costs of this action including a reasonable attorney's fee to be fixed by the Court in a supplemental judgment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Plaintiff, Sun Oil Company of Pennsylvania, a corporation, recover of the Defendant, Main Street Automotive, Inc., a corporation, the sum of \$79,553.63 with interest from July 15, 1980 to date of judgment at the rate of six percent (6%) per annum in the amount of \$12,201.13 for a total judgment of principle and interest in the sum of \$91,754.76 plus interest on the above and foregoing amounts at the rate of fifteen percent (15%) per annum from the date of judgment until paid, together with the costs of this action including a reasonable attorney's fee to be fixed by the Court in a supplemental judgment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Plaintiff, Sun Oil Company of Pennsylvania, a corporation, is allowed all writs and processes provided by law for the enforcement of this Judgment.

IT IS SO ORDERED this 3rd day of February, 1983.



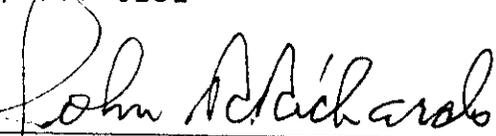
JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

JOHN R. PAUL
JOHN R. RICHARDS
RICHARDS & PAUL
9 East Fourth St., Suite 400
Tulsa, OK 74103
(918) 584-2583

and

LOUIS J. ISAACSOHN
SUN REFINING AND MARKETING COMPANY
1801 Market St.
Philadelphia, PA 19103
(215) 977-6232

By: 

JOHN R. RICHARDS
Attorneys for the Plaintiff

T. E. DRUMMOND
E. J. RAYMOND
DRUMMOND AND RAYMOND
902 Utica Bank Tower
Tulsa, OK 74104
(918) 749-7378

By: 

T. E. DRUMMOND
Attorneys for the Defendants,
Richard A. Nave, Main Street
Automotive, Inc., and
Carol J. Nave

FILED

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

WILLIAM COWIESON, Pro Se,)
)
 Plaintiff,)
)
 vs.)
)
 SHERIFF THURMAN, et al.,)
)
 Defendants.)

No. 82-C-1064-E

O R D E R

This action is before the Court upon the Motion to Dismiss of the Defendants, and the Complaint of the Plaintiff, which is to be tested under 28 U.S.C. § 1915(d).

Plaintiff was an inmate of the Tulsa County Jail from August 30 through September 8, 1982. Plaintiff claims that during his incarceration in the jail, he was unconstitutionally denied: (1) access to a law library, (2) access to telephones, (3) access to religious services, and (4) access to courts. Plaintiff seeks \$3.5 million in damages, and injunctive relief. Plaintiff is currently incarcerated in Stringtown, Oklahoma, but all complaints concern the county jail.

The Court has before it only the conclusory allegations of the Plaintiff. He has submitted no supporting facts or any details at all which would support the maintenance of a cause of action under 42 U.S.C. § 1983.

In order to establish a cause of action under Section 1983, Plaintiff must allege that Defendants have deprived him of a federally protected right and that the person who has deprived him of that right acted under color of state law. Gomez v. Toledo, 446 U.S. 635, 640, 100 S.Ct. 1920, 1923, 64 L.Ed.2d 572, (1980).

Since a review of the pleadings filed herein does not indicate

7

that the Plaintiff has been deprived of rights secured under the U. S. Constitution, Plaintiff has no claim cognizable under § 1983. Baker v. McCollan, 443 U.S. 137, 146-147, 99 S.Ct. 2612, 61 L.Ed.2d 321 (1979).

The Court authorized commencement of this action in forma pauperis under authority of 28 U.S.C. § 1915. Subsection (d) of that statute permits the dismissal of a case when the Court is satisfied that the action is frivolous. Moreover, both the Supreme Court and the Tenth Circuit Court of Appeals have held that federal jurisdiction does not lie where a purported civil rights claim is simply unsubstantial. Hagans v. Lavine, 415 U.S. 528, 536 (1973); Wells v. Ward, 470 F.2d 1185, 1187 (10th Cir. 1972); Smart v. Villar, 547 F.2d 112 (10th Cir. 1976).

In view of its holding that the Plaintiff has suffered no deprivation of rights constitutionally protected, the Court concludes that this action is frivolous and that Plaintiff's claim is unsubstantial. Accordingly, this action is, in all respects, dismissed.

It is so Ordered this 11th day of February, 1983.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

FEB 11 1983

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

LEWIS JAMES HART,)
)
Plaintiff,)
)
vs.) No. 82-C-739-B
)
FIBREBOARD CORP., et al.,)
)
Defendants.)

ORDER

Pursuant to 28 U.S.C. §1404(a), and at the request of all parties, this case is hereby transferred to the United States District Court for the Western District of Oklahoma to be assigned to the undersigned.

ENTERED this 11th day of February, 1983.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FEB 14 1983

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO. 82-C-1164-E
)	
JAMES W. SHARPE,)	
)	
Defendant.)	

DEFAULT JUDGMENT

This matter comes on for consideration this 11th day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Nancy A. Nesbitt, Assistant United States Attorney, and the Defendant, James W. Sharpe, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, James W. Sharpe, was personally served with Summons and Complaint on January 18, 1983. 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, James W. Sharpe, for the principal sum of \$1,131.62, plus interest at the legal rate from the date of this Judgment until paid.

S/ JAMES O. ELLISON

 UNITED STATES DISTRICT JUDGE

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

KS
RUPERT HENRY CEASAR, SR.,)
Administrator of the Estate of)
Rupert Henry Ceasar, Jr., and)
SHEILA DIXON,)

Plaintiffs,)

vs.)

EMMCO-EXCEL INSURANCE)
COMPANY, a foreign corpora-)
tion,)

Defendant.)

No. 81-C-241-E

FILED

FEB 11 1983

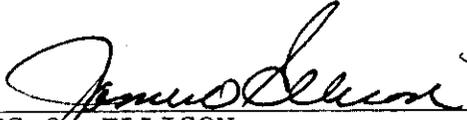
Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT

THIS Matter came on for hearing before the Court, Honorable James O. Ellison presiding, upon Defendant's Motion for Summary Judgment, and the issues having been duly heard and considered and a decision having been duly rendered,

IT IS ORDERED, ADJUDGED AND DECREED that Plaintiffs take nothing, that the action be dismissed on the merits, and that the Defendant, Emmco-Excel Insurance Company recover of the Plaintiffs its costs of the action.

DATED this 11th day of February, 1983.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

GULF AMERICAN RESOURCES, INC.,)
)
 Plaintiff,)
)
 vs.)
)
 TRI-COUNTY LEASE SERVICE, INC.,)
 an Oklahoma corporation, and)
 PAUL SHAFFER, an individual,)
)
 Defendants.)

No. 82-C-832-C^v

FILED
FEB 11 1983
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

NOW ON THIS 11th day of February, 1983, there is presented to the court the joint motion of dismissal of Plaintiff and the corporate Defendant, Tri-County Lease Service, Inc., it being shown to the court that all matters in controversy between the Plaintiff and the corporate Defendant, Tri-County Lease Service, Inc., have been compromised and settled.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the court that suit of the Plaintiff as it pertains to the corporate Defendant, Tri-County Lease Service, Inc., is hereby dismissed with prejudice to the refiling thereof, with the costs of court for this action and Plaintiff's attorney fees assessed against Plaintiff.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the court that the setoff and/or counterclaim filed in the answer of the corporate Defendant be and is hereby dismissed with prejudice with costs of court for this setoff and/or counterclaim and Defendant's attorney fees assessed against Defendant, Tri-County Lease Service, Inc.


United States District Judge

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

FILED

RICHARD WATSON, #100953,)
)
Plaintiff,)
)
vs.)
)
LARRY MEACHUM, et al.,)
)
Defendants.)

570 11 1000
J. A. Silver, Clerk
U. S. DISTRICT COURT

No. 81-C-546-E

ORDER

The Court has before it the Defendants' motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. Defendants' motion calls into question this Court's jurisdiction to hear the Plaintiff's complaints.

Federal district courts, being courts of limited jurisdiction, can act upon complaints from state prisoners concerning the conditions of their confinement only where rights guaranteed by the United States Constitution and laws are infringed. 28 U.S.C. § 1343(3); see Wildwording v. Swenson, 404 U.S. 249, 92 S.Ct. 407 (1971). In the present case, Plaintiff alleges violation of his constitutional rights under the Eighth Amendment. Specifically, he alleges that Defendants have shown deliberate indifference to his medical needs.

Plaintiff has furnished his medical records with his complaint. The volume of these records alone indicates that the Plaintiff has received a considerable quantity of medical examinations and treatments. A closer examination of the records reveals that Plaintiff received attention to his medical needs with some frequency. The quality of the medical care, however, is not for this Court to judge and it seems to the Court that this is in fact what the Plaintiff is complaining about.

It is well-settled that a mere difference of opinion between the medical staff of a prison and a prisoner patient cannot alone give rise to a cause of action under the civil rights statutes. Jones v. McCracken, 562 F.2d 22 (10th Cir. 1977); Smart v. Villar, 547 F.2d 112 (10th Cir. 1976); Henderson v. Secretary of Corrections, 518 F.2d 694 (10th Cir. 1975); Paniagua v. Moseley, 451 F.2d 228 (10th Cir. 1971); Coppinger v. Townsend, 398 F.2d 392 (10th Cir. 1968). Insufficiency of medical treatment will not amount to cruel and unusual punishment in violation of the Eighth Amendment unless there has been "deliberate indifference to serious medical needs." Estelle v. Gamble, 429 U.S. 97, 104, 106, 97 S.Ct. 285, 50 L.Ed.2d (1976).

Accidental or inadvertent failure to provide adequate care will not suffice for purposes of an action under 42 U.S.C. § 1983. Estelle, supra.

Under this standard, the Court finds that there were no acts or omissions of the Defendants which violated the constitutional rights of the Plaintiff, and that the Motion for Summary Judgment should be, and hereby is, granted.

ORDERED this 11th day of February, 1983.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

GULF AMERICAN RESOURCES, INC.,)
)
 Plaintiff,)
)
 vs.) No. 82-C-832-C
)
 TRI-COUNTY LEASE SERVICE, INC.,)
 an Oklahoma corporation, and)
 PAUL SHAFFER, an individual,)
)
 Defendants.)

FILED
FEB 1 1983
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

NOW ON THIS 11 day of February, 1983, there is presented to the court the joint motion of dismissal of Plaintiff and the corporate Defendant, Tri-County Lease Service, Inc., it being shown to the court that all matters in controversy between the Plaintiff and the corporate Defendant, Tri-County Lease Service, Inc., have been compromised and settled.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the court that suit of the Plaintiff as it pertains to the corporate Defendant, Tri-County Lease Service, Inc., is hereby dismissed with prejudice to the refiling thereof, with the costs of court for this action and Plaintiff's attorney fees assessed against Plaintiff.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the court that the setoff and/or counterclaim filed in the answer of the corporate Defendant be and is hereby dismissed with prejudice with costs of court for this setoff and/or counterclaim and Defendant's attorney fees assessed against Defendant, Tri-County Lease Service, Inc.

s/H. DALE COOK

United States District Judge

APPROVED AS TO FORM AND CONTENT:

ORIGINAL SIGNED BY:
IRA L. EDWARDS, JR.

Ira L. Edwards, Jr.
Attorney for Gulf American Resources, Inc.

Douglas L. Boyd
Attorney for Tri-County Lease Service, Inc.

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing Order of Dismissal was mailed on the 9th day of February, 1983, to Douglas L. Boyd, 320 S. Boston, Suite 1504, Tulsa, Oklahoma 74103, with proper postage thereon fully prepaid.

ORIGINAL SIGNED BY:
IRA L. EDWARDS, JR.
Ira L. Edwards, Jr.

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

GULF AMERICAN RESOURCES, INC.,)
)
 Plaintiff,)
)
 vs.)
)
 TRI-COUNTY LEASE SERVICE, INC.,)
 an Oklahoma corporation, and)
 PAUL SHAFFER, an individual,)
)
 Defendants.)

No. 82-C-832-C

FILED

FEB 14 1983

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

ORDER OF DISMISSAL

NOW ON THIS 11 day of February, 1983, there is presented to the court the joint motion of dismissal of Plaintiff and the corporate Defendant, Tri-County Lease Service, Inc., it being shown to the court that all matters in controversy between the Plaintiff and the corporate Defendant, Tri-County Lease Service, Inc., have been compromised and settled.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the court that suit of the Plaintiff as it pertains to the corporate Defendant, Tri-County Lease Service, Inc., is hereby dismissed with prejudice to the refileing thereof, with the costs of court for this action and Plaintiff's attorney fees assessed against Plaintiff.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the court that the setoff and/or counterclaim filed in the answer of the corporate Defendant be and is hereby dismissed with prejudice with costs of court for this setoff and/or counterclaim and Defendant's attorney fees assessed against Defendant, Tri-County Lease Service, Inc.

United States District Judge

APPROVED AS TO FORM AND CONTENT:

ORIGINAL SIGNED BY:
IRA L. EDWARDS, JR.

Ira L. Edwards, Jr.
Attorney for Gulf American Resources, Inc.

Douglas L. Boyd
Attorney for Tri-County Lease Service, Inc.

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing Order of Dismissal was mailed on the 9th day of February, 1983, to Douglas L. Boyd, 320 S. Boston, Suite 1504, Tulsa, Oklahoma 74103, with proper postage thereon fully prepaid.

ORIGINAL SIGNED BY:
IRA L. EDWARDS, JR.
Ira L. Edwards, Jr.

FILED

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

FEB 10 1983

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

GULF AMERICAN RESOURCES, INC.,)
)
 Plaintiff,)
)
 vs.)
)
 TRI-COUNTY LEASE SERVICE, INC.,)
 an Oklahoma corporation, and)
 PAUL SHAFFER, an individual,)
)
 Defendants.)

No. 82-C-832-C

FILED

FEB 10 1983

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

ORDER OF DISMISSAL

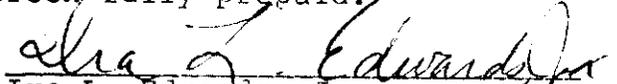
NOW ON THIS 10th day of February, 1983, there is presented to the court the motion of Plaintiff for an Order of Dismissal without prejudice as its claim relates to the individual Defendant, Paul Shaffer, and from such motion, the court finds that same should be in all things sustained.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the court that Plaintiff be and is hereby granted an Order of Dismissal pursuant to Rule 41 of the Federal Rules of Civil Procedure, and that the Complaint in this cause be and it is hereby dismissed without prejudice to the refileing thereof as against the individual Defendant, Paul Shaffer.


United States District Judge

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing Order of Dismissal was mailed on the 10th day of February, 1983, to Douglas L. Boyd, 320 S. Boston, Suite 1504, Tulsa, Oklahoma 74103, with proper postage thereon fully prepaid.


Ira L. Edwards, Jr.

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

FILED

FEB 10 1978

ROBERT B. HUDSON,
Plaintiff,
vs.
PATRICIA ROBERTS HARRIS,
Secretary of Health and Human
Services,
Defendant.

No. 80-C-593-E
82-C-608-E,
Consol.

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

ORDER

Plaintiff, Robert B. Hudson, brings this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of the Defendant's final administrative decision finding that Plaintiff was not under a "disability" as defined in the Social Security Act.

The scope of this Court's review authority is narrowly limited by 42 U.S.C. § 405(g). The Secretary's decision must be affirmed if supported by subatantial evidence. Gardner v. Bishop, 362 F.2d 917 (Tenth Cir. 1966); Stevens v. Matthews, 418 F.Supp. 881 (W.D. Okla. 1976). 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 (1971). Substantial evidence is, however, less than a preponderance 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 (1966); Stevens v. Matthews, supra.

The administrative record now before the Court shows that Plaintiff, a fleet service clerk for American Airlines, suffered a severe back injury on the job on August 19, 1977. Prior to his injury, Plain-

tiff had worked for American for 22 years. The medical evidence was undisputed and the administrative law judge made the specific finding that the Plaintiff could no longer perform heavy manual labor of the type he was required to perform as an airline fleet service clerk. (First hearing; Tr. 11). The administrative law judge went on to find, based upon the testimony of a vocational expert, that Plaintiff had the "residual functional capacity to perform sedentary and light work" and therefore was not "disabled" under the Secretary's regulations. (Tr. 13).

Thus, the record clearly shows that Plaintiff met his initial burden of proving disability by establishing to the satisfaction of the administrative law judge that Plaintiff could not return to the work he was doing at the time of the accident. Such being the case, the burden of going forward then shifted to the Secretary and the Secretary had the burden of showing that even if Plaintiff was physically unable to return to his old job, Plaintiff could nonetheless obtain other gainful employment involving less physical exertion. Sales v. Califano, 612 F.2d 480 (Tenth Cir. 1979); Keating v. Secretary, 468 F.2d 788 (Tenth Cir. 1972); Kirby v. Gardner, 369 F.2d 302 (Tenth Cir. 1966).

Plaintiff, in his brief filed July 31, 1981, contends that the Secretary had not met its burden because the Findings of the administrative law judge were not supported by substantial evidence. Plaintiff alleged that the administrative law judge's questioning of the vocational expert was fatally defective since the administrative law judge did not in his hypothetical questions, set forth the nature of Plaintiff's physical condition.

The Court remanded the case to the Secretary for a further hearing

on the 15th day of September, 1981. On the 22nd of December, the case was heard before the administrative law judge, who held that the claimant was not entitled to a period of disability or disability insurance benefits under 42 U.S.C. § 416(i) and § 423, respectively.

The Court has again reviewed that portion of the administrative record in which the administrative law judge questioned the vocational expert. (Second hearing; Tr. 23-44). The judge posed a hypothetical question in which he outlined the physical condition and work capacity of the claimant as he found them, stating that the expert was to assume that the claimant could do sedentary work. Upon that assumption, the vocational expert named several occupations in the area of assembly work to which the claimant's skills were transferable. (Tr. 34-36).

The attorney for the claimant then asked the expert, Mr. Gordon, if he had considered, in forming his opinion, the testimony of the claimant that he was in constant pain, got little sleep, had to take three showers a day for pain, and was taking medication. (Tr. 38-40). Mr. Gordon answered that he had not, that if such a hypothetical were posed, he would respond that no jobs exist in the economy that the claimant could do. (Tr. 42).

The Court's review of this case is limited to the question of whether or not the decision of the Secretary is supported by substantial evidence, and it is precluded from weighing the evidence on its own. The opinion of Dr. Gordon hinges on the assumption that the claimant can do sedentary work. The administrative law judge found that despite claimant's allegations of constant pain there was evidence in the record to support this assumption. Subjective symptoms must be evaluated with due consideration for credibility, motivation, and medical evidence of impairment. Dvorak v. J. Celebrezze, 345 F.2d 894 (Tenth

Cir. 1965). The Court, in Dvorak, further states that "the administrative agency has only to produce some evidence from which a finding can be made that the claimant can do some type of work." (at page 897).

Here, although the Court may differ in its evaluation of the evidence, it must find that evidence does exist on the record to support a finding that the claimant could do sedentary work. The evaluation of claimant's testimony by the vocational expert is some evidence of inability to do such work, but it is the province of the administrative law judge to make that decision based on all the evidence.

Pursuant to the above, the Court concludes, and it is so ordered, that the decision of the Secretary is affirmed.

ORDERED this 10th day of February, 1983.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FEB 10 1983

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 VINCENT REGALADO,)
)
 Defendant.)

CIVIL ACTION NO. 83-C-32-C

DEFAULT JUDGMENT

This matter comes on for consideration this 10th day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Nancy A. Nesbitt, Assistant United States Attorney, and the Defendant, Vincent Regalado, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Vincent Regalado, was served with Summons and Complaint on January 14, 1983. 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, Vincent Regalado, for the principal sum of \$1,466.00, plus the accrued interest of \$382.06 as of November 15, 1982, plus interest on the

principal sum of \$1,466.00 at 7 percent from November 15, 1982,
until the date of Judgment, plus interest on the Judgment at the
legal rate until paid.

s/H DALE COOK
UNITED STATES DISTRICT JUDGE

FILED

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

FEB 10 1983

K&M CONSTRUCTION CO., an
Oklahoma corporation,

Plaintiff,

vs.

COLORADO GAS COMPRESSION,
INC., a Colorado corporation,

Defendant.

No. 82-C-961-C

of
STIPULATION ~~FOR~~ DISMISSAL

It is hereby stipulated by K&M Construction Co., by and through its attorneys, Prichard, Norman & Wohlgemuth, and by Colorado Gas Compression, Inc., by and through its attorneys, Houston & Klein, Inc., that the above-entitled action be dismissed without prejudice and that each party hereto shall bear its own costs.

DATED this 10th day of February, 1983.

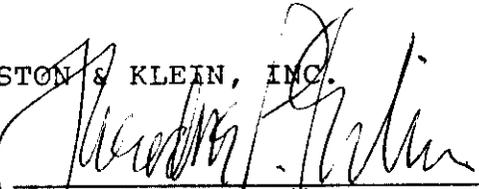
PRICHARD, NORMAN & WOHLGEMUTH

By: *Thomas M. Klenda*
Thomas M. Klenda
909 Kennedy Building
Tulsa, Oklahoma 74103
(918) 583-7571

Attorneys for Plaintiff, K&M
Construction Co.

HOUSTON & KLEIN, INC.

By:


Theodore P. Gibson
Donald L. Worthington
3200 University Tower
1722 South Carson
P.O. Box 2967
Tulsa, Oklahoma 74101
(918) 583-2131

Attorneys for Defendant,
Colorado Gas Compression, Inc.

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

INTEREST OF CRAIG HUFF
OIL AND GAS LEASE IN THE
S/2 OF THE SW/4 (OTHERWISE,
DESCRIBED AS LOT 4, AND
THE SE/4 OF THE SW/4),
OF SECTION 19 NORTH,
RANGE 18 EAST, CONTAINING,
80 ACRES MORE OR LESS,
IN MAYE~~R~~ COUNTY, OKLAHOMA,

Respondent
In Rem.

CIVIL NO. 82C983C

FILED

FEB 10 1983

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

JUDGMENT AS TO THE CLAIM OF CRAIG HUFF

IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. All right, title, and claims of Craig Huff as to the following property are extinguished and forfeited to the United States of America: Interest of Craig Huff Oil and Gas Lease in the S/2 of the SW/4 (Otherwise, described as Lot 4, and the SE/4 of the SW/4), of Section 19 North, Range 18 East, containing 80 Acres more or less, in Mayer County, Oklahoma.

2. Pursuant to Rule 54(b), Federal Rules of Civil Procedure, the Court finds, certifies, and expressly determines that there is no just cause for delay in ordering this judgment be final as to

the title and claim of Craig Huff in and to the respondent property described herein, and it is made final.

DATED this 7th day of February, 1983.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

STIPULATED:

Craig Huff
Craig Huff

APPROVED:

Francis A. Keating, II
Attorney for Craig Huff

Francis A. Keating, II
United States Attorney

Kenneth P. Snoke
Kenneth P. Snoke
Assistant United States Attorney

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

GULF AMERICAN RESOURCES, INC.,)
)
 Plaintiff,)
)
 vs.)
)
 TRI-COUNTY LEASE SERVICE, INC.,)
 an Oklahoma corporation, and)
 PAUL SHAFFER, an individual,)
)
 Defendants.)

No. 82-C-832-C

FILED

FEB 10 1983

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

ORDER OF DISMISSAL

NOW ON THIS 10th day of February, 1983, there is presented to the court the motion of Plaintiff for an Order of Dismissal without prejudice as its claim relates to the individual Defendant, Paul Shaffer, and from such motion, the court finds that same should be in all things sustained.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the court that Plaintiff be and is hereby granted an Order of Dismissal pursuant to Rule 41 of the Federal Rules of Civil Procedure, and that the Complaint in this cause be and it is hereby dismissed without prejudice to the refileing thereof as against the individual Defendant, Paul Shaffer.

s/H. DALE COOK

United States District Judge

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing Order of Dismissal was mailed on the 9th day of February, 1983, to Douglas L. Boyd, 320 S. Boston, Suite 1504, Tulsa, Oklahoma 74103, with proper postage thereon fully prepaid.

ORIGINAL SIGNED BY:

IRA L. EDWARDS, JR.
Ira L. Edwards, Jr.

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

FILED

FEB 10 1981

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

PENNWELL PUBLISHING COMPANY,)
)
Plaintiff,)

vs.)

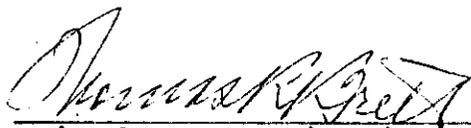
DONALD R. HART; JANE M. HART;)
ROBERT W. HART; DAVID R. WEBSTER;)
COOKSON 1981 TRUST, JAMES D.)
BIEHLER, TRUSTEE; RONALD G.)
COOPER; RUSSELL E. ROUNTREE;)
VILMA M. BOUBELIK; DANIEL LEE)
ENGLISH; and LOWELL GEORGIA,)
individually and d/b/a INVESTOR)
PUBLISHING COMPANY; INVESTOR)
PUBLISHING COMPANY, a Colorado)
partnership; and OIL & GAS)
INVESTOR MAGAZINE,)
)
Defendants.)

No. 81-C-673-B

ORDER OF DISMISSAL WITH PREJUDICE

Pursuant to the Stipulation of Dismissal with Prejudice entered into and filed by the Plaintiff and Defendant's, the Court does hereby,

ORDER that the above captioned case is hereby dismissed with prejudice. Each party to bear their own costs.



United States District Judge

FILED

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

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

R. D. HULL COMPANY,)
)
 Plaintiff,)
)
 vs.)
)
 BRUNSWICK CORPORATION,)
)
 Defendant.)

Civil Action No. 81-C-878-B

FILED

FEB 10 1983

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

ORDER OF DISMISSAL WITHOUT PREJUDICE

This matter comes on for consideration before the Court on February 10, 1983 upon the Joint Stipulation for Dismissal Without Prejudice filed by the plaintiff, R. D. Hull Company, and the defendant, Brunswick Corporation, and the Court, having reviewed the file, listened to the argument of counsel, and being fully advised in the premises hereby finds as follows:

The Court finds that the above styled cause of action should be and is hereby dismissed without prejudice and without assessment of costs, all costs having been paid.

BE IT, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the above styled cause of action be and is hereby dismissed without prejudice and without assessment of costs, all costs having been paid.

Dated at Tulsa, Oklahoma this 17th day of February, 1983.



JUDGE OF DISTRICT COURT

Brundage has

FILED

FEB 10 1983

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

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 FREDDY D. SMITH,)
)
 Defendant.)

CIVIL ACTION NO. 82-C-271-B

DEFAULT JUDGMENT

This matter comes on for consideration this 10th day of February, 1983, 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, Freddy D. Smith, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Freddy D. Smith, was served with Summons and Complaint on January 4, 1983. 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, Freddy D. Smith, for the principal sum of \$425.03, plus interest at the legal rate from the date of this Judgment until paid.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FEB - 9 1983

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 DONALD T. HARING, BARBARA E.)
 HARING, TULSA ADJUSTMENT BUREAU,)
 COUNTY TREASURER, Tulsa County,)
 Oklahoma, BOARD OF COUNTY)
 COMMISSIONERS, Tulsa County,)
 Oklahoma, and OKLAHOMA)
 OSTEOPATHIC FOUNDERS ASSOCIA-)
 TION, INC., a Corporation d/b/a)
 OKLAHOMA OSTEOPATHIC HOSPITAL,)
)
 Defendants.)

CIVIL ACTION NO. 81-C-881-E

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 9th day
of October, 1982. The Plaintiff appearing by Frank Keating,
United States Attorney for the Northern District of Oklahoma,
through Nancy A. Nesbitt, Assistant United States Attorney, and
the Defendant, Tulsa Adjustment Bureau, appearing by its attorney
D. Wm. Jacobus, Jr; the Defendants, County Treasurer, Tulsa
County, Oklahoma and Board of County Commissioners, Tulsa,
County, Oklahoma, appearing by their attorney David A. Carpenter,
Assistant District Attorney, Tulsa County, Oklahoma; the
Defendant, Oklahoma Osteopathic Founders Association, Inc., a
Corporation d/b/a Oklahoma Osteopathic Hospital, appearing by its
attorney Fred A. Pottorf; and the Defendants, Donald T. Haring
and Barbara E. Haring, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant Tulsa Adjustment Bureau was served with Summons, Complaint, and Amendment to Complaint on December 18, 1981 and May 20, 1982, respectively; that Defendants County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, were served with Summons, Complaint, and Amendment to Complaint on December 16, 1981 and May 20, 1982, respectively; that Defendant Oklahoma Osteopathic Founders Association, Inc., a Corporation d/b/a Oklahoma Osteopathic Hospital was served with Summons, Complaint, and Amendment to Complaint on May 20, 1982, all as shown on the United States Marshal's Services herein; and, that Defendants Donald T. Haring and Barbara E. Haring were served by of Publication as shown by Proof of Publication filed herein.

It appears that the Defendant, Tulsa Adjustment Bureau duly filed its Disclaimer on December 24, 1981; that Defendants County Treasurer, Tulsa County, Oklahoma and Board of County Commissioners, Tulsa County, Oklahoma, duly filed their Answers on January 5, 1982; that Defendant Oklahoma Osteopathic Founders Association, Inc., a Corporation d/b/a Oklahoma Osteopathic Hospital duly filed its Answers on May 18, 1982 and June 9, 1982; that Defendants Donald T. Haring and Barbara E. Haring 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 securing said mortgage note upon the following described real

property located in Tulsa County, Oklahoma, within the Northern
Judicial District of Oklahoma:

Lot Twenty-three (23), Block Six (6),
SCOTTSDALE ADDITION, an Addition in
Tulsa County, State of Oklahoma,
according to the Recorded Plat thereof;

THAT the Defendants, Donald T. Haring and Barbara E. Haring, did, on the 27th day of May, 1976, execute and deliver to the the United States of America, acting through the Farmers Home Administration, their mortgage and mortgage note in the sum of \$23,000.00 with eight and one-half percent (8½%) interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendants, Donald T. Haring and Barbara E. Haring, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the sum of \$22,541.01 as unpaid principal, plus accrued interest of \$4,715.97 as of October 24, 1982, plus interest thereafter at the rate of \$5.2493 per day, until paid, plus the cost of this action accrued and accruing.

The Court further finds that the Defendant, Tulsa Adjustment Bureau has disclaimed any and all right, title, or interest in and to the the real property which is the subject matter of this proceeding as shown by its Disclaimer filed herein on December 24, 1981.

The Court further finds that there is due and owing to the County of Tulsa, State of Oklahoma, from Defendants, Donald

T. Haring and Barbara E. Haring, the sum of \$175.14, plus interest according to law for real estate taxes for the year 1981 and that Tulsa County should have judgment for said amount, and that such judgment is superior to the first mortgage lien of the Plaintiff herein.

The Court further finds that Defendant Oklahoma Osteopathic Founders Association, Inc., a Corporation d/b/a Oklahoma Osteopathic Hospital is entitled to judgment against Defendants Donald T. Haring and Barbara E. Haring in the principal amount of \$1,026.15 with interest thereon at twelve percent (12%) per annum from May 13, 1981, until paid, plus an attorney's fee in the amount of \$407.84 awarded to Works, Lentz and Pottorf, Inc., plus costs accrued and accruing, but that such judgment is subject to and inferior to the first mortgage lien of the Plaintiff herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against Defendants, Donald T. Haring and Barbara E. Haring, for the principal sum of \$22,541.01 plus accrued interest of \$4,715.97 as of October 24, 1982, plus interest thereafter at the rate of \$5.2493 per day, plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the County of Tulsa have and recover judgment against Defendants

Donald T. Haring and Barbara E. Haring for the sum of \$175.14 as of the date of this judgment 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 Defendant Oklahoma Osteopathic Founders Association, Inc., a Corporation d/b/a Oklahoma Osteopathic Hospital have and recover judgment against Defendants Donald T. Haring and Barbara E. Haring for the sum of \$1,026.15 with interest thereon at twelve percent (12%) per annum from May 13, 1981, until paid, plus an attorney's fee in the amount of \$407.84 awarded to Works, Lentz and Pottorf, Inc., plus costs accrued and accruing, but that such judgment is subject to and inferior to the first mortgage lien of the Plaintiff herein.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the mortgage and lien of the Plaintiff herein be adjudged foreclosed and 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 which sale shall be subject to the real estate tax judgment of Tulsa County, supra. 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/ JAMES O. ELLISON

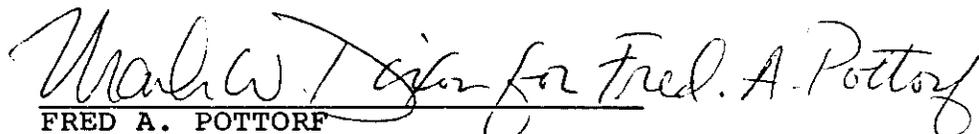
UNITED STATES DISTRICT JUDGE

APPROVED:

FRANK KEATING
United States Attorney


NANCY A. NESBITT
Assistant United States Attorney


DAVID A. CARPENTER
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County


FRED A. POTTORF
Attorney for Defendant Oklahoma
Osteopathic Founders Association,
Inc., a Corporation d/b/a Oklahoma
Osteopathic Hospital

FILED

FEB - 9 1983

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

RICHARD E. PROPER,
Defendant.

CIVIL ACTION NO. 82-C-1088-E

AGREED JUDGMENT

This matter comes on for consideration this 7th day of February, 1983, 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, Richard E. Proper, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Richard E. Proper, was personally served with Summons and Complaint on December 21, 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 \$\$320.17, plus interest at the legal rate 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,

Richard E. Proper, in the amount of \$320.17, plus interest at the legal rate from the date of this Judgment until paid.


UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney


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


RICHARD E. PROPER

FILED

FEB - 9 1968

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

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

INVESTOR PUBLISHING COMPANY,)
a Colorado partnership,)
)
Plaintiff,)
)
vs.)
)
PENNWELL PUBLISHING COMPANY,)
an Oklahoma corporation,)
)
Defendant.)

No. 82-C-1027-E

ORDER OF DISMISSAL WITH PREJUDICE

Pursuant to the Stipulation of Dismissal with Prejudice entered into and filed by the Plaintiff and Defendant, the Court does hereby,

ORDER that the above captioned case is hereby dismissed with prejudice. Each party to bear their own costs.

S/ JAMES O. ELLISON

United States District Judge

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

FEB - 9 1983

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 KEVIN R. LACEY,)
)
 Defendant.)

CIVIL ACTION NO. 82-C-243-E

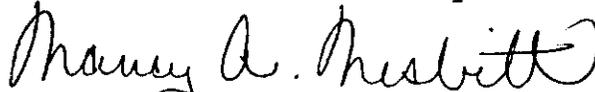
NOTICE OF DISMISSAL

COMES NOW the United States of America by Frank Keating, United States Attorney for the Northern District of Oklahoma, Plaintiff herein, through 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 without prejudice.

Dated this 9th day of February, 1982.

UNITED STATES OF AMERICA

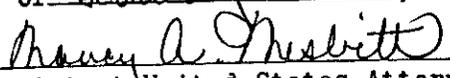
FRANK KEATING
United States Attorney



NANCY (A) NESBITT
Assistant United States Attorney
460 U.S. Courthouse
Tulsa, OK 74103
(918) 581-7463

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 9th day of February, 1982.


Assistant United States Attorney

FILED

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

82-0173

John E. Sibley, Clerk
U. S. DISTRICT COURT

THOMAS LEON HARRIS, JR.)
a/k/a THOMAS LEON)
HARRISON, JR.,)

Petitioner,)

v.)

No. 82-C-653-E

LARRY FIELDS, Warden and)
STATE OF OKLAHOMA,)

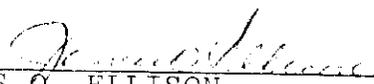
Respondent.)

O R D E R

The Court has for consideration the Petitioner's Motion to Dismiss Without Prejudice filed herein on January 18, 1983. This matter was referred on January 24, 1983 to the Magistrate for Findings and Recommendations. The record reflects that on February 7, 1983 the Magistrate entered a Minute Order stating that the Respondent has no objection to the Court sustaining Petitioner's Motion to Dismiss Without Prejudice and recommended that the Motion to Dismiss be sustained and that the Order to Dismiss be entered forthwith.

IT IS THEREFORE ORDERED that the Motion to Dismiss Without Prejudice is sustained and that the Petition of Thomas Leon Harris, Jr. be and the same is hereby dismissed without prejudice.

Dated this 17th day of February, 1983.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

FEB - 9 1983

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

NTC OF AMERICA, INC.,)
)
Plaintiff,)
)
vs.)
)
HALL CONSTRUCTION CO., INC.,)
and INRYCO, INC.,)
)
Defendants.)

NO. 82-C-1030-B

ORDER

This matter comes before the Court on defendant Hall Construction Co. Inc.'s Motion to Dismiss or Alternatively for Change of Venue. For the reasons set forth below, defendant's Motion to Dismiss is denied and the Alternative Motion for Change of Venue is granted.

Plaintiff, an interstate commerce carrier, filed suit under 28 U.S.C. 1337 and 49 U.S.C. 10101 to recover freight charges allegedly owed by defendants, Hall Construction Co., Inc., and Inryco, Inc. Defendant, Hall Construction Co., Inc., moved under Rule 12(b)(2) of F.R.C.P., for change of venue for lack of proper venue. Defendant also filed a motion for transfer of venue pursuant to 28 U.S.C. 1404(a).

Plaintiff has conceded in personam jurisdiction over defendant is lacking under 28 U.S.C. 1391. Plaintiff contends, however, that the Court should invoke 28 U.S.C. 1406(a), which provides: "The district court of a district in which is filed a case laying venue in the wrong division or district shall

dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." Plaintiff states that under 49 U.S.C. 11706, the statute of limitations has run on its claim against defendants and plaintiff will be barred from refiling its claim in another district. Therefore, plaintiff contends that in the interest of justice, its suit should not be dismissed, but transferred to another judicial district.

Even though a court lacks jurisdiction over the person of the defendant, the action can be transferred to a district where venue exists and personal jurisdiction can be obtained.

Goldlawr, Inc. v. Heiman, 369 U.S. 463, 82 S.Ct. 913, 8 L.Ed.2d 39 (1962). However, the district court must dismiss the case absent a showing of any injustice by the dismissal. Skilling v. Funk Aircraft Co., 173 F. Supp. 939 (D.C.Mo.1959).

The plaintiff in the present case will be barred by the statute of limitations from instituting a new action should this Court dismiss its claim. In Goldlawr, supra, the United States Supreme Court held that loss of a cause of action due to the statute of limitations was a sufficient injustice to invoke 28 U.S.C. 1406 (a). Supra, at 466. Therefore, the Court finds that transfer of the case pursuant to 28 U.S.C. 1406(a) is appropriate. Under 28 U.S.C. 1391(b), venue is proper in the judicial district where the defendant resides.

Defendant, Hall Construction Co., Inc., is incorporated and has its principal place of business in the State of New Jersey.

Defendant Inryco, Inc., has expressed no objection to transfer of the case to New Jersey.

IT IS THEREFORE ORDERED defendant's Motion to Dismiss is hereby overruled and Motion for Change of Venue pursuant to 28 U.S.C. 1406(a) is sustained, the case to be transferred to the United States District Court for the District of New Jersey.

The Court notes that the transfer of the case under 28 U.S.C. 1406(a) effectively makes moot defendant's Motion for Change of Venue under 28 U.S.C. 1404(a).

ENTERED this 9th day of February, 1983.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE



FILED

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

1983-02-03
John E. Silver, Clerk
U. S. DISTRICT COURT

BRETT MARVIN HARRIS,)
)
Petitioner,)
)
v.)
)
GARY D. MAYNARD, et al.,)
)
Respondents.)

No. 81-C-597-E ✓

ORDER

The Court has for consideration the Findings and Recommendations of the Magistrate filed on January 26, 1983 in which the Magistrate recommends that the Petition for Writ of Habeas Corpus be dismissed. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the matters presented to it, the Court has concluded that the Findings and Recommendations of the Magistrate should be and hereby are affirmed.

Therefore, the Petition for Writ of Habeas Corpus is dismissed.

It is so Ordered this 9th day of February, 1983.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

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

FEB - 9 1983

THELMA WHITE,)
)
 Plaintiff,)
)
 vs.)
)
 MEBA PENSION TRUST, LUCILLE)
 HART, Deputy Administrator,)
 and FREDERICK JACKSON, Pension)
 Trust Manager,)
)
 Defendants.)

NO. 82-C-831-B

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

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

~~FEB - 9 1983~~

~~FILED~~

ORDER

For consideration by the Court is defendants' motion to dismiss pursuant to Fed.R.Civ.P. 12(b)(2) and (3) on the basis of lack of in personam jurisdiction and improper venue. In the alternative defendants' move for transfer pursuant to 28 U.S.C.A. 1404(a) and 28 U.S.C.A. 1404(6). Plaintiff has filed her response thereto. For the reasons set forth below, defendants' motion to dismiss is overruled and defendants' motion to transfer is sustained.

The question of venue will be addressed first. Plaintiff brings this cause of action to recover benefits from MEBA Pension Trust in which her deceased ex-husband participated. The MEBA Pension Trust was established by agreement between the National Marine Engineers' Beneficial Association, AFL-CIO, and various employers. It appears to be an employee pension benefit plan within the meaning of Section 3(2)(A) of the Employee Retirement Income Security Act of 1974, 29 U.S.C.A. §1002(2)(A). As such,

venue of actions involving the Trust are governed by 29 U.S.C.A. §1132 (e)(2) which provides as follows:

"Where an action under this subchapter is brought in a district court of the United States, it may be brought in the district where the plan is administered, where the breach took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found."

From the affidavit of Lucille Hart, Administrator of the MEBA Pension Trust,¹ the principal place of business of the Trust is Baltimore, Maryland, and the administration of the Trust is directed from the Baltimore offices.² All the decisions regarding plaintiff's claims against the Trust were made at the Trust's administrative offices in Baltimore or by the Board of Trustees or a subcommittee of the Board meeting outside Oklahoma.³ The Trust maintains no office and has no employees in Oklahoma. It owns no property and maintains no bank accounts in Oklahoma.⁴ It appears the Trust is administered in Maryland, the alleged breach occurred in Maryland, and the Trust may not be found in Oklahoma. Therefore, venue is improper in this district. Accord: Boyer v. J.A. Majors Co. Employees' Profit Sharing Plan, 481 F.Supp. 454, 458-59 (N.D.Ga.1979); Sprinzen v. Supreme Court of the State of New Jersey, 478 F.Supp.

¹Filed herein on September 23, 1982.

²Hart affidavit at pg. 2.

³Hart affidavit at pg. 4.

⁴Hart affidavit at pg. 2.

722, 723-24 (S.D.N.Y.1979); Aro Manufacturing Co. v. Automobile Body Research Corp., 352 F.2d 400, 404 (1st Cir. 1965), cert. denied, 383 U.S. 947 (1966)(to be "found" in a district, a corporation must be present by its officers and agents carrying on its business).

Under 28 U.S.C.A. §1406(a) the "district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." The United States Supreme Court in Goldlawr, Inc. v. Heiman, 369 U.S. 463, 466 (1961), stated with regard to this section:

"The language of §1406(a) is amply broad enough to authorize the transfer of cases, however wrong the plaintiff may have been in filing this case as to venue, whether the court in which it was filed had personal jurisdiction over the defendants or not."

See also, Papercraft Corporation v. Procter & Gamble Company, 439 F.Supp. 1060, 1061 (W.D.Pa.1977); and Haire v. Miller, 447 F.Supp. 57, 59 (N.D.Miss. 1977). The Court thus finds it unnecessary to determine whether it has personal jurisdiction over the defendants herein.

Moreover, where the interests of justice so dictate, transfer is preferable to dismissal. De La Fuente v. I.C.C., 451 F.Supp. 867, 872 (N.D.Ill.1978); Moore v. Conway, 481 F.Supp. 563, 565 (E.D.Wis. 1979). As stated in Nation v. United States Government, 512 F.Supp. 121, 126 (S.D.Ohio 1981):

"Selection between options of dismissal and transfer, for improper venue, is a matter within the sound discretion of the district court. 1 Moore's Federal Practice ¶0.146[5]. However, transfer in and of itself is generally considered to be more in the 'interest of justice' than dismissal and, therefore, doubts should be resolved in favor of preserving the action, particularly where it appears that venue may be properly laid in the proposed transferee district."

Because venue is improper in this district and appears to lie in the United States District Court for the District of Maryland, the Court in its considerable discretion finds defendants' alternative motion to transfer is sustained. Further, the Court finds defendants' motion to dismiss should be overruled.

IT IS SO ORDERED this 9th February, 1983.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IT IS THEREFORE ORDERED that this cause be and the same is hereby dismissed with prejudice, each party to bear their own costs.

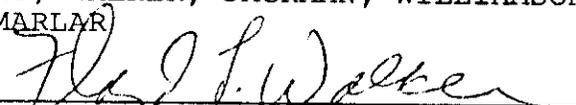
S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

PRAY, WALKER, JACKMAN, WILLIAMSON
& MARLAR

By


FLOYD L. WALKER
2200 Fourth National Building
Tulsa, OK 74119
Attorney for Plaintiff

CONNER, WINTERS, BALLAINE, BARRY
& MCCOWEN

By


JAMES L. KINCAID
2400 First National Tower
Tulsa, OK 74103
Attorney for Intervenor

JONES, GIVENS, GOTCHER, DOYLE
& BOGAN, INC.

By


ALFRED K. MORLAN
200 West Fifth, Suite 400
Tulsa, OK 74103
Attorney for Defendant

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

L. M. BERRY AND COMPANY, an)
Ohio corporation; and)
L. M. BERRY AND COMPANY - NYPS,)
an Ohio corporation,)
)
Plaintiffs,)
)
vs.)
)
MILLER ASSOCIATES, INC., and)
MK&O TRANSIT LINES, INC.,)
)
Defendants.)

No. 82-C-262-C ✓

FILED

FEB - 6 1983

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

ORDER

On July 7, 1982, defendant MK&O Transit Lines, Inc. (hereafter Transit) filed a motion to dismiss the present action as against it for the reasons that defendant had not been properly served with process and that said defendant had been improperly joined in this action. The service of process issue has been rendered moot based on the fact that counsel for the defendant has informed the Court that this portion of its motion to dismiss has been satisfied. On November 24, 1982, this Court converted the remainder of the motion to dismiss into one for summary judgment due to submissions concerning the motion to dismiss which contained matters outside of the pleadings. The parties were afforded until December 6, 1982 to submit additional material pursuant to Fed.R.Civ.P. 56 in support of or in opposition to the motion. The plaintiffs timely filed a response

and additional material on January 18, 1983 having been granted certain extensions of time to that date. The defendant Transit apparently rests on its prior submissions to the Court in that no material has been received by the Court from that defendant subsequent to the conversion of its motion to dismiss into one for summary judgment. The motion is now ready for the Court's determination.

In its response brief filed on January 18, 1983 the plaintiff informs the Court that the correct defendant in this action is Missouri, Kansas & Oklahoma Lines, Inc. (hereafter Lines). The plaintiff informs the Court that Lines operates a bus service and is the party for whom yellow page advertising was placed by the plaintiffs. The Court is further informed that the officers and registered service agent of both Transit and Lines are the same. The Plaintiffs request the Court to deny the motion for summary judgment and to allow them to amend their complaint and the service of process pursuant to Fed.R.Civ.P. 15(c) and 4(h), respectively, by substituting the name Missouri, Kansas & Oklahoma Lines, Inc. for MK&O Transit Lines, Inc. Alternatively, the plaintiffs request the Court, in the event the Court does not allow substitution, to quash service of process on Transit and allow plaintiffs time to serve the registered service agent of Lines.

The Court would first note that by their request for substitution the plaintiffs admit they have no cause of action against defendant Transit and said defendant should be dismissed from this action. In this regard, there is no genuine issue as

to any material fact concerning whether defendant Transit is a proper party defendant. Clearly, it is not. Further, the Court has reviewed the record herein and the applicable law and has determined that the most judicious manner to proceed is to allow the plaintiffs to amend their complaint to name the proper party defendant and to afford additional time to properly serve that defendant. The Court suggests that if the present counsel for Transit will be the counsel for Lines the plaintiff may want to determine whether said counsel is in a position to accept service for Lines.

It is therefore the Order of this Court that defendant Transit is dismissed from this action in all respects as not being a proper party defendant and summary judgment is granted in defendant Transit's favor.

It is the further Order of this Court that the plaintiffs are granted ten (10) days from the filing of this Order to file their amended complaint naming the proper party defendant and twenty (20) days thereafter to properly serve process on the party named therein.

It is so Ordered this 8th day of February, 1983.


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

FILED

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

FEB - 8 1983

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

DONALD R. BEIL

Plaintiff,

-vs-

SHELL OIL COMPANY, and
SHELL CHEMICAL COMPANY,

Defendants.

Case No. 82-C-708-B

ORDER OF DISMISSAL WITHOUT PREJUDICE

Be it remembered that on February 8th, 1983, the court considered the plaintiff's application for leave to dismiss without prejudice and upon consideration, the court was of the opinion that the request should be granted. It is therefore ordered that plaintiff shall have leave to dismiss the complaint herein, as requested, and that said complaint is hereby dismissed without prejudice to the plaintiff.

Signed this 8th day of February, 1983.

S/ THOMAS R. BRETT

U.S. District Judge

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

JOSEPH E. SPEAR and)
CECELIA SPEAR,)
)
Plaintiffs,)
)
vs.)
)
MARTIN L. STRAUB, C.P.A.,)
)
Defendant.)

Case No. 82-C-611-B

FILED
FEB - 7 1983
Jack C. Silver, Clerk
U. S. DISTRICT COURT

DISMISSAL WITH PREJUDICE
APPLICATION FOR DISMISSAL

Come now Plaintiffs herein and move this Court to dismiss this action with prejudice and at the cost of Plaintiffs. That Plaintiffs, for valuable consideration received from Defendant, have forever settled, compromised and waived any and all accounts, claims, demands, contracts, contract rights, damages or causes of action whatsoever and covenanted not to sue thereon. Plaintiffs now respectfully move, apply to and petition this Court to issue an order forthwith dismissing this action with prejudice and at the cost of Plaintiffs.

ROBERT L. SHEPHERD

and

JERRY M. MELONE

By: Jerry M. Melone
Jerry M. Melone

ATTORNEYS FOR PLAINTIFF

ORDER

Now on this 8 day of February, 1983 ~~December, 1982~~, comes on the within and foregoing Dismissal with Prejudice. This Court finds the same should be granted forthwith.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that this case be and is dismissed with prejudice at the cost of Plaintiffs.

FILED
FEB - 7 1983
Jack C. Silver, Clerk
U. S. DISTRICT COURT

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

FEB - 7 1983

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

ROBERT A. ALEXANDER,)	
)	
Plaintiff,)	
)	
vs.)	NO. 82-C-609-B
)	
RICHARD S. SCHWEIKER,)	
Secretary of Health and)	
Human Services of the)	
United States of America,)	
)	
Defendant.)	

ORDER

The Court has before it for consideration defendant's Motion to Remand. Plaintiff has filed a Response opposing remand.

The Court has jurisdiction of this matter pursuant to 42 U.S.C. 405(g), which provides: "The Court shall, on motion of the Secretary made before he files his answer, remand the case to the Secretary for further action by the Secretary. ..."

For this reason, defendant's Motion to Remand is granted.

ENTERED this 7th day of February, 1983.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

1983 FEB 10

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
ORVELESTER OWENS,)
)
Defendant.)

CIVIL ACTION NO. 82-C-866-B

DEFAULT JUDGMENT

This matter comes on for consideration this 4th day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Orvelester Owens, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Orvelester Owens, was personally served with Summons, Complaint, and Amendment to Complaint on November 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, Orvelester Owens, for the principal sum of \$272.80, plus interest at the legal rate from the date of this Judgment until paid.

S/ THOMAS B. BRETT

UNITED STATES DISTRICT JUDGE

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

JOHN ERVAN BARBOUR,)
)
 PLAINTIFF,)
)
 VS.)
)
 FARMERS INSURANCE EXCHANGE,)
)
 FARMERS GROUP, INC., a foreign)
)
 insurer,)
)
 DEFENDANT.)

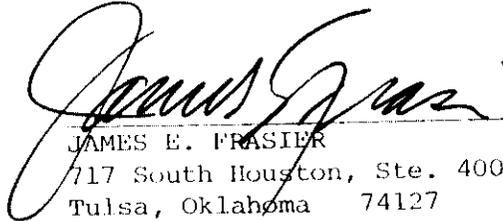
82-C-493-E

FILED
FEB - 4 1983
Jack C. Silver, Clerk
U. S. DISTRICT COURT

STIPULATION OF DISMISSAL

COME NOW the parties, by and through their respective attorneys of record, and stipulate to the dismissal of the above-styled and numbered cause without prejudice to any future action.

FRASIER, FRASIER & GULLEKSON


JAMES E. FRASIER
717 South Houston, Ste. 400
Tulsa, Oklahoma 74127
584-4724
Attorney for Plaintiff

WILBURN, KNOWLES & KING

DENNIS D. KING
2504 B East 71st Street
Tulsa, Oklahoma 74136
494-0414
Attorney for Defendant

FILED
FEB - 4 1983
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-1121-B
)
 ROY H. ADCOCK,)
)
 Defendant.)

DEFAULT JUDGMENT

This matter comes on for consideration this 4th day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Nancy A. Nesbitt, Assistant United States Attorney, and the Defendant, Roy H. Adcock, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Roy H. Adcock, was personally served with Summons and Complaint on December 15, 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, Roy H. Adcock, for the principal sum of \$1,814.49, plus the accrued interest of \$113.23 as of October 21, 1982, plus interest on the principal sum of \$1,814.49 at 7 percent from October 21, 1982,

until the date of Judgment, plus interest on the Judgment at the legal rate until paid.

UNITED STATES DISTRICT JUDGE

Myron R. McNair, in the amount of \$820.80, plus interest at the legal rate from the date of this Judgment until paid.

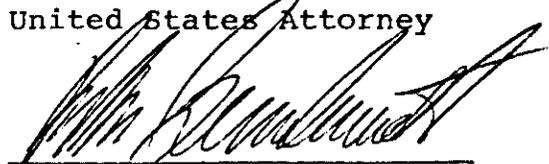
s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney



PETER BERNHARDT
Assistant U.S. Attorney



MYRON R. McNAIR

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

FILED

FEB - 4 1983

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

ANITA VASSAR,)
)
 Plaintiff,)
)
 vs.)
)
 SEARS, ROEBUCK & COMPANY,)
 a foreign corporation,)
 et al.,)
)
 Defendants.) No. 81-C-864-E

JOURNAL ENTRY OF JUDGMENT

Now on this 14th day of January, 1983, this cause comes on to be heard on the Motion for Summary Judgment of defendant, United States Testing Company, Inc., and plaintiff's application to make documents a part of the record. All parties appeared by their respective counsel and the Court being fully advised in the premises and on consideration of the papers filed in this case and statements of counsel finds that the plaintiff's application to make documents a part of the record is hereby sustained and without objection from any of the parties, and further FINDS:

That the plaintiff's theory of liability against all defendants is based on the theory of manufacturer's product liability as enunciated in Kirkland v. General Motors Corporation, 521 P.2d 1353 (Okla. 1974), and its progeny,

and that the defendant, United States Testing Company, Inc., who made certain representations that the lawnmower involved herein met certain ANSI standards did not bring such defendant within those parties enumerated in Kirkland and that United States Testing Company was not involved in any particular in the design, engineering, manufacturing or sale of the subject lawnmower and that therefore said defendant's Motion for Summary Judgment should be sustained and judgment entered in favor of said defendant and against the plaintiff.

BE IT THEREFORE ORDERED, ADJUDGED AND DECREED that plaintiff's application to make all exhibits and documents heretofore made a part of the defendant, United States Testing Company, brief in support of its motion for summary judgment a part of the record herein, is sustained and without objection from any parties pursuant to Rule 13H of the Court's rules and without waiver of any defendant's rights to make objections to any such exhibit concerning its use in the proceedings herein.

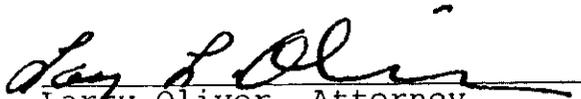
BE IT FURTHER ORDERED, ADJUDGED AND DECREED that the Motion for Summary Judgment of defendant, United States Testing Company, Inc., a foreign corporation, be and the

same is hereby sustained and judgment entered in favor of said defendant and against the plaintiff and that the plaintiff take nothing against defendant, United States Testing Company, Inc.

S/ JAMES O. ELLISON

JAMES O. ELLISON, United States
District Judge

APPROVED AS TO FORM:


Larry Oliver, Attorney
for Plaintiff


Wm. S. Hall, Attorney
for Defendant, United States
Testing Company, Inc.

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

FILED

FEB - 3 1983

MILDRED LAND and GROVER M. LAND,)
)
 Plaintiffs,)
)
 vs.)
)
 TRANSPORT INDEMNITY COMPANY,)
 a foreign insurance corporation,)
)
 Defendant.)

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

No. 82-C-318-E

DISMISSAL WITHOUT PREJUDICE
UPON STIPULATION OF THE PARTIES

Come now the plaintiffs, pursuant to Rule 41 (a) and by stipulation with the defendant, and dismiss the above styled and numbered cause of action without prejudice.

It is stipulated by and between the parties that the plaintiffs will join the defendant in the action of the plaintiffs pending in the District Court of Oklahoma County, Oklahoma, being Cause No. C 82-9 filed against Oklahoma Farm Bureau Mutual Insurance Company and removed to the District Court of Oklahoma County. In the event joinder of Transport Indemnity Company is not permitted in the said suit at Oklahoma City, the plaintiffs will file a separate action in the District Court of Oklahoma County and seek to consolidate the said case filed against Oklahoma Farm Bureau Mutual Insurance Company with the case filed against Transport Indemnity Company. In any event, Transport Indemnity Company stipulates that it will not remove

the cause filed against it by the plaintiffs to Federal Court.

Dated this 3rd day of February, 1983.



JACK B. SELLERS LAW ASSOCIATES, INC.
Post Office Box 730
Sapulpa, Oklahoma 74066
Telephone (918) 224-9070

Attorneys for Plaintiffs



DONALD C. CHURCH
CHURCH & ROBERTS
501 Philtower Building
Tulsa, Oklahoma 74103
Telephone (918) 583-8156

Attorneys for Defendant

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

CAROLYN E. WATKINS,)
Plaintiff,)
v)
LOUIS P. WATKINS,)
Defendant.)

Case No. 82-C-856-C ✓

FILED
JAN - 3 1983
Jack C. Silver, Clerk
U. S. DISTRICT COUR

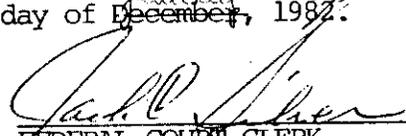
DEFAULT JUDGMENT BY CLERK

IN this action, the Defendant, LOUIS P. WATKINS, having been duly served with copies of the Petition by Certified Mail, and having failed to plead or otherwise defend, the legal time for pleading or otherwise defending having expired and the default of said Defendant in the premises having been duly entered according to Law; Upon the application of the Plaintiff, CAROLYN E. WATKINS, judgment is hereby entered against said Defendant pursuant to the requests of the said Petition.

WHEREFORE, by virtue of the Law and by reason of the premises aforesaid,

IT IS ORDERED, ADJUDGED AND DECREED, that the said Plaintiff does have and shall recover from the Defendant, LOUIS P. WATKINS, the total and true sum of \$10,000.00 with interest thereon at the rate of 8 75 percent per annum from date of judicial demand until paid, together with Plaintiff's costs and disbursements incurred in this action, amounting to the sum of \$66.00, that upon proper application made, a reasonable attorney's fee be assessed in favor of the Plaintiff, and that judgment be entered for said reasonable attorney's fees, and that the Plaintiff have execution for all of the foregoing judgments.

Judgment entered this 3 day of ~~December~~^{January}, 1982³.


FEDERAL COURT CLERK
UNITED STATES DISTRICT COURT

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

FILED

FEB - 2 1983

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

HERSHAL DEAN ASHLOCK,)
)
 Petitioner,)
)
 vs.)
)
 A.I.MURPHY, and OKLAHOMA)
 DEPARTMENT OF CORREC-)
 TIONS,)

No. 82-C-1068-B✓

ORDER

This matter comes before the Court on the petition for a writ of habeas corpus of the petitioner, Hershhal Dean Ashlock, and subsequent motion by petitioner to withdraw the petition.

Petitioner's petition for a writ of habeas corpus is based on alleged violation of his constitutional right to due process under the Fourteenth Amendment. In his motion to withdraw the petition, petitioner indicates his intent to perfect an Application for Post-Conviction Relief before the District Court of Tulsa County, State of Oklahoma.

In accordance with petitioner's request, the petition for writ of habeas corpus is dismissed without prejudice.

IT IS SO ORDERED this 2nd day of Feb, 1983.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

FEB - 3 1983

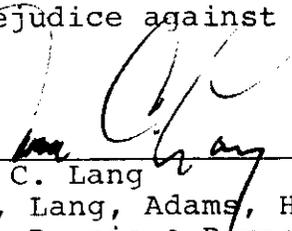
Jack C. Silver, Clerk
U. S. DISTRICT COURT

CHILDERS & STORY, DOCTORS OF)
MEDICINE, INC., et al.,)
)
Plaintiffs,)
)
v.)
)
WORLD SERVICE LIFE INSURANCE)
CO., et al.,)
)
Defendants.)

Case No. 82-C-647-C

STIPULATION OF DISMISSAL WITH PREJUDICE

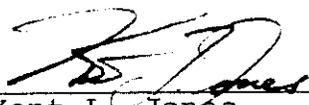
Pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, plaintiffs agree to voluntarily dismiss this action with prejudice against all named defendants.

By 
James C. Lang
Sneed, Lang, Adams, Hamilton,
Downie & Barnett
114 East Eighth Street
Tulsa, Oklahoma 74119

Attorneys for Plaintiffs

By 
G. Michael Lewis
Doerner, Stuart, Saunders,
Daniel & Anderson
1000 Atlas Life Building
Tulsa, Oklahoma 74103

Attorneys for Defendant
Southern Medical Association

By 
Kent L. Jones
Hall, Estill, Hardwick, Gable,
Collingsworth & Nelson, P.C.
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, Oklahoma 74172

Attorneys for Defendant
World Service Life Insurance Co.

Also acting on behalf of defendants
Fred Buford Dickey, Gary Samuel
Dearen, Victor Eugene Fisher, Berl
Edward Godfrey, Frederick Howard
Gunther, Oliver Kunze Niess, Arch
Ewing Northington, Richard Dean
Pollard, Fred Larry Tunnell and
Danny Pruitt Wells.

Dated this 3rd day of February, 1983.

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FEB - 2 1983

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 JOE R. WOMACK,)
)
 Defendant.)

Jack C. Silver, Clerk
DISTRICT COURT

CIVIL ACTION NO. 82-C-281-E

DEFAULT JUDGMENT

This matter comes on for consideration this 1st day
of February 1983, the Plaintiff appearing by Frank Keating,
United States Attorney for the Northern District of Oklahoma,
through Nancy A. Nesbitt, Assistant United States Attorney, and
the Defendant, Joe R. Womack, appearing not.

The Court being fully advised and having examined the
file herein finds that Defendant, Joe R. Womack, was personally
served with Alias Summons and Complaint on December 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, Joe R.
Womack, for the principal sum of \$414.67, plus interest at the
legal rate from the date of this Judgment until paid.

By, James G. Hagan

UNITED STATES DISTRICT JUDGE

4

FILED

FEB 2 1983

bc

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

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

ARAMCO PETROLEUM COMPANY,)
Plaintiff)
vs.)
HUDSON-PRIEST, INC.,)
Defendant)

NO. 82-C-846-B ✓

ORDER OF DISMISSAL

NOW on this February 2, 1983, plaintiff's Motion of Dismiss, filed on February 2, 1983, comes on for consideration and the court being fully advised, finds that said motion should be sustained.

IT IS THEREFORE ORDERED AND ADJUDGED that the above-entitled action is hereby dismissed without prejudice, with each side to go hence and bear their own costs.

Thomas R. Grett
United States District Judge

Certificate of Mailing

I, Rodney L. Buck, do hereby certify that on this 18 day of January, 1983, I mailed through the United States Mail a true and correct copy of the above and foregoing with sufficient postage thereon prepaid to: Carl Barnes, Attorney for the Defendant, 4527-B E. 31, Tulsa, OK 74114

Rodney L. Buck

4

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

FILED

FEB - 2 1983

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

BILLY DON HUTCHINSON,
Plaintiff,

-vs-

No. 82-C-820-E

THE CITY OF SPERRY, OKLAHOMA, a
Municipal Corporation, ORVAL
WOODSON, MARTHA DAVIS, CARL DOERR,
CAROLYN HAMMONTREE, DIANE BARNES,
and CONNIE ROMINE,

Defendants.

NOTICE OF DISMISSAL WITH PREJUDICE PURSUANT
TO RULE 41 OF THE FEDERAL RULES OF CIVIL PROCEDURE

COMES NOW the Plaintiff, Billy Don Hutchinson, and pursuant to Rule 41(a)(1)(ii) hereby dismisses his action against each and every Defendant in this cause with prejudice. This stipulation of dismissal signed by all parties who have appeared in the action is filed in fulfillment of the requirements of Federal Rules of Civil Procedure 41(a)(1)(ii).

Billy Don Hutchinson

BILLY DON HUTCHINSON

Earl W. Wolfe

EARL W. WOLFE, Attorney for Billy
Don Hutchinson

TOWN OF SPERRY, OKLAHOMA

BY: *Martha Davis*

MARTHA DAVIS, Mayor

Renee Skatto

ATTEST: Clerk of the Town of
Sperry, Oklahoma

Orval Woodson
ORVAL WOODSON

Martha Davis
MARTHA DAVIS

Carl Doerr
CARL DOERR

Carolyn Hammontree
CAROLYN HAMMONTREE

Diane Barnes
DIANE BARNES

Connie Romine
CONNIE ROMINE

Benjamin P. Abney
BENJAMIN P. ABNEY
502 W. 6th St.
Tulsa, Oklahoma 74103
Attorney for Diane Barnes

Harry M. Crowe
HARRY M. CROWE
1714 First National Bldg.
Tulsa, Oklahoma 74103
Attorney for the City of Sperry, Okla.

Robert Perugino
ROBERT PERUGINO
Suite 1018
320 S. Boston
Tulsa, Oklahoma 74103
Attorney for Connie Romine

Graydon Bean Luthey, Jr.
GRAYDON BEAN LUTHEY, JR.
201 W. 5th
Tulsa, Oklahoma 74103
Attorney for Orval Woodson, Martha
Davis, Carl Doerr, Carolyn Hammontree,

FILED

FEB - 2 1983

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

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 DANIEL A. MINER,)
)
 Defendant.)

CIVIL ACTION NO. 82-C-1166-C

DEFAULT JUDGMENT

This matter comes on for consideration this 2nd day
of February, 1983, the Plaintiff appearing by Frank Keating,
United States Attorney for the Northern District of Oklahoma,
through Nancy A. Nesbitt, Assistant United States Attorney, and
the Defendant, Daniel A. Miner, appearing not.

The Court being fully advised and having examined the
file herein finds that Defendant, Daniel A. Miner, was personally
served with Summons and Complaint on December 28, 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, Daniel A.
Miner, for the principal sum of \$684.00, plus interest at the
legal rate from the date of this Judgment until paid.

15/ H. Dale Cook
UNITED STATES DISTRICT JUDGE

FILED

FEB - 2 1983

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

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 VINCENT REGALADO,)
)
 Defendant.)

CIVIL ACTION NO. 82-C-1163-C

DEFAULT JUDGMENT

This matter comes on for consideration this 2nd day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Nancy A. Nesbitt, Assistant United States Attorney, and the Defendant, Vincent Regalado, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Vincent Regalado, was personally served with Summons and Complaint on December 21, 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, Vincent Regalado, for the principal sum of \$217.70, plus interest at the legal rate from the date of this Judgment until paid.

151 H. Dale Cook
UNITED STATES DISTRICT JUDGE

FILED

FEB - 2 1983

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

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ROCKY D. CLARK,)
)
 Defendant.)

CIVIL ACTION NO. 82-C-1090-C

DEFAULT JUDGMENT

This matter comes on for consideration this 2nd day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Nancy A. Nesbitt, Assistant United States Attorney, and the Defendant, Rocky D. Clark, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Rocky D. Clark, was served with Summons and Complaint on December 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, Rocky D. Clark, for the principal sum of \$232.33, plus interest at the legal rate from the date of this Judgment until paid.

121 H. Dale Cook
UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FEB - 2 1983

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 RICHARD GONZALES,)
)
 Defendant.)

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

CIVIL ACTION NO. 82-C-1165-E

DEFAULT JUDGMENT

This matter comes on for consideration this 1st day
of February 1983, the Plaintiff appearing by Frank Keating,
United States Attorney for the Northern District of Oklahoma,
through Nancy A. Nesbitt, Assistant United States Attorney, and
the Defendant, Richard Gonzales, appearing not.

The Court being fully advised and having examined the
file herein finds that Defendant, Richard Gonzales, was
personally served with Summons and Complaint on December 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, Richard
Gonzales, for the principal sum of \$767.13, plus interest at the
legal rate from the date of this Judgment until paid.

UNITED STATES DISTRICT JUDGE

FILED

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

FEB - 2 1983

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

DOLLY HICKMAN and)
CLYDE HICKMAN,)
)
Plaintiffs,)
)
vs.)
)
CORNING GLASS WORKS, a)
corporation; CECIL WARE)
CORPORATION; FARMERS BROTHERS)
COFFEE COMPANY, a corporation;)
and SAMBOS RESTAURANTS, INC.,)
a corporation,)
)
Defendants.)

NO. 81-C-222-E ✓

O R D E R

NOW on this 12th day of January, 1983, at the Pre-Trial hearing set before this Court, the Plaintiffs by and through their attorney of record, C. D. Northcutt, made oral application and motion to dismiss their action without prejudice as to the Defendants Corning Glass Works, Cecil Ware Corporation and Farmers Brothers Coffee Company. Present for Corning Glass Works and Cecil Ware Corporation was their counsel, Stephen C. Wilkerson and present for the Defendant Farmers Brothers Coffee Company, was its counsel Dennis King. Counsel for the above mentioned Defendants voiced no objection to the Motion to Dismiss Without Prejudice and therefore the Court granted same.

IT IS THEREFORE ORDERED, ADJUGED, AND DECREED by the Court that the oral application and motion of the Plaintiffs to dismiss their action without prejudice should be granted, no objection from the Defendants being heard.

IT IS FURTHER ORDERED, ADJUGED, AND DECREED by the Court that if the Plaintiffs wish to make application to amend their Complaint and

24

reinstitute their action against Corning Glass Works, Cecil Ware Corporation and/or Farmers Brothers Coffee Company, they must first show the Court that they could present facts which would allow them to pursue an action in products liability and overcome the objections of Corning Glass Works and Cecil Ware Corporation, as presented in their Motion for Summary Judgment of record herein.

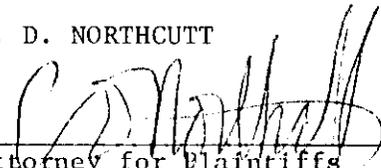
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that if the Plaintiffs apply to this Court to be allowed to amend their Complaint and reinstitute this action against Corning Glass Works, Cecil Ware Corporation, and/or Farmers Brothers Coffee Company, notice of such application be given to whichever party or parties the Plaintiffs wish to reinstitute their action against and that said party or parties be given an opportunity to respond to said application.

DATED THIS 2nd day of ^{February}~~January~~, 1983.

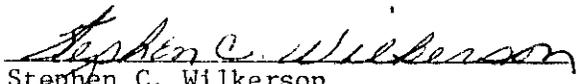

JUDGE

APPROVALS:

C. D. NORTHCUTT


Attorney for Plaintiffs

KNIGHT, WAGNER, STUART, WILKERSON & LIEBER


Stephen C. Wilkerson
Attorney for Corning Glass Works and
Cecil Ware Corporation

DENNIS KING

Dennis King

Attorney for Farmers Brothers Coffee
Company

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

~~FILED~~

~~FEB - 1 1983~~

~~Jack C. Silver, Clerk~~

~~U. S. DISTRICT COURT~~

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
MID PLAINS PETROLEUM CO., INC.,)
)
Defendant.)

No. 81-C-884-BT

~~FILED~~

~~FEB - 2 1983~~

~~Jack C. Silver, Clerk~~

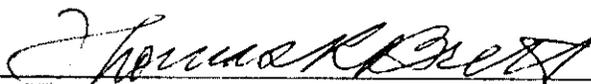
~~U. S. DISTRICT COURT~~

ORDER

On this 31st day of January, 1983, this matter came before the Court for status conference. The parties informed the Court a settlement had been reached pending approval by the Department of Energy in Washington. The government stated it wished to dismiss the case without prejudice at this time because of the uncertainty as to when approval of the settlement agreement will be made by the DOE.

IT IS THEREFORE ORDERED this case is dismissed without prejudice.

ENTERED this 2nd day of February, 1983.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

FEB - 2 1983

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 MARK E. ROSS,)
)
 Defendant.)

CIVIL ACTION NO. 82-C-205-B

DEFAULT JUDGMENT

This matter comes on for consideration this 2nd day of February, 1983, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Nancy A. Nesbitt, Assistant United States Attorney, and the Defendant, Mark E. Ross, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Mark E. Ross, was served with Alias Summons and Complaint on September 28, 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, Mark E. Ross, for the principal sum of \$311.00, plus interest at the legal rate from the date of this Judgment until paid.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

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

1983

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

DOWELL, INC.,

Plaintiff,

vs.

SCHONFIELD DRILLING COMPANY,

Defendant.

NO. 82-C-696-C

JOURNAL ENTRY OF DEFAULT JUDGMENT

NOW on this 2 day of Feb, 1983, there came on for hearing the Plaintiff's Motion for Default Judgment. The Plaintiff, Dowell, Inc., appeared by and through its attorney of record, Knight, Wagner, Stuart, Wilkerson and Lieber. The Defendant appeared not. The Court found that the Plaintiff, Dowell, Inc., filed a Complaint in this Court on July 9, 1982, that the Defendant, Schonfield Drilling Company, has failed to plead, answer or otherwise defend this matter, and that the clerk of this Court has entered default against the Defendant. The Court further finds that the Plaintiff's Motion for Default Judgment should be granted and that the Plaintiff have and recover judgment against the Defendant, Schonfield Drilling Company, in the amount of SIXTY NINE THOUSAND NINE HUNDRED FIFTY SIX DOLLARS AND 33/100 (\$69,956.33), together with the costs of this action, prejudgment interest at six per cent per annum to this date, postjudgment interest at ~~8.65~~ ^{8.65} per cent per annum until such judgment is paid in full, and reasonable attorney fees in the amount of \$ 1000⁰⁰.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff's Motion for Default Judgment should be and is hereby granted and that the Plaintiff have and recover judgment against the Defendant, Schonfield Drilling Company, in the amount of SIXTY NINE THOUSAND NINE HUNDRED FIFTY SIX DOLLARS AND 33/100 (\$69,956.33), together with the costs of this action, prejudgment interest in the amount of six per cent per annum until the date of judgment, postjudgment interest in the amount of ^{8.65}~~fifteen~~ per cent per annum until the judgment is paid in full, and reasonable attorney fees in the amount of \$1000.00, for all of which let execution issue.

s/H. DALE COOK

JUDGE

APPROVALS:

KNIGHT, WAGNER, STUART, WILKERSON & LIEBER

By: Mark S. Darrah
Mark S. Darrah

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

FILED

L. M. BERRY AND COMPANY, an Ohio)
corporation and L. M. BERRY AND)
COMPANY - NYPS, an Ohio corpora-)
tion,)
)
Plaintiffs,)
)
vs.)
)
MILLER ASSOCIATES, INC., and)
CATTLE RUSTLERS STEAK HOUSE, INC.,)
)
Defendants.)

FEB - 27 1983

Let P. Sney, Clerk

No. 82-C-261-E

JUDGMENT

NOW on this 157 day of February, 1983, the Court, being fully advised in the premises, enters default judgment in favor of the Defendant CATTLE RUSTLERS STEAK HOUSE, INC. and against the Defendant MILLER ASSOCIATES, INC., in the sum of \$14,065.00, plus interest, costs, and reasonable attorney's fees. Defendant CATTLE RUSTLERS is to submit to the Court within 10 days of the entry of Judgment, an application for award of attorney's fees, together with an affidavit setting forth all information it wishes the Court to consider in determining fees.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

the Plaintiff's Petition are true as therein set forth; and that:

1. The Court has jurisdiction of the parties hereto and the subject matter hereof, and that the issuance of service of process herein is in full compliance with the law of the State of Oklahoma and the Rules of the Federal District Court.

2. On or about the 23rd day of June, 1979, Miller entered into a written contract in Tulsa County, State of Oklahoma with Berry, wherein Berry promised to place certain advertisements in various telephone directories as specified on National Yellow Pages Service ("NYPS") orders placed by Miller and wherein Miller promised to pay Berry's charges for all adds placed thereafter.

3. Miller has on a continuing basis through July, 1981, placed NYPS orders with Berry and Berry has placed the advertising specified in such orders. Berry has duly performed all other conditions of the contract on Berry's part to be performed.

4. By various invoices to Miller, Berry has demanded payment of the charges due and owing.

5. There is now due owing and unpaid from Miller to Berry the sum of \$14,065.00, together with interest at the rate of 15% per annum.

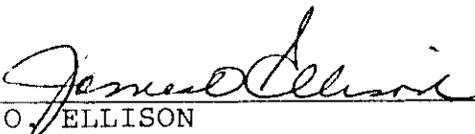
6. By virtue of the necessity of institution of this action, Miller is bound and liable to pay a reasonable attorneys fee incurred by the Plaintiffs in the collection of this account.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Plaintiff is entitled to judgment of and from the Defendant, Miller Associates, Inc. in the principal sum of \$14,065.00 together with interest at the rate of 15% per annum

reasonable attorney fees, and the cost of this action.

Default Judgment entered against Miller in no manner affects the right to pursue all claims against the Defendant Cattle Rustlers Steak House, Inc. in the instant action. All rights and claims of L. M. Berry and Company and L. M. Berry and Company - NYPS against Cattle Rustlers Steak House, Inc. or any other party with respect to this action are hereby reserved.

Plaintiffs are to submit an application for award of attorney's fees, together with an affidavit setting forth all information they wish the Court to consider in determining fees, within ten days of the entry of judgment.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

FEB - 1 1983

STANLEY E. PEACOCK,)
)
 Petitioner,)
)
vs.)
)
TULSA COUNTY JAIL and)
THE ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA,)
)
 Respondents.)

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

No. 83-C-62-B

ORDER

This matter comes before the Court on the petition for a writ of habeas corpus of the petitioner, Stanley E. Peacock.

Petitioner sets forth two grounds for relief in his petition: 1) Delay in arraignment of petitioner violated his constitutional right to due process of law under the Fifth Amendment; 2) Denial of effective assistance of counsel violated Sixth Amendment rights.

Petitioner was arrested on November 8, 1982, and charged with possession of a stolen vehicle. Petitioner alleges a seven-day delay between the time when he was arrested and the time of his arraignment. Moreover, he contends he was not appointed counsel until the time of the arraignment, and that he had no opportunity to discuss his case with the appointed counsel until the day before his preliminary hearing, some two weeks after arraignment. Petitioner claims the delay in arraignment

violated federal law because it was more than 72 hours, and that the delay in appointment of counsel also violated his constitutional right to counsel.

Petitioner's case has not yet come to trial. It is apparent from the petition and letter addressed to Judge H. Dale Cook dated January 9, 1983 that petitioner has pursued no formal state remedies, either for a state writ of habeas corpus or other judicial remedies.

28 U.S.C. 2254, Rule 4, states, "If it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court, the judge shall make an order for its summary dismissal and cause the petitioner to be notified." The United States Supreme Court recently held in Rose v. Lundy, ___ U.S. ___, 71 L.Ed.2d 379, 102 S.Ct. 1198 (1982), that a federal district court must dismiss a petition for writ of habeas corpus containing any claims that have not been exhausted in the state courts. Where a federal habeas corpus petitioner has not exhausted his available state remedies, appropriate disposition of the action is normally to deny present petition without prejudice to afford petitioner the opportunity to exhaust those remedies. Green v. Wyrick, 414 F.Supp. 343, 349 (1976), affirmed 542 F.2d 1178.

Since it is apparent from the face of the petition that petitioner has failed to exhaust state remedies, the petition is dismissed.

IT IS SO ORDERED this 31st day of January, 1983.

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

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

FEB - 1 1983

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

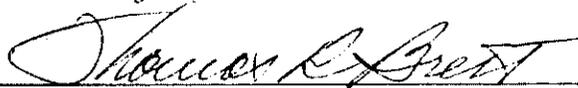
BOBBY JOE CHURCH,)
)
 Plaintiff,)
)
 vs.)
)
 THERESA WHITE, d/b/a WHITE)
 BONDING COMPANY, EARL WHITE, JR.,)
 and EDDIE SMITH,)
)
 Defendants.)

No. 82-C-715-BT

J U D G M E N T

Pursuant to the Findings of Fact and Conclusions of Law entered this date, IT IS HEREBY ORDERED AND ADJUDGED Judgment is granted in favor of the defendants, Theresa White, d/b/a White Bonding Company, Earl White, Jr., and Eddie Smith, and against the plaintiff, Bobby Joe Church, with costs assessed against the plaintiff (a pauper) and each party to pay their own respective attorneys' fees.

ENTERED this 31ST day of Jan., 1983.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

FEB - 1 1983

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 SAMUEL B. MAY,)
)
 Defendant.)

CIVIL ACTION NO. 83-C-75-E

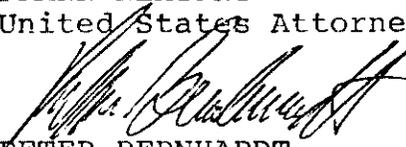
NOTICE OF DISMISSAL

COMES NOW the Plaintiff, United States of America, by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, 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 1st day of February, 1983.

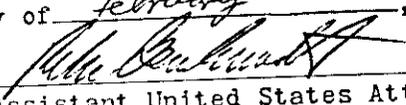
UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney


PETER BERNHARDT
Assistant United States Attorney
460 U.S. Courthouse
Tulsa, OK 74103
(918) 581-7463

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 1st day of February, 1983.


Assistant United States Attorney

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

FILED
FEB - 1 1983
Jack C. Silver, Clerk
U. S. DISTRICT COURT

THE BOARD OF TRUSTEES OF THE)
PIPELINE INDUSTRY BENEFIT FUND,)
4845 South 83 East Avenue,)
Tulsa, Oklahoma 74145,)

Plaintiff,)

vs.)

No. 82-C-1135-B)

DAVIS INDUSTRIES, INC.,)
R. D. 2, Box A26CC,)
Charleroi, Pennsylvania 15022,)

Defendant.)

ORDER OF DISMISSAL

Now on this 31 day of January, 1983, plaintiff's Motion to Dismiss coming on for consideration and counsel for plaintiff herein representing and stating that all issues, controversies, debts and liabilities between the parties have been paid, settled and compromised;

IT IS THE ORDER OF THIS COURT that said action be, and the same is, hereby dismissed with prejudice to the bringing of another or future action by the plaintiff herein.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE