

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

APR 29 1983

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

AGRICO CHEMICAL COMPANY and )  
PROTECTION MUTUAL LIFE )  
INSURANCE COMPANY, )  
Plaintiffs, )

vs. )

GULF OIL CORPORATION and )  
RESCAR, INC., )  
Defendants. )

No. 79-C-628-E  
(Combined)

JOYCE A. CHRISTIAN, )  
ADMINISTRATRIX OF THE ESTATE )  
OF RONNIE LEE FROST, )  
Plaintiff, )

vs. )

GULF OIL CORPORATION and )  
RESCAR, INC. )  
Defendants. )

No. 81-C-244-E

DEBRA JEAN AUTRY, )  
Plaintiff, )

vs. )

GULF OIL CORPORATION, a foreign )  
corporation; RESCAR, INC., a )  
foreign corporation; and TEXAS )  
RAILWAY CAR CORPORATION, a )  
foreign corporation, )  
Defendants. )

No. 81-C-260-E

ORDER OF DISMISSAL WITH PREJUDICE

Plaintiffs, Agrico Chemical Company and Protection Mutual Life Insurance Company, and defendants, Gulf Oil Corporation and

Rescar, Inc., have stipulated that all questions and issues existing between these parties have been fully and completely disposed of by settlement, and have requested the entrance of an order of dismissal with prejudice,

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that Cause No. 79-C-628-E, and all matters remaining therein, be and the same are hereby dismissed with prejudice and the matter is fully, finally and completely disposed of hereby.

DATED this \_\_\_\_ day of \_\_\_\_\_, 1983.

S/ JAMES O. ELLISON

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UNITED STATES DISTRICT JUDGE

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

AGRICO CHEMICAL COMPANY and )  
PROTECTION MUTUAL LIFE )  
INSURANCE COMPANY, )  
 )  
Plaintiffs, )

vs. )

GULF OIL CORPORATION and )  
RESCAR, INC., )  
 )  
Defendants. )

JOYCE A. CHRISTIAN, )  
ADMINISTRATRIX OF THE ESTATE )  
OF RONNIE LEE FROST, )  
 )  
Plaintiff, )

vs. )

GULF OIL CORPORATION and )  
RESCAR, INC. )  
 )  
Defendants. )

DEBRA JEAN AUTRY, )  
 )  
Plaintiff, )

vs. )

GULF OIL CORPORATION, a foreign )  
corporation; RESCAR, INC., a )  
foreign corporation; and TEXAS )  
RAILWAY CAR CORPORATION, a )  
foreign corporation, )  
 )  
Defendants. )

No. 79-C-628-E  
(Combined)

**FILED**

APR 29 1983

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

No. 81-C-244-E

No. 81-C-260-E

ORDER OF DISMISSAL WITH PREJUDICE

WHEREAS, the plaintiff, Joyce A. Christian, Administratrix  
of the estate of Ronnie Lee Frost, deceased, and the defendants,

Gulf Oil Corporation and Rescar, Inc., have stipulated that all questions and issues existing between these parties have been fully and completely disposed of by settlement, and have requested the entrance of an order of dismissal with prejudice.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that Cause No. 81-C-244-E be and the same is hereby dismissed with prejudice as to Gulf Oil Corporation and Rescar, Inc., and the matter fully, finally and completely disposed of hereby.

DATED this \_\_\_\_ day of March, 1983.

S/ JAMES O. ELLISON

---

JUDGE OF THE DISTRICT COURT

**FILED**

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

APR 29 1983

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

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
NEIL DRUCKER, )  
 )  
Defendant. )

CIVIL ACTION NO. 82-C-808-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 29th day of April, 1983.

UNITED STATES OF AMERICA

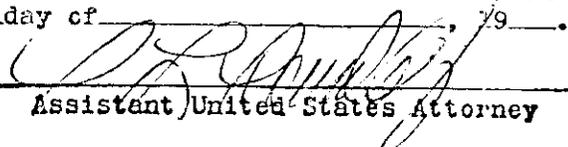
FRANK KEATING  
United States Attorney



PHILARD L. ROUNDS, JR.  
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the \_\_\_\_\_ day of \_\_\_\_\_, 1983.

  
Assistant United States Attorney

JUDGMENT ON JURY VERDICT

United States District Court FOR THE

UNION OIL COMPANY OF CALIFORNIA,  
Plaintiff,

CIVIL ACTION  
FILE NO.

81-C-201-E *N*

vs.

PAUL THOMAS INMAN and JERRY D. GARLAND,  
Defendants.

FILED

APR 29 1983 *CP*

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

This action came on for trial before the Court and a jury, Honorable  
James O. Ellison, United States District Judge, presiding.

The issues having been duly tried and the jury having duly rendered its verdict, it is ordered and adjudged

That having found in favor of the Defendants, Paul Thomas Inman and Jerry D. Garland, and against the Plaintiff Union Oil Company of California, that the Plaintiff take nothing, that the action be dismissed on the merits, and that the Defendants recover of the Plaintiff the costs of the action.

Dated at Tulsa, Oklahoma, this 29<sup>th</sup> day  
of April, 19 83.

*James O. Ellison*  
~~Clerk of Court~~

JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

**FILED**

APR 29 1983

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

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

RALPH A. CASCELLA, et al., )

Plaintiffs, )

v. )

No. 82-C-85-B

CHASE EXPLORATION COR- )

PORATION, an Oklahoma )

corporation, et al., )

Defendants. )

O R D E R

The Court has for consideration the request of Plaintiffs for dismissal without prejudice, as set forth in the letter dated February 28, 1983 of Guy R. Fairstein of Burns, Summit, Rovins & Feldesman, attorneys for the plaintiff, Edward Kim. Mr. Fairstein states that he is also authorized to speak for Melvin Paradise, Esquire, counsel for the Estate of Sidney O. Raphael, and James J. Crisona, Esquire, attorney for the remaining Plaintiffs. In the letter Mr. Fairstein states that the Plaintiffs have been unable to engage successor counsel and under the circumstances, the Court may deem it appropriate that the Complaint be dismissed.

On December 30, 1982 this Court entered an Order denying the Application of the Defendants, Gerald Schuman, Arthur R. Pool and Ralph Jackson to stay the proceedings as to each of them. The Plaintiffs objected to the Application for Stay. In its Order the Court further stated: "With respect to the withdrawal of Harry L. Seay III as counsel for the plaintiffs,

are directed to obtain other counsel and have new counsel present at the status conference or appear at the status conference and announce they are going to proceed pro se." The status conference was reset to March 1, 1983 and was referred to United States Magistrate Robert S. Rizley for hearing. At the status conference the Defendants were advised of the request of Plaintiffs that the case be dismissed without prejudice as set forth in Mr. Fairstein's letter of February 28, 1983. On March 15, 1983 the Defendants, Schuman, Pool and Jackson, filed their Objection to Dismissal Without Prejudice and Request for Dismissal With Prejudice with an Affidavit attached thereto showing attorneys' fees and expenses incurred as of January 31, 1983 in the sum of \$6,889.14.

On April 11, 1983 the Magistrate received a letter from Richard E. Weltman of Orenstein, Snitow & Sutak, P.C. on behalf of Plaintiffs, Ralph A. Cascella, Claire Crisona, Cynthia Crisona, Patricia Kaplan, S. Edward Ornstein, Michael J. Quinn, Sr., Michael J. Quinn, Jr., A. B. Tompane & Company, a partnership and its partners, Frank A. Delaney, III, John P. Moran, Gray McW. Bryan, James C. Stein, Marilee Fuller Benton and Michael J. Quinn, Sr. requesting that this action be stayed rather than dismissed.

On April 13, 1983, the Magistrate received a letter from Melvin Paradise of Paradise & Alberts on behalf of Plaintiffs, Thelma Raphael, Deborah Gellman, Jay Kramer,

Oswald Vischi, Executors of the Estate of Sidney O. Raphael, Deceased, joining in the request of Mr. Weltman that the action be stayed.

On April 18, 1983 a pleading entitled "Stipulation and Order" was filed herein. The Stipulation was signed by Guy R. Fairstein of Burns, Summit, Rovins & Feldesman on behalf of Plaintiff, Edward Kim, by Judith S. Brune of Holliman, Langholz, Runnels & Dorwart on behalf of Defendants, Schuman, Pool and Jackson, and by Mac D. Finlayson of Jones, Givens, Gotcher, Doyle & Bogan, Inc. on behalf of Defendant, Chase Exploration Corporation. The Stipulation provides for dismissal with prejudice as to Defendants, Schuman, Pool and Jackson and without prejudice as to Defendant, Chase Exploration Corporation. The Order dismissing the action pursuant to the Stipulation was filed on April 21, 1983 and is included as the third page of the "Stipulation and Order" filed April 18, 1983.

As noted above, the Plaintiffs objected to Defendants, Schuman, Pool and Jackson's Application to Stay these proceedings and were ordered on December 30, 1982 and again on February 1, 1983 to employ new counsel or proceed pro se. The Plaintiffs have failed to abide by the Orders of the Court entered herein on December 30, 1982 and February 1, 1983 and the case should be dismissed. It is, therefore,

ORDERED that the claims pleaded in the Complaint, as amended, on behalf of Plaintiffs Ralph A. Cascella, Claire Crisona, Cynthia Crisona, Patricia Kaplan, S. Edward Orenstein, Michael J. Quinn, Sr., Michael J. Quinn, Jr., A. B. Tompane & Company, a partnership and its partners, Frank A. Delaney, III, John P. Moran, Gray McW. Bryan, James C. Stein, Marilee Fuller Benton, and Michael J. Quinn, Sr., and Thelma Raphael, Deborah Gellman, Jay Kramer, Oswald Vischi, Executors of the Estate of Sidney O. Raphael, Deceased, are hereby dismissed without prejudice as against Defendants Chase Exploration Corporation, Gerald Schuman, Arthur R. Pool and Ralph Jackson, each of such parties to bear his or its own costs and disbursements; provided, however, that if the Plaintiffs or any of them commence another action in this Court against the Defendants Schuman, Pool or Jackson, based upon the claims pleaded in the Complaint, as amended, in the instant case, then the Court may, upon application therefor, require such Plaintiffs to reimburse Defendants Schuman, Pool and Jackson for their attorneys fees and expenses incurred in the instant case, which sum shall be determined by the Court at that time following a hearing in connection therewith.

It is further ORDERED that the dismissals effected hereby are without prejudice to the claims of the above named plaintiffs against Chase Exploration Corporation as set forth in any proofs of claims filed by the above named

plaintiffs in the bankruptcy case as to Chase Exploration Corporation, or as such claims may be set forth in any further, or amended, or supplemental proofs of claims to be timely filed by the above named Plaintiffs in the bankruptcy case as to Chase Exploration Corporation.

Dated this 29<sup>th</sup> day of April, 1983.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

**FILED**

IN THE UNITED STATES DISTRICT COURT FOR THE <sup>APR 29 1983</sup>

NORTHERN DISTRICT OF OKLAHOMA

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

SOUTHWESTERN BELL TELEPHONE )  
COMPANY, a Missouri )  
corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
DENNIS WASSERMAN, )  
 )  
Defendant. )

No. 82-C-1060-C

DEFAULT JUDGMENT

NOW on this 29<sup>th</sup> day of April, 1983,  
comes on for hearing the Plaintiff's oral Motion for Default  
Judgment, the Plaintiff, Southwestern Bell Telephone Company,  
appearing by and through its attorney, James M. Reed, and the  
Defendant, Dennis Wasserman, appearing not, the Court finds as  
follows:

1. The Plaintiff, Southwestern Bell Telephone Company,  
filed its Petition herein on November 5, 1982. The Defendant,  
Dennis Wasserman, was properly served on February 9, 1983, by  
personal service on his wife, Betty Wasserman, at the parties'  
home address at 7426 North 146th East Avenue.

2. The Defendant, Dennis Wasserman, has failed to answer, plead or otherwise defend this lawsuit, and is wholly in default.

3. The Plaintiff has met all of the jurisdictional and venue requirements of this Court.

4. The Plaintiff did in fact enter into a written contract with the Defendant, on January 27, 1981, for directory advertising.

5. The Plaintiff has at all times complied with and performed the stipulations and agreements stated in said contract to be performed on its part at the time and manner therein specified.

6. The Defendant has failed and refused, and still fails and refuses, to perform his part of the contract, in that he has failed to pay the monthly advertising charges of \$1,311.80.

7. By reason of the Defendant's failure and refusal to perform his contract, the Plaintiff, Southwestern Bell Telephone Company, has been damaged in the sum of \$16,056.43, which amount represents the Defendant's total bill for directory advertising in 1981.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Plaintiff, Southwestern Bell Telephone Company, be granted judgment against the Defendant, Dennis Wasserman, in the sum of Sixteen Thousand Fifty-Six and 43/100 Dollars

(\$16,056.43), plus interest from this day forward, until paid,  
at the rate of ~~fifteen percent (15%)~~ <sup>8.98%</sup> per annum.

151 H. Dale Cook  
JUDGE OF THE UNITED STATES DISTRICT COURT

6728B/jmr  
4-26-83

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

JUDITH E. PENROSE and )  
CHARLES W. PENROSE )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
PRESTIGE OLDS-PONTIAC, INC. and )  
GENERAL MOTORS CORPORATION, )  
 )  
Defendants. )

78-C-469-C  
78-C-470-C  
(consolidated  
for trial)

**FILED**  
IN OPEN COURT

*pm* APR 29 1983

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

J U D G M E N T

This action came on for trial before the Court and a jury, and the issues having been duly tried and the Court and the jury having duly rendered their verdicts,

It is Ordered and Adjudged

that the plaintiff Charles W. Penrose take nothing from defendant General Motors Corporation, that the action be dismissed on the merits as to defendant General Motors Corporation, and that defendant General Motors Corporation recover of the plaintiff Charles W. Penrose its costs of action;

that the Court having directed a verdict in favor of defendant Prestige Olds-Pontiac, Inc. at the close of the plaintiff's case in chief that the plaintiff Charles W. Penrose take nothing from defendant Prestige Olds-Pontiac, Inc., that the action be dismissed on the merits as to defendant Prestige

Olds-Pontiac, Inc. and that defendant Prestige Olds-Pontiac, Inc.  
recover of the plaintiff, Charles W. Penrose its costs of action.

Dated at Tulsa, Oklahoma, this 29<sup>th</sup> day of April, 1983.

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

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

FILED

HEATHER SMITH,

Plaintiff,

vs.

ORAL ROBERTS EVANGELISTIC  
ASSOCIATION, INC., an Oklahoma  
corporation, DAVID MOORE and MATT  
CONNOLLY,

Defendants.

No. 82-C-658-E

APR 29 1983

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

O R D E R

The Court has before it the objections of the Defendants to the Findings and Recommendations of the Magistrate.

On January 18, 1983, the Magistrate entered Findings and Recommendations in regard to the motion to dismiss of the Defendants. In support of their motion to dismiss Defendants had contended that Plaintiff's charge against Oral Roberts University was filed 237 days after the alleged discriminatory act and was therefore not timely filed "within the required 180 day filing limitation". Defendants had argued that the Plaintiff "cannot avail herself of the extended 300 day filing period since she did not initially institute proceedings with the OHRC, the appropriate state agency referred to in 42 U.S.C. § 2000e-5(e)". Defendants also contended that Plaintiff's charge was initially filed with the EEOC against Oral Roberts University only and not the Defendants Oral Roberts Evangelistic Association, Inc., David Moore and Matt Connolly. This issue will not be addressed by this Order.

Section 706(e) of Title 7 of the 1964 Civil Rights Act, 42 U.S.C. § 2000e-5(e) states as follows:

A charge under this section shall be filed within 180 days after the alleged unlawful employment practice occurred ... except that in a case of an unlawful employment practice

with respect to which the person aggrieved has initially instituted proceedings with a state or local agency with authority to grant or seek relief from such practice ... such charge shall be filed by or on behalf of the person aggrieved within 300 days after the alleged unlawful employment practice occurred ...

In recommending that the Plaintiff's complaint was timely filed, the Magistrate relied upon Mohasco Corporation v. Silver, 447 U.S. 807, 100 S.Ct. 2486 (1980). In the Mohasco case, the Supreme Court construed the enlarged limitations period such that the Plaintiff was required to file a charge of employment discrimination with the EEOC within 240 days of the alleged unlawful active discrimination in order for the complaint to be timely filed. This 240 day figure was developed by subtracting a mandatory 60 day deferral time to a state agency from the maximum 300 day limitation period. In the Court's analysis, a complaint filed originally with the EEOC would be held in "suspended animation" while the EEOC deferred it to the proper state agency. The Plaintiff himself was not required to have filed with the state agency but a filing as a result of the EEOC deferral was allowed. After EEOC deferral to the state agency, the agency had 60 days within which to investigate the complaint before the EEOC could proceed further. At the expiration of the 60 day referral period, the complaint originally filed with the EEOC could then be automatically deemed as having been "filed" under the terms of § 706(e).

A problem with the literal interpretation of the Mohasco case emerges when the Court considers the fact that in Mohasco the limitation period for the filing of an action with the state agency was 1 year or 365 days. The Court did not directly address the problem that occurs in the State of Oklahoma where the state deferral agency, the OHRC, has a limitation period of 180 days. Defendants argue that the

Oklahoma 180 day limitations period should apply and that since Plaintiff did not file within that limitation period, she should not be allowed to subvert the Oklahoma statute by resorting to a longer federal limitation period. The Defendants argue that the 300 day enlarged limitation period is not triggered unless the person aggrieved has initially instituted proceedings with a state or local agency with authority to grant or seek relief from such practice. The Defendant argues that the state agency here had no authority to grant or seek relief from such practice because the complaint was not timely filed with it under its limitation period.

Plaintiff reads the Mohasco case to allow a 240 day period plus such additional days as may allow conclusion of state investigation not to exceed 300 days.

This question was addressed by the Western District of Oklahoma in Morrison v. United Parcel Service, 515 F.Supp. 1317 (1981). The Court in Morrison read the Mohasco language to reject any requirement of a timely filing with the state agency. Id at page 1320. The Court also considered that it was no longer bound by the ruling of the Tenth Circuit Court of Appeals in DuBois v. Packard Bell, 470 F.2d 973 (10th Cir. 1972), rehearing denied, February 1, 1973. The Court in DuBois required a timely filing with the applicable state agency before the enlarged federal limitations period could be triggered. The Court stated that to allow appellant DuBois to file with the EEOC after the applicable limitations period of the state had run would enable the claimant to "completely bypass state proceedings in favor of federal proceedings by simply waiting until the state is prevented by statutes or regulations from considering the claim, and then utilizing the extended filing provisions ... a result which flies in the face of

the congressional intent."

The Court in Morrison construed the Supreme Court's Mohasco case to obviate the rule of DuBois in the Tenth Circuit. This Court cannot agree.

The Plaintiff cites "multiple decisions" which have applied Mohasco in a straight forward manner. The decisions cited however can be easily distinguished from this case. In Saulsbury v. Wismer and Becker, Inc., 644 F.2d 1251 (9th Cir. 1980), the Court considered whether the contacts that the Plaintiff had made with the California Fair Employment Practices Commission sufficiently "initially instituted" employment discrimination proceedings with the Commission to extend time for filing with Equal Employment Opportunity Commission from 100 to 300 days. The Plaintiff had initially made contact with the state agency within the state limitations. The Court decided only whether or not those contacts were sufficient to have instituted suit proceedings. In Ciccone v. Textron, Inc., 616 F.2d 1216 (1st Cir. 1980), the Court considered the question of timely filing in regard to the age discrimination and Employment Act of 1967, 29 U.S.C. § 626(d)(2). The Court ruled that the age discrimination claim of the Plaintiff was barred by failure to file the charge with the Department of Labor within 180 days of the most recent act of age discrimination. Plaintiff had not filed with the state agency within 100 days, therefore the 300 day enlarged limitations period was not triggered. The Court in Davis v. Calgon Corporation, 627 F.2d 674 (3rd Cir. 1980) also dealt with a claim under the Age Discrimination and Employment Act of 1967. The Court here ruled that a filing within 223 days after discharge was timely even though the claim had not been timely filed with the deferral state. The Court however relied heavily on Oscar Mayer and Company v. Evans, 441 U.S. 750, 99 S.Ct. 2066 (1979) in which

the Supreme Court construed the Age Discrimination and Employment Act. The Supreme Court there stated that "state procedural defaults cannot foreclose federal relief and that state limitations periods cannot govern the efficacy of the federal remedy". Id at 762, 99 S.Ct. at 2074. However, the Supreme Court has not spoken this clearly in regard to Title VII limitations. Regardless of the Court's interpretation in Davis, this Court cannot construe the Supreme Court in Mohasco as allowing a complete subversion of state employment discrimination laws and deferral to state employment discrimination agencies by delay and resort to the larger limitations period merely because Plaintiff happens to live in a "deferral state".

The Court recognizes that it is preferable to dispose of cases on the merits rather than on procedural defects, however, in light of the clear meaning of the Supreme Court in Mohasco and the policy of Title VII of the Civil Rights Act in allowing state agencies time to investigate employment discrimination complaints before action by the federal EEOC takes over, this Court must rule that Plaintiff's charge with the Department of Human Rights was not timely filed.

IT IS THEREFORE THE ORDER OF THIS COURT that the motion to dismiss of Defendants Oral Roberts Evangelistic Association, David Moore and Matt Connolly, filed July 19, 1982 be and hereby is granted.

ORDERED this 28<sup>th</sup> day of April, 1983.

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

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

**FILED**

APR 29 1983

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

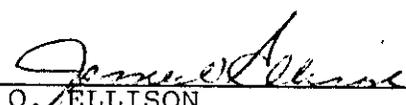
ANDERMAN/SMITH OPERATING )  
COMPANY, a Colorado )  
corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
PENNACO RESOURCES CORPORATION, )  
a Delaware corporation, )  
 )  
Defendant. )

No. 83-C-155-E ✓

J U D G M E N T

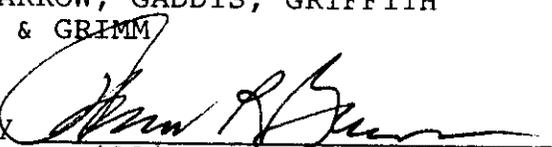
It is the judgment of this Court that plaintiff shall recover the amount specified to be due, \$200,000.00 less any payments made by defendant to plaintiff after March 14, 1983, and that defendant is hereby directed to pay this amount to plaintiff, and that plaintiff has a personal judgment against defendant for this amount and execution for the same.

It is Ordered this 29<sup>th</sup> day of April, 1983.

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

APPROVED:

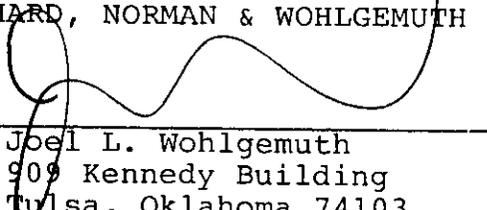
BARROW, GADDIS, GRIFFITH  
& GRIMM

By 

William R. Grimm  
610 South Main, Suite 300  
Tulsa, Oklahoma 74119

Attorneys for the defendant,  
Pennaco Resources Corporation

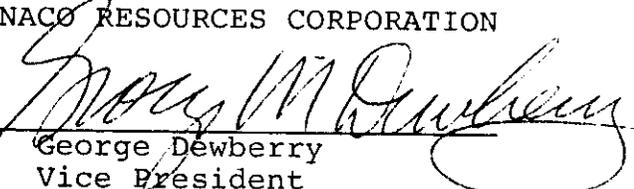
PRICHARD, NORMAN & WOHLGEMUTH

By 

Joel L. Wohlgemuth  
909 Kennedy Building  
Tulsa, Oklahoma 74103

Attorneys for the plaintiff,  
Anderman-Smith Operating Company

PENNACO RESOURCES CORPORATION

By 

George Dewberry  
Vice President

ANDERMAN/SMITH OPERATING COMPANY

By 

Julian C. Pope  
Vice President Operations - Tulsa

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

JUDITH E. PENROSE and  
CHARLES W. PENROSE

Plaintiffs,

vs.

PRESTIGE OLDS-PONTIAC, INC. and  
GENERAL MOTORS CORPORATION,

Defendants.

78-C-469-C  
78-C-470  
(consolidated  
for trial) **FILED**  
**IN OPEN COURT**

APR 29 1983 *Jem*

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

J U D G M E N T

This action came on for trial before the Court and a jury, and the issues having been duly tried and the Court and the jury having duly rendered their verdicts,

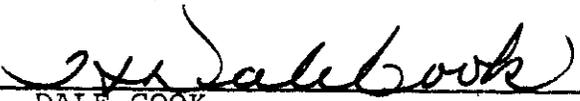
It is Ordered and Adjudged

that the plaintiff Judith E. Penrose take nothing from defendant General Motors Corporation, that the action be dismissed on the merits as to defendant General Motors Corporation, and that defendant General Motors Corporation recover of the plaintiff Judith E. Penrose its costs of action;

that the Court having directed a verdict in favor of defendant Prestige Olds-Pontiac, Inc. at the close of the plaintiff's case in chief that the plaintiff Judith E. Penrose take nothing from defendant Prestige Olds-Pontiac, Inc., that the action be dismissed on the merits as to defendant Prestige

Olds-Pontiac, Inc. and that defendant Prestige Olds-Pontiac, Inc.  
recover of the plaintiff, Judith E. Penrose its costs of action.

Dated at Tulsa, Oklahoma, this 29<sup>th</sup> day of April, 1983.

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

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

APR 28 1983

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

CAROL A. KENNEY, as Executrix of the  
Estate of Joseph J. Kenney, deceased, )  
Plaintiff, )  
v. )  
FLYING MACHINES, INC., )  
Defendant. )

CIVIL ACTION NO.  
82-C-862-B

ORDER DISMISSING ACTION

WHEREAS, plaintiff has moved this Court for an Order pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure dismissing this action with prejudice and without fees or costs against either party, and

WHEREAS it appears there is no objection to such motion, and

WHEREAS the Court finds that dismissal is in the best interest of plaintiff and the Estate of which she is Executor, all as fully set forth in the papers submitted in support of this motion, it is therefore

ORDERED that the foregoing action be and it is hereby dismissed with prejudice and without fees or costs against either party, and it is further

ORDERED that the parties hereto are directed to exchange mutual general releases within 30 days of the signing of this order.

Dated: Tulsa, OK  
28 April, 1983

  
U.S.D.J.

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

UNITED STATES OF AMERICA, )  
 )  
 ) Plaintiff, )  
 vs. )  
 )  
 HELEN LEE CHRISTENSON, DALE CHRISTEN- )  
 SON, COMMISSIONERS OF THE LAND OFFICE )  
 DONALD RICHARD CONNOR, JOYCE ELAINE )  
 CONNER, FARMERS HOME ADMINISTRATION, )  
 BEN JOHNSON, JR., NATIONAL BANK OF )  
 COMMERCE, TEXAS AND PACIFIC RAILWAY )  
 COMPANY, STATE OF OKLAHOMA, OKLAHOMA )  
 TAX COMMISSION, BOARD OF COUNTY COM- )  
 MISSIONERS OF OSAGE COUNTY, OK, and )  
 COUNTY TREASURER OF OSAGE COUNTY, OK )  
 )  
 Defendants. )

No. CIV-82-C-912-B

**FILED**  
APR 28 1983  
U. S. DISTRICT COURT

ORDER DISMISSING DEFENDANT STATE OF OKLAHOMA  
EX REL COMMISSIONERS OF THE LAND OFFICE

ON this 28 day of April, 1983, there came on for consideration the Motion of the Defendant, State of Oklahoma ex rel. Commissioners of the Land Office (hereafter CLO), disclaiming any interest in the real estate which is the subject of the above-styled and numbered lawsuit and requesting an Order of this Honorable Court dismissing Defendant CLO from this action.

This Court being advised by counsel for Defendant CLO it does not have and does not claim any right, title or interest in the property which is the subject of this action, and the only reason for its involvement in this

action is by virtue of its first mortgage lien on real estate which abutts the subject land to the South and West, legally described as follows:

E/2 SE/4 and that part of the SE/4 NE/4 lying South of Railroad of Sec. 20 and W/2 W/2 NW/4 SW/4, less 3 acres for railroad, and S/2 SW/4 lying South of railroad of Sec. 21. All in Township 27 N, Range 8 E1M, Osage County, containing 144 acres, more or less.

The Court being further advised by counsel for Plaintiff, United States of America, it has no objections to the granting of said Motion of Defendant CLO, the court finds Defendant CLO's Motion should be and is hereby sustained.

IT IS THEREFORE ORDERED, adjudged and decreed, Defendant, State of Oklahoma ex rel. Commissioners of the Land Office, be dismissed as a party defendant in this action.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

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

CLASS B-2 CREDITORS OF HOME-STAKE )  
PRODUCTION COMPANY, )  
 )  
Appellants, )  
 )  
v. )  
 )  
ROYCE H. SAVAGE, TRUSTEE, )  
HOME-STAKE PRODUCTION COMPANY, )  
 )  
Appellee. )

NO. 83-C-169-C

**FILED**  
APR 23 1983  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

O R D E R

On the 22nd day of April, 1983, the appellants, Class B-2 Creditors of Home-Stake Production Company, and the appellee, Royce H. Savage, Trustee of Home-Stake Production Company, filed a Dismissal Agreement relating to the instant appeal. After reviewing the Dismissal Agreement the Court finds that the Dismissal Agreement should be approved by the Court. The Court further finds that the instant appeal should be dismissed by the Court and that the costs of appeal should be taxed against the appellants.

IT IS THEREFORE ORDERED by the Court that the Dismissal Agreement filed by the parties on April 22, 1983, is approved and this appeal is dismissed.

IT IS FURTHER ORDERED by the Court that the costs of the appeal are taxed against the appellants.

Signed this 28<sup>th</sup> day of April, 1983.

W. H. Dale Cook  
JUDGE OF THE UNITED STATES  
DISTRICT COURT

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

**E I L E D**

JIMMIE LEE HURD, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 CUNA MUTUAL INSURANCE CO., )  
 a Wisconsin Corporation, )  
 )  
 Defendant. )

No. 81-C-894-E

APR 27 1983

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

ORDER OF DISMISSAL WITH PREJUDICE

NOW, on this 27 day of April, 1983, the Court finds that the Plaintiff's application to dismiss with prejudice the above-styled and numbered matter against the Defendant, Cuna Mutual Insurance Co., a Wisconsin corporation, is granted and said action is hereby dismissed with prejudice, each party to pay its own costs and attorney's fees.

S/ JAMES C. EUBANK

JUDGE OF THE UNITED STATES DISTRICT COURT

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

HOYLE B. WORTH, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
FIBREBOARD CORPORATION, et al., )  
 )  
Defendants. )

No. 82-C-1022

**FILED**

APR 27 1983

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

ORDER

Now before the Court for its consideration is the joint motion of all parties to this action to transfer the instant lawsuit to the United States District Court for the Western District of Oklahoma pursuant to 28 U.S.C. §1404(a).

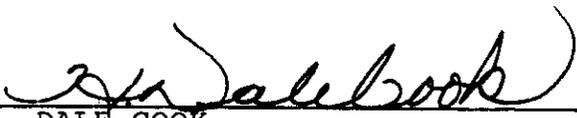
The Court has reviewed the record herein and concludes that for the convenience of the parties, in the interest of justice and for the expeditious administration of justice the present action should be transferred, as requested by the parties.

The only reason, apparently, for the transfer of this case to the Western District of Oklahoma is that counsel for the plaintiff and all defendants, except three who office in Tulsa, have their offices in the Oklahoma City area, the central location of the United States District Court for the Western District of Oklahoma. The three Tulsa attorneys have no objection to the transfer. Though the general rule is that the convenience of counsel is immaterial or entitled to little weight in deciding a motion brought pursuant to 28 U.S.C. §1404(a),

FEDERAL PRACTICE (Lawyers Edition) §1:806, pp.503-505, the court faced with such a motion can take into consideration that the cost of counsels' transportation and transit time must be borne by the parties. In all likelihood, in this manufacturers' products liability case such costs would have to be borne by each individual party to this action regardless of the outcome of the litigation. For this reason this Court deems it proper to transfer the instant action pursuant to 28 U.S.C. §1404(a) to the Western District of Oklahoma, a district where it could have been, in the first instance, initiated. 28 U.S.C. §1391.

It is therefore the Order of this Court that the present action is transferred to the United States District Court for the Western District of Oklahoma. The Clerk of this Court shall, forthwith, take those steps necessary to effectuate the aforementioned transfer.

It is so Ordered this 27<sup>th</sup> day of April, 1983.

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

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

**E I L E D**

APR 27 1983

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

LARRY D. HENRY, TRUSTEE OF )  
THE MARIE T. BRUDVIG TRUST, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
J. ERNEST TALLY, d/b/a TALLY )  
INVESTMENT COMPANY, d/b/a )  
LONDON SQUARE APARTMENTS, )  
 )  
Defendant. )

No. 80-C-647-E

ORDER

THIS MATTER having come on before the Court on this 27  
day of April, 1983, upon the Stipulation of Dismissal  
by the Plaintiff and Defendant herein showing to the Court that  
this matter has been fully settled, the Court finds that such  
Stipulation should be accepted and the case dismissed.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this  
action is dismissed with prejudice.

S/ JAMES O. ELLISON

---

James O. Ellison, Judge  
United States District Court

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

**FILED**

ROBERT S. SINN and JAN S. MIRSKY,  
as General Partners of FIRST ANCOR-  
GEOSTRATIC DRILLING PARTNERSHIP 1980;  
SECOND ANCOR-GEOSTRATIC DRILLING  
PARTNERSHIP 1980; and THIRD ANCOR-  
GEOSTRATIC DRILLING PARTNERSHIP  
1980; and as General Partners of  
SIXTH GEOSTRATIC ENERGY DRILLING  
PROGRAM 1980; SEVENTH GEOSTRATIC ENERGY  
DRILLING PROGRAM 1980; and EIGHTH  
GEOSTRATIC ENERGY DRILLING PROGRAM  
1980;

Plaintiffs,

v.

ANCOR EXPLORATION COMPANY and DOCKO,  
INC.,

Defendants.

APR 27 1983

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

No. 82-C-1017-BT

O R D E R

On April 15, 1983 this matter came before the Court for a hearing on related cases, 81-C-576-B and 83-C-239-B. At the hearing, Paul Kurland, attorney for plaintiffs, informed the Court this particular matter is now moot.

IT IS THEREFORE ORDERED plaintiffs' cause of action is dismissed as moot.

ENTERED this 27<sup>th</sup> day of April, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE



IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Cross-Complaint filed herein by the defendants, Orval Delozier and William H. Phillips, as against the plaintiff, Robert W. McLaughlin, be and the same is hereby dismissed without prejudice as to further filing.

S/ JAMES G. MURPHY

---

UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

APR 26 1983

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 LUKE A. SIMON, )  
 )  
 Defendant. )

CIVIL ACTION NO. 83-C-209-E

DEFAULT JUDGMENT

This matter comes on for consideration this 26<sup>th</sup> day of April, 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, Luke A. Simon, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Luke A. Simon, was served with Summons and Complaint on March 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, Luke A. Simon, for the principal sum of \$624.00, plus interest at the legal rate from the date of this Judgment until paid.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

**FILED**

APR 26 1983

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

CLAUDE JUNIOR COATS, )  
 )  
Plaintiff, )  
 )  
v. ) No. 82-C-736-E  
 )  
A. I. MURPHY, Warden, )  
et al., )  
 )  
Defendants. )

O R D E R

The Court has for consideration the Petition of Claude Junior Coats (Coats) for Writ of Habeas Corpus, filed August 6, 1982. Coats is an inmate at Oklahoma State Penitentiary, McAlester, Oklahoma, having been convicted of Manslaughter in the First Degree, in the District Court of Tulsa County, in Case No. CRF 79-297, for which he received a 30 years sentence. This matter was referred to United States Magistrate Robert S. Rizley for Findings and Recommendations.

The record reflects that on April 1, 1983, the Magistrate entered a Minute Order stating that the Magistrate had a telephone conference on March 30, 1983 with Coats, in which Coats stated that after reviewing his Petition and the briefs filed by the parties, he desired to dismiss his petition without prejudice; that on April 1, 1983 Assistant Attorney General Robert Nance advised the Magistrate that the Respondents had no objection to the dismissal of the Petition without prejudice.

The Magistrate has filed Findings and Recommendations recommending that the Petition for Writ of Habeas Corpus be dismissed without prejudice and that the Order dismissing the petition be entered forthwith.

It is therefore Ordered that the Petition for Writ of Habeas Corpus of Claude Junior Coats be and the same is hereby dismissed without prejudice.

Dated this \_\_\_\_\_ day of April, 1983.

**S/ JAMES O. ELLISON**

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

**FILED**

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

APR 26 1983

Jack P. Sibley, Clerk  
U.S. District Court

THE HUGHES GROUP, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 PERRY A. MORGAN; MRS. PERRY )  
 A. MORGAN; and GLENN MORGAN, )  
 )  
 Defendants. )

No. 82-C-995-BT

JUDGMENT

In accordance with the Court's order sustaining plaintiff's motion for summary judgment entered on April 15, 1983, judgment is hereby rendered in favor of plaintiff, The Hughes Group, and against defendants, Perry A. Morgan, Mrs. Perry A. Morgan and Glenn Morgan in reference to defendants' claim for damages under 52 Okl. St. Ann. §§318.2 through 318.9.

ENTERED this 26<sup>th</sup> day of April, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

FILED

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

APR 20 1983

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

THE ROCHESTER CORPORATION )  
 )  
 Plaintiff, )  
 )  
 vs )  
 )  
 AMERICAN INTERNATIONAL )  
 DISTRIBUTORS, INC. )  
 )  
 Defendant. )

Case No. 80-C-545-B

ORDER DISMISSING ACTION

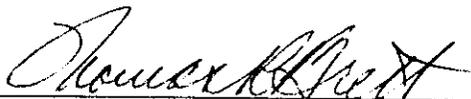
Now on this 25 day of April, 1983, there having come on before the undersigned, Honorable Thomas R. Brett, Judge Of The United States District Court, the Motion of the Plaintiff seeking an Order of Dismissal of the above styled action.

The Plaintiff, THE ROCHESTER CORPORATION, appearing by and through its counsel, Ralph Grabel, and the Court being advised by said counsel that the Defendant, AMERICAN INTERNATIONAL DISTRIBUTORS, INC., an Oklahoma Corporation, having heretofore filed a Peition For Order For Relief with the United States Bankruptcy Court for the Northern District of Oklahoma, and that said bankruptcy case having been closed as a No Asset Case.

The Court having examined said Motion and being fully advised in the premises finds that said Motion should be granted.

IT IS THEREFORE ORDERED that the above styled action is hereby Dismissed Without Prejudice.

IT IS SO ORDERED.

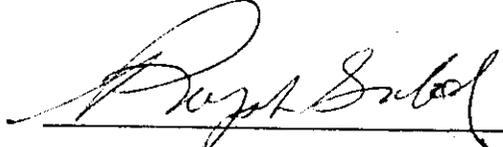


THE HONORABLE THOMAS R. BRETT  
JUDGE OF THE UNITED STATES  
DISTRICT COURT

Law Office  
RALPH GRABEL  
Suite 625  
Grabel-Wright Building  
Tulsa, Oklahoma 74103  
(918) 585-1227

CERTIFICATE OF MAILING

I, Ralph Grabel, Attorney for Plaintiff herein do hereby certify that I mailed a true and correct copy of the above and foregoing ORDER DISMISSING ACTION to Mr. Don Elder, Service Agent #110, Tulsa, Oklahoma 74105 by U.S. Mail on the ~~27th~~ day of April, 1983, with proper postage thereon.

A handwritten signature in cursive script, appearing to read "Ralph Grabel", is written over a horizontal line.

RALPH GRABEL

Law Office

**RALPH GRABEL**

Suite 625

Grabel-Wright Building

Tulsa, Oklahoma 74103

(918) 585-1227

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

DAVID JUNIOR MATHIS, )  
 )  
 Plaintiff, )  
 )  
 and )  
 )  
 U.S. FIRE INSURANCE CO., )  
 )  
 Third Party Plaintiff, )  
 )  
 -vs- )  
 )  
 BURLINGTON NORTHERN RAILROAD )  
 COMPANY, formerly BURLINGTON )  
 NORTHERN, INC., a Delaware )  
 corporation, )  
 )  
 Defendant. )

**FILED**  
APR 25 1983  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

NO. 82-C-853-C

ORDER OF DISMISSAL

NOW, on this 25<sup>th</sup> day of April, 1983, there comes on before the undersigned United States District Judge a Stipulation signed by counsel for plaintiff and third party plaintiff, agreeing to conditions set forth in this Court's Order of April 12, 1983. The Court, finding that said Stipulation embodies the terms provided in said order, and upon the previous motions of plaintiff and third party plaintiff to dismiss,

IT IS THE ORDER OF THIS COURT that the Complaint (Petition) of plaintiff and the intervenor Complaint of third party plaintiff be dismissed without prejudice to refileing.

IT IS THE FURTHER ORDER OF THIS COURT that defendant  
recover from plaintiff its costs as taxed by the Clerk of this  
Court.

151 H. Dale Cook  
H. DALE COOK  
Chief Judge  
U. S. District Court

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

APR 23 1983

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

THOMAS E. ARMENTO,

Defendant.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

CIVIL ACTION NO. 83-C-207-C

DEFAULT JUDGMENT

This matter comes on for consideration this 22<sup>nd</sup> day of April, 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, Thomas E. Armento, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Thomas E. Armento, was served with Summons and Complaint on March 8, 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, Thomas E. Armento, for the principal sum of \$733.33, plus interest at the legal rate from the date of this Judgment until paid.

101 H. Dale Cook  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 )  
 RONALD P. JONES, )  
 )  
 )  
 Defendant. )

**FILED**

**APR 23 1983**

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

CIVIL ACTION NO. 81-C-569-C

J U D G M E N T

This matter came on for consideration on the 7th day of April, 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 Ronald P. Jones appearing by his attorney Paul E. Garrison.

The Court being fully advised and having examined the file herein finds that the Defendant Ronald P. Jones was served with an Alias Summons and Complaint on November 19, 1982. On December 8, 1982, Defendant filed his Answer herein. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C., §1345.

The Court further finds that the Defendant is indebted to the Plaintiff in the principal sum of \$1,815.00, plus accrued interest of \$363.03 as of August 3, 1979, plus interest thereafter at the rate of 7 percent per annum. Collection of this indebtedness is not barred by Defendant's discharge in bankruptcy or the applicable statute of limitation.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover Judgment against the Defendant Ronald P. Jones in the principal sum of \$1,815.00, plus accrued interest of \$363.03 as of August 3, 1979, plus interest thereafter at the rate of 7 percent per annum until paid.

W. H. Dale Cook  
UNITED STATES DISTRICT JUDGE

Approved As To Form:

Nancy A. Nesbitt  
NANCY A. NESBITT  
Assistant U. S. Attorney  
Attorney for Plaintiff

Paul E. Garrison  
PAUL E. GARRISON  
Attorney for Defendant

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

APR 22 1983

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 BERTRAM H. DEAN, JR., )  
 )  
 Defendant. )

CIVIL ACTION NO. 83-C-65-B

DEFAULT JUDGMENT

This matter comes on for consideration this 22 day of April, 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, Bertram H. Dean, Jr., appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Bertram H. Dean, Jr., was served with an Alias Summons and Complaint on March 20, 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, Bertram H. Dean, Jr., for the principal sum of \$773.67, plus interest at the legal rate from the date of this Judgment until paid.

S/Thomas R. Brett  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

APR 22 1983

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 THOMAS R. DORSEY, )  
 )  
 Defendant. )

CIVIL ACTION NO. 83-C-186-B

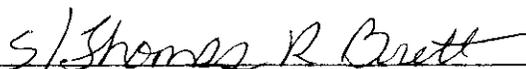
AGREED JUDGMENT

This matter comes on for consideration this 22 day  
of April, 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, Thomas R. Dorsey, appearing pro se.

The Court, being fully advised and having examined the  
file herein, finds that the Defendant, Thomas R. Dorsey, was  
served with Summons and Complaint on March 15, 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 \$560.54, (less the sum of \$25.00 which has  
been paid) 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,

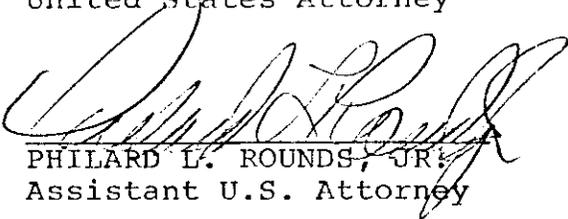
Thomas R. Dorsey, in the amount of \$560.54, (less the sum of \$25.00 which has been paid) plus interest at the legal rate from the date of this Judgment until paid.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

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

  
THOMAS R. DORSEY

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

APR 22 1983

W

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JOHN P. KEY, )  
 )  
 Defendant. )

CIVIL ACTION NO. 83-C-193-B ✓

DEFAULT JUDGMENT

This matter comes on for consideration this 22 day of April, 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, John P. Key, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, John P. Key, was served with Summons and Complaint on March 7, 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, John P, Key, for the principal sum of \$320.67, plus interest at the legal rate from the date of this Judgment until paid.

S. Thomas R. Brett  
UNITED STATES DISTRICT JUDGE

6

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

APR 22 1983

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 ALLEN A. DOWN, )  
 )  
 Defendant. )

CIVIL ACTION NO. 83-C-196-B

DEFAULT JUDGMENT

This matter comes on for consideration this 22 day of April, 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, Allen A. Down, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Allen A. Down, was served with Summons and Complaint on March 7, 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, Allen A. Down, for the principal sum of \$371.70, plus interest at the legal rate from the date of this Judgment until paid.

S/Thomas R Brett  
UNITED STATES DISTRICT JUDGE

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

GREEN COUNTRY BUILDING PRODUCTS, )  
INC., an Oklahoma corporation, )

Plaintiff. )

vs. )

NO. 83-C-338-C

BILL PEUGH, d/b/a Superior Con- )  
struction and Supply, )

Defendant. )

**FILED**

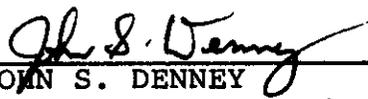
APR 21 1983

U.S. District Court  
Northern District of Oklahoma  
Tulsa, Oklahoma

NOTICE OF DISMISSAL

COMES NOW the Plaintiff, Green Country Building Products, Inc., an Oklahoma corporation, and dismisses the above cause against Defendant, Bill Peugh, without prejudice.

Dated April 20, 1983.

  
JOHN S. DENNEY  
Attorney for the Plaintiff  
4528 S. Sheridan, Rm. 116  
Tulsa, OK 74145

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

**FILED**

APR 21 1983

NEWPORT HYDRAULICS, INC., )  
a corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
COOPER MANUFACTURING CORP., )  
a corporation, )  
 )  
Defendant. )

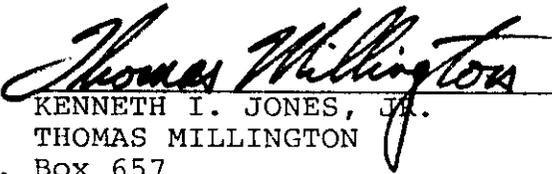
Jack C. Silver, Clerk  
U.S. District Court  
Northern District of Oklahoma

No. 82-C-794-C

STIPULATION OF DISMISSAL WITH PREJUDICE  
PURSUANT TO RULE 41(a)(1)(ii)

COME NOW the plaintiff, Newport Hydraulics, Inc., and the defendant, Cooper Manufacturing Corp., and stipulate that this action be dismissed with prejudice to its refiling. This Stipulation is signed by counsel representing all parties who have appeared in the above-styled action.

EAGLETON, NICHOLSON, JONES  
& BLANEY

BY:   
KENNETH I. JONES, JR.  
THOMAS MILLINGTON

P.O. Box 657  
Oklahoma City, Oklahoma 73101  
(405) 235-8445

Attorneys for Plaintiff

DOERNER, STUART, SAUNDERS,  
DANIEL & ANDERSON

BY: Richard P. Hix  
RICHARD P. HIX  
1000 Atlas Life Building  
Tulsa, Oklahoma 74103  
(918) 582-1211

Attorneys for Defendant

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

SAMUEL TRIMIAR,

Plaintiff,

vs.

INTERNATIONAL TOWER ASSOCIATES,  
a California Limited Partnership,  
and HENRY A. BROWN, General  
Partner of International Tower  
Associates, a California Limited  
Partnership, et al.,

Defendants.

NO. 82-C-839-B

FILED

APR 12 1983

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

O R D E R

This matter comes before the Court on plaintiff's Motion to Remand for Want of Jurisdiction. Plaintiff, an Oklahoma citizen, originally filed suit against defendants, International Tower Associates and Henry A. Brown, in the District Court of Tulsa County, Oklahoma. Defendants removed the case to the United States District Court for the Northern District of Oklahoma under 28 U.S.C.A. §1446, on the basis of diversity of citizenship.

On February 4, 1983, plaintiff filed an amended complaint, adding as an indispensable party, the defendant Robinson Glass, Inc., an Oklahoma corporation. On February 25, 1983, plaintiff filed a motion to remand on the basis that the addition of Robinson Glass, Inc., destroyed diversity. None of the defendants has objected to the motion.

28 U.S.C.A. §1447(c) states:

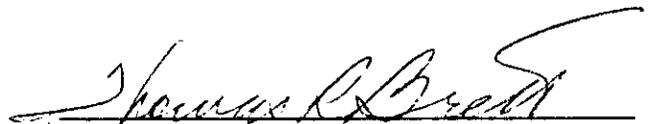
"If at any time before final judgment it appears that the case was removed improvidently and without jurisdiction, the district court shall remand the case, and may order the payment of just costs. A certified copy of the order of remand shall be mailed by its clerk to the clerk of the State court. The State court may thereupon proceed with such case."

Federal jurisdiction is lacking if any indispensable defendant is a citizen of the same state as the plaintiff.

Tucker v. National Linen Service Corp., 92 F.Supp. 502 (D.C. Ga. 1950), aff'd. 183 F.2d 265, cert. denied 342 U.S. 828.

For these reasons, the Court hereby orders that plaintiff's motion be granted, and that this case be remanded to the District Court of Tulsa County, each party to bear their own respective costs occasioned by the removal and remand.

ENTERED this 20<sup>th</sup> day of April, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

APR 20 1983

*bc*

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

UNITED STATES OF AMERICA, )  
 )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 LOE D. FIELDS, )  
 )  
 )  
 Defendant. )

CIVIL ACTION NO. 83-C-293-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 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 20th day of April, 1983.

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

*Peter Bernhardt*  
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 20th day of April, 1983.

*Peter Bernhardt*  
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

APR 20 1983  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 LEON ROBBINS, )  
 )  
 Defendant. )

CIVIL ACTION NO. 82-C-1202-C

DEFAULT JUDGMENT

This matter comes on for consideration this 20 day of April, 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, Leon Robbins, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Leon Robbins, was personally served with Summons and Complaint on January 28, 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, Leon Robbins, for the principal sum of \$570.33, plus interest at the legal rate from the date of this Judgment until paid.

H. DALE COOK

UNITED STATES DISTRICT JUDGE

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

FILED

APR 20 1983

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

ELAINE J. LAWRENCE, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
AMERICAN HOSPITAL SUPPLY CORP., )  
HEYER-SCHULTE DEL CARIBE, INC., )  
and V-MUELLER DEL CARIBE, INC. )  
 )  
Defendants. )

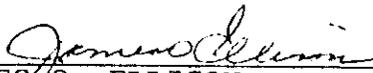
No. 82-C-182-E

JUDGMENT

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

IT IS ORDERED AND ADJUDGED that the Plaintiff take nothing, that the action be dismissed on the merits, and that the Defendants, American Hospital Supply Corp., Heyer-Schulte Del Caribe, Inc. and V-Mueller Del Caribe, Inc. recover of the Plaintiff their costs of action.

DATED at Tulsa, Oklahoma this 20<sup>TH</sup> day of April, 1983.

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

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

FILED  
APR 20 1983

FIRST NATIONAL BANK OF )  
BARTLESVILLE, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CRAIG A. CARDON, WILFORD A. )  
CARDON, ELIJAH A. CARDON and )  
JOHN C. GABBERT, )  
 )  
Defendants. )

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

No. 82-C-409-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 and to reopen the action upon cause shown within twenty (20) days that settlement has not been completed 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 20<sup>th</sup> day of April, 1983.

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

FILED  
APR 20 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. )  
 )  
 ERIC D. MAYWEATHERS, )  
 )  
 Defendant. )

CIVIL ACTION NO. 83-C-194-C ✓

NOTICE OF DISMISSAL

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

Dated this 20th day of April, 1983.

UNITED STATES OF AMERICA  
FRANK KEATING  
United States Attorney  
*Philard L. Rounds, Jr.*  
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 20th day of April, 1983.

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

FILED

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

FEB 16 1983

FRANCES VIRGINIA BROWNING, )  
personally, and as the repre- )  
sentative of the Heirs of )  
CLARENCE A. BROWNING, Deceased, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
FIBREBOARD CORPORATION, et al., )  
 )  
Defendants. )

J. D. Silver, Clerk

No. 82-C-131-BT

JOURNAL ENTRY OF JUDGMENT

NOW on this 8th day of February, 1983, this cause comes on to be heard on the Motion for Summary Judgment of Defendant, Rock Wool Mfg., Company. The parties appeared by their respective counsel, and the Court, being fully advised in the premises and on the consideration of all the papers filed herein and statements of counsel, finds that the Defendant's Motion for Summary Judgment should be sustained, and the Court finds that Plaintiff has no evidence tending to prove any exposure by the Plaintiff to Defendant's products.

The Plaintiffs further reiterate the position they took on the 8th day of February, 1983, in regard to requesting the Court to adopt the alternative theory of liability and/or enterprise theory of liability per the Abbott v. Sindall case.

BE IT THEREFORE ORDERED, ADJUDGED AND DECREED that the Motion for Summary Judgment of Defendant, Rock Wool Mfg.,

LAW OFFICES

UNGERMAN,  
CONNER &  
LITTLE

MIDWAY BLDG.  
2727 EAST 21 ST.  
SUITE 400

P. O. BOX 2099  
MULSA, OKLAHOMA  
74101

Company, be, and the same is, hereby sustained, and judgment entered in the favor of the Defendant, Rock Wool Mfg., Company, and that Plaintiff take nothing by her Complaint filed herein.

DATED this 19 day of April, 1983.



UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:



Mark H. Iola

Attorney for Plaintiff



John R. Paul

Attorney for Defendant

FILED

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

FEB 10 1983

FRANCES VIRGINIA BROWNING, )  
personally, and as the repre- )  
sentative of the Heirs of )  
CLARENCE A. BROWNING, Deceased, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
FIBREBOARD CORPORATION, et al., )  
 )  
Defendants. )

No. 82-C-131-BT

JOURNAL ENTRY OF JUDGMENT

NOW on this 8th day of February, 1983, this cause comes on to be heard on the Motion for Summary Judgment of Defendant, Nicolet Industries, Inc. The parties appeared by their respective counsel, and the Court, being fully advised in the premises and on the consideration of all the papers filed herein and statements of counsel, finds that the Defendant's Motion for Summary Judgment should be sustained, and the Court finds that Plaintiff has no evidence tending to prove any exposure by the Plaintiff to Defendant's products.

The Plaintiffs further reiterate the position they took on the 8th day of February, 1983, in regard to requesting the Court to adopt the alternative theory of liability and/or enterprise theory of liability per the Abbott v. Sindall case.

BE IT THEREFORE ORDERED, ADJUDGED AND DECREED that the Motion for Summary Judgment of Defendant, Nicolet Industries

LAW OFFICES

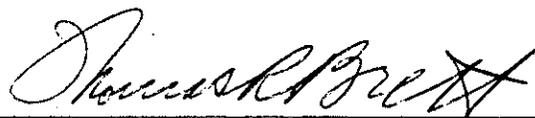
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MIDWAY BLDG.  
2727 EAST 21 ST.  
SUITE 400

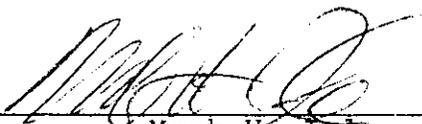
P. O. BOX 2099  
TULSA, OKLAHOMA  
74101

Inc., be, and the same is, hereby sustained, and judgment entered in the favor of the Defendant, Nicolet Industries, Inc., and that Plaintiff take nothing by her Complaint filed herein.

DATED this 19 day of April, 1983.

  
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

  
Mark H. Iola

Attorney for Plaintiff

  
Donald C. Church

Attorney for Defendant

MHI:wb.  
4/7/83

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

FILED

FRANCES VIRGINIA BROWNING, )  
 personally, and as the repre- )  
 sentative of the Heirs of )  
 CLARENCE A. BROWNING, Deceased, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FIBREBOARD CORPORATION, et al., )  
 )  
 Defendants. )

APR 19 1983

U.S. District Court  
Northern District of Oklahoma  
Tulsa, Oklahoma

No. 82-C-131-BT

JOURNAL ENTRY OF JUDGMENT

NOW on this 8th day of February, 1983, this cause comes on to be heard on the Motion for Summary Judgment of Defendant, Standard Asbestos Mfg. and Insulating Company. The parties appeared by their respective counsel, and the Court, being fully advised in the premises and on the consideration of all the papers filed herein and statements of counsel, finds that the Defendant's Motion for Summary Judgment should be sustained, and the Court finds that Plaintiff has no evidence tending to prove any exposure by the Plaintiff to Defendant's products.

The Plaintiffs further reiterate the position they took on the 8th day of February, 1983, in regard to requesting the Court to adopt the alternative theory of liability and/or enterprise theory of liability per the Abbott v. Sindall case.

BE IT THEREFORE ORDERED, ADJUDGED AND DECREED that the Motion for Summary Judgment of Defendant, Standard Asbestos Mfg.

LAW OFFICES

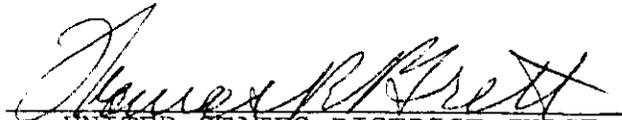
UNGERMAN,  
CONNER &  
LITTLE

MIDWAY BLDG.  
2727 EAST 21 ST.  
SUITE 400

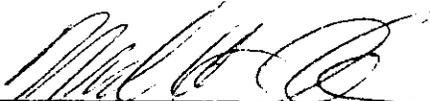
P. O. BOX 2099  
TULSA, OKLAHOMA  
74101

and Insulating Company, be, and the same is, hereby sustained, and judgment entered in the favor of the Defendant, Standard Asbestos Mfg. and Insulating Company, and that Plaintiff take nothing by her Complaint filed herein.

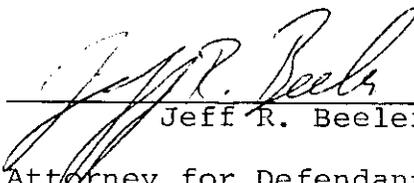
DATED this 19 day of April, 1983.

  
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

  
\_\_\_\_\_  
Mark H. Iola

Attorney for Plaintiff

  
\_\_\_\_\_  
Jeff R. Beeler  
Attorney for Defendant





on January 3, 1983. This judgment is not attacked by the defendant in the instant motion. Thereafter, on January 11, 1983, an initial status conference was held before the Court, at which appeared counsel for the plaintiff. On that date the plaintiff's attorney filed an application for attorney fees and an affidavit in support thereof. At the initial status conference, one of the attorneys for the plaintiff indicated that an attorney fee was appropriate in this action pursuant to OKLA.STAT.ANN. tit.12, §936. The Court indicated its belief that such statute was inapplicable to the present action and afforded the plaintiff seven (7) days to provide the Court with a brief setting forth any legal basis upon which the Court could appropriately award a reasonable attorney fee in this case. Upon application of the plaintiff the Court granted an additional ten (10) days to file a brief in support of an award of attorney fees. No such brief has been filed in this regard.

On February 11, 1983, a pleading was filed by the plaintiff entitled Amendment to Petition. Fed.R.Civ.P. 3 indicates that this pleading and the initial Petition should have been entitled Amendment to Complaint and Complaint, respectively. In any event, in the Amendment to Petition, the plaintiff requested an additional \$500 as consequential damages and prayed that the Court grant her judgment in that sum and the sum of \$10,000. The instant motion was then filed on March 17, 1983.

After reviewing the file in this matter and the applicable law, the Court concludes that the defendant's motion should be

granted. The Court will first discuss the application for attorney fees and then the amendment to the initial claim.

There are three separate reasons for granting the motion to dismiss the application for attorney fees. Two involve procedural default, and the third (and most persuasive) involves the substantive merits of the application. Local Rule 14(a) provides as follows:

(a) Briefs. Each motion, application and objection filed shall set out the specific point or points upon which the motion is brought and shall be accompanied by a concise brief. Memoranda in opposition to such motion and objection shall be filed within ten (10) days after the filing of the motion or objection, and any reply memoranda shall be filed within ten (10) days thereafter. Failure to comply with this paragraph will constitute waiver of objection by the party not complying, and such failure to comply will constitute a confession of the matters raised by such pleadings.

As can be seen from the above Local Rule, the plaintiff failed in the first instance to accompany the application for attorney fees with a concise brief.<sup>1</sup> An application for attorney fees is not one of the motions falling under Local Rule 14(c), which sets forth certain specific exceptions to the brief requirement. Secondly, in contradiction to Local Rule 14(a) the plaintiff has failed to timely respond to the March 17, 1983 motion of the defendant and therefore confesses the matters contained therein.

---

<sup>1</sup> The Court would note that it was informed by one of its law clerks that counsel for the plaintiff indicated by telephonic communication of March 7, 1983 its desire to withdraw the application for attorney fees.

Thirdly, the plaintiff is simply not entitled to an award of attorney fees in this action pursuant to OKLA.STAT.ANN. tit.12, §936 or any other Oklahoma statute that the Court can discern. For the above reasons the plaintiff's application for attorney fees is denied and the motion to dismiss the application is granted.

In regard to the Amendment to Petition, the Court would first note that such was filed over one month after the Clerk of this Court had executed a default judgment against the defendant and in favor of the plaintiff. The plaintiff cites no authority which would allow her to amend her initial pleadings subsequent to the entry of judgment without leave of Court. The United States Court of Appeals for the Tenth Circuit has stated that "[t]he right granted by Federal Rule of Civil Procedure 15(a), 28 U.S.C.A., to amend the complaint once as a matter of course ended with the entry of judgment dismissing the action. Thereafter, the pleading could be amended only with leave of the Court." Feddersen motors inc. v. Ward, 180 F.2d 519 (10th Cir. 1950). Though Feddersen dealt with a situation where the action had been decided in favor of the defendant and a judgment of dismissal entered, this Court concludes that a default judgment should be treated in a substantially similar manner. Here, the plaintiff herself moved for a default judgment, which was executed and entered by the Clerk on the same day the application was filed. No mention was made by the plaintiff of any other relief that she deemed herself entitled, except attorney fees and

costs. Surely, the plaintiff was aware of any claim for consequential damages at the time her initial pleading was filed.

The plaintiff has obtained everything she initially sought in this action, except for her attorney fees, to which she is not entitled. To allow an amendment, after this default judgment, would not be in the interests of finality of judgments and the expeditious disposition of litigation.

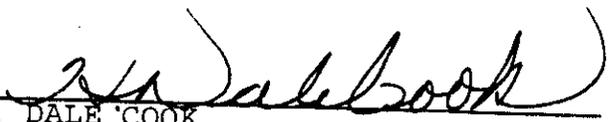
The Court does not mean to imply by its Order today that a party may never amend its pleadings after default judgment has been entered. However, such must be done in the proper fashion and, at least, some minimal showing must be made that the additional relief requested could not have been foreseen at the time of initial pleading or entry of the default judgment. See generally Fed.R.Civ.P. 59(e) and 60(b).

Further, as with the application for attorney fees, the plaintiff has failed to comply with the requirements of Local Rule 14(a) in regard to defendant's motion to dismiss the Amendment to Petition. No response to the motion has been filed by the plaintiff.

Finally, the Court would note that the defendant has not questioned in any manner the default judgment entered by the Clerk of this Court on January 3, 1983. That judgment is in no way affected by the present Order of this Court, except insofar as this Order has determined that no proper application has been made to this Court that would entitle the plaintiff to recover a reasonable attorney fee.

It is therefore the Order of this Court that the defendant's motion to dismiss amendment to complaint and application for attorney fees is granted for the reasons set forth above.

It is so Ordered this 18<sup>th</sup> day of April, 1983.

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

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

PAUL R. BURNS, as personal )  
representative of the Estate )  
of Calvin S. Burns, deceased, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
CHARLES R. HARGER, D.D.S., )  
 )  
Defendant. )

No. 82-C-508-BT

FILED

APR 18 1983

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

JUDGMENT

Pursuant to the Court's order of February 22, 1983 which granted plaintiff's motion for summary judgment, judgment is hereby entered this 18th day of April, 1983 in favor of plaintiff, Paul R. Burns, as personal representative of the Estate of Calvin R. Burns, deceased, and against the defendant, Charles G. Harger, D.D.S., in the amount of \$40,000.00 plus interest at the rate of 22% per annum, attorneys' fees in the amount of \$6,003.50, and costs in the amount of \$201.41.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

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-BTE FILED

8 1983

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

FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW

For consideration before the Court is the amount of attorneys' fees and costs to be awarded plaintiff in this matter. On April 8, 1983 an evidentiary hearing was held wherein defendant stipulated the hourly rates charged by plaintiff's attorneys were reasonable but that the amount of time spent by plaintiff's attorneys in obtaining the judgment against defendant was unreasonable. Defendant further stipulated the amount of costs spent by plaintiff herein was reasonable. Having reviewed the record, statements of counsel and the applicable legal authority, the Court enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. This action involved collection of a promissory note executed by defendant to plaintiff's deceased.

2. The attorneys for the plaintiff spent the following time in the prosecution of the matter:

55.80 hours of associates' time  
13.50 hours of principals' time  
13.55 hours of legal interns' time

---

82.85 TOTAL HOURS

3. A reasonable hourly rate in the Tulsa, Oklahoma community given the ability, reputation and standing of plaintiff's counsel is \$110.00 per hour for partners' time, \$70.00 per hour for associates time and \$50.00 per hour for legal interns' time.

CONCLUSIONS OF LAW

1. Any Finding of Fact which may also be properly characterized as a Conclusion of Law is hereby incorporated.

2. Plaintiff is entitled to an attorneys' fee award based on 12 Okl.St. Ann. §936.

3. A reasonable attorneys' fee to be awarded to the plaintiff based on the time spent by the plaintiff's attorneys is Six Thousand Three and 50/100 (\$6,003.50). Johnson v. Georgia Highway Express, Inc., 488 F.2d 714 (5th Cir. 1974).

4. Plaintiff is entitled to recover costs from the defendant in the amount of Two Hundred One and 41/100 Dollars (\$201.41).

5. A judgment will be entered in accordance with these Findings of Fact and Conclusions of Law this date.

ENTERED this 18<sup>th</sup> day of April, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

ADAMS EXPLORATION COMPANY,  
an Oklahoma corporation,

Plaintiff,

vs.

CARL D. UNDERWOOD,  
an individual,

Defendant.

No. 83-C-53-C ✓

FILED

APR 18 1983 *km*

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

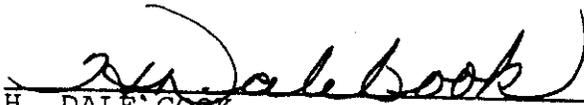
ORDER

Now before the Court for its consideration is the motion of the plaintiff to reconsider the order of the Court of March 22, 1983, dismissing plaintiff's complaint for failure to comply with Rule 14(a) of the Local Rules of this Court. Defendant objects.

Plaintiff's motion must be overruled. Conversations between counsel in which plaintiff requested additional time to file a response brief will not substitute for communication with the Court. Additionally, the Court has been advised that another action is pending in the State of Wyoming on the same subject matter. Since our order of dismissal was not founded on the merits of the claim, it would certainly appear that plaintiff can adjudicate any rights it may have in the Wyoming action.

It is the decision of the Court that plaintiff's motion to reconsider the Order of the Court sustaining defendant's motion to dismiss must be and hereby is overruled.

It is so Ordered this 18<sup>th</sup> day of April, 1983.

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

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

JERRY D. BROWN, )  
 )  
 Plaintiff, )

v. )

No. 82-C-164-C

RICHARD A. SCHWEIKER, )  
 Secretary of Health and )  
 Human Services of the )  
 United States of America, )  
 )  
 Defendant. )

FILED  
APR 16 1983  
Jack G. Silver, Clerk  
U. S. DISTRICT COURT

O R D E R

The Court has for consideration the Findings and Recommendations of the Magistrate filed on April 1, 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 re-evaluation of Plaintiff's disability pursuant to 20 CFR § 404.1520 and for the purpose of hearing additional evidence, including the testimony of a vocational expert or other specialists if the Secretary, in making the sequential evaluation of disability

as required by the regulations determines that such vocational testimony should be heard, or if Plaintiff desires to submit evidence on the vocational issue.

Dated this 18<sup>th</sup> day of April, 1983.

  
H. DALE COOK  
CHIEF JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )

Plaintiff, )

vs. )

One (1) IBM PERSONAL COMPUTER )  
(Serial No. 0135305; Display )  
Serial No. 0427511), ONE (1) )  
HAYES DC SMART MODEM (Serial )  
No. 231094337), ONE (1) TEC )  
DAISY WHEEL PRINTER (Serial )  
No. C007975) AND SOFTWARE, )

Defendants. )

**FILED**

APR 18 1983

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

CIVIL ACTION NO. 83-C-92-C

DEFAULT JUDGMENT

THIS CAUSE, having come before this Court upon Plaintiff's Motion and being otherwise fully apprised in the premises, it is hereby

ORDERED, ADJUDGED, AND DECREED that the defendant property, One (1) IBM Personal Computer (Serial No. 0135305; Display Serial No. 0427511), One (1) Hayes DC Smart Modem (Serial No. 231094337), One (1) TEC Daisy Wheel Printer (Serial No. C007975) and Software, is hereby forfeited to the United States of America for the causes propounded in the Complaint herein, and it is further

ORDERED, ADJUDGED, AND DECREED that the Marshal for the Northern District of Oklahoma be and is hereby directed to

give full possession and control of said defendant property to the Director of the Internal Revenue Service, Tulsa, Oklahoma, or his duly authorized representative, for disposition according to law.

DATED this 18 day of April, 1983.

s/H. DALE COOK  
UNITED STATES DISTRICT JUDGE

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

FILED

THE HUGHES GROUP, )  
 )  
 Plaintiff, )  
 )  
 vs. ) NO. 82-C-995-BT  
 )  
 PERRY A. MORGAN; MRS. PERRY A. )  
 MORGAN; and GLENN MORGAN, )  
 )  
 Defendants. )

ORDER SUSTAINING PLAINTIFF'S  
MOTION FOR SUMMARY JUDGMENT.

Before the Court for consideration is the motion for summary judgment of the plaintiff. Defendants have filed their responses thereto and the Court has heard the parties' oral arguments on the motion. For the reasons set forth below, the Court finds plaintiff's motion for summary judgment should be sustained.

This matter grows out of a companion case, The Hughes Group v. Perry A. Morgan and Mrs. Perry A. Morgan, case number 81-C-231-B, in which plaintiff sought injunctive relief and money damages from defendants for their actions in denying plaintiff its rights to explore and produce oil and gas upon the lease in question. Defendants asserted the lease upon which plaintiff relied was invalid and counterclaimed for damages resulting from plaintiff's trespass. By agreement of the parties, the damage question was bifurcated from the question of the validity of the lease. On May 26, 1982 this Court found plaintiff's oil and gas lease was valid. Subsequently, plaintiff attempted to drill a

second well on the subject lease and was prohibited from entry upon the leased premises by defendants for failure to comply with the provisions of the Surface Damages Act, 52 Okl.St. Ann. §318.2 through 318.9 (Supp. 1982), ("the Act"). Plaintiff complied with the provisions of the Act and brought this cause of action seeking declaratory relief the Act is inapplicable to the subject lease or the Act is unconstitutional. On November 4, 1982, this matter and The Hughes Group v. Perry A. Morgan and Mrs. Perry A. Morgan, case number 81-C-231-B were consolidated.

Essentially, three issues are presented to the Court by plaintiff's motion for summary judgment: 1) Does the Court have subject matter jurisdiction? 2) Does the Surface Damages Act, 52 Okl.St. Ann. §318.2 through 318.9 (Supp. 1982), ("the Act") apply to the lease herein? and 3) If so, is the Act unconstitutional?

The Surface Damages Act became effective on July 1, 1982. The Act requires good faith negotiation between oil and gas operators and surface owners for the payment of any damages which may be caused by drilling operations. Under 52 Okl.St. Ann. §318.3, the operator shall give written notice to the surface owner of his intent to drill before entering upon a site for drilling. The notice must contain a designation of the proposed location and approximate date the operator expects to commence drilling. Within five days after service of the notice of intent to drill, the operator and surface owner must enter into good faith negotiations to determine the surface damages.

Under 52 O.S.A. §318.4, every operator doing business in Oklahoma must file a \$25,000.00 corporate surety bond or letter of credit with the Secretary of State. Once the bond or letter of credit is deposited, the operator may enter upon the property and commence drilling of a well. However, prior to entering the site with heavy equipment, the operator and surface owner must negotiate for the payment of any damages by the operator which may be caused by the drilling operation. If a written agreement is reached, the operator may enter the site to drill. If an agreement is not reached, the operator shall petition the district court in the county in which the drilling site is located for appointment of appraisers to make recommendations to the parties and to the court concerning any amount of damages.<sup>1</sup>

Once appraisers are appointed and have inspected the property, they shall file a written report with the clerk of the court setting forth, among other things, the amount of surface damages done or to be done on the property and the compensation to be paid by the operator to the surface owner. The appraisers' assessment may be reviewed by the court upon the filing of written exceptions within thirty days, and the court may either confirm, reject, modify the award or order a new appraisal for good cause shown.

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<sup>1</sup> The combined reading of §318.3 and §318.4 would seem to require both the posting of the bond and either a signed agreement or the filing of a petition for appraisal prior to the commencement of drilling. See Note, "Surface Damages in Oklahoma: Procedures for Payments and Penalties, 18 Tulsa L.J. 338, 344 (1982), n. 34.

Under §318.9 the willful and knowing failure to comply with the Act may result in the imposition of treble damages against the operator.<sup>2</sup>

#### SUBJECT MATTER JURISDICTION

This matter is before the Court by virtue of diversity of citizenship and requisite jurisdictional amount. 28 U.S.C. §1332. As can be seen from the following requirements of the Act, the Oklahoma legislature apparently intended the Act to be administered by the district courts of Oklahoma. For example, under section 318.5(A) if the operator and surface owner are unable to reach an agreement or if the operator is unable to contact all parties, the operator "shall petition the district court in the county in which the drilling site is located for appointment of appraisers..." Under section 318.5(C) if either of the parties fail to appoint an appraiser or if the two appraisers cannot agree on the selection of the third appraiser, the remaining required appraisers "shall be selected by the district court." The court shall administer the oath of the appraisers. Once the appraisers perform their duties, they must make a report to the court. Their compensation shall be fixed and determined by the court. Under section 318.5(D)(1) the clerk of the court shall forward to each party a copy of the appraisers report and a notice stating the time limits for filing an exception or a demand for jury trial.

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<sup>2</sup> To the Court's knowledge, the Oklahoma Supreme Court has not addressed the constitutionality of the Act. The Oklahoma Supreme Court did mention the Act in a recent opinion not yet mandated. See Fred Cormack v. The Wil-Mac Corporation, Vol. 54, No. 14 Okla. B.J. 903, 904 (April 9, 1983).

The notice "shall be on a form prepared by the Administrative Director of the Court, approved by the Oklahoma Supreme Court, and supplied to all district courts."

However, in determining jurisdiction, federal district courts must look to the sources of their power, Article III of the United States Constitution and congressional statutory grants of jurisdiction, not to the acts of state legislatures. Duchek v. Jacobi, 646 F.2d 415, 419 (9th Cir. 1981). See Donovan v. Dallas, 377 U.S. 408, 412-13 (1964); Terral v. Burke Construction Co., 257 U.S. 529, 531-33 (1922); and Hayes Industries, Inc. v. Caribbean Sales Associates, 387 F.2d 498, 500 (1st Cir. 1978).

That a federal district court is not bound by a state's determination of where a remedy shall be enforced was stated by the United States Supreme Court in Railway Co. v. Whitton's Administrator, 80 U.S. 270, 286 (1871):

"In all cases where a general right is thus conferred, it can be enforced in any Federal court within the state having jurisdiction of the parties. It cannot be withdrawn from the cognizance of such Federal court by any provision of state legislation that it shall only be enforced in a state court. The statutes of nearly every state provide for the institution of numerous suits, such as for partition, foreclosure, and the recovery of real property in particular courts and in the counties where the land is situated, yet it never has been pretended that limitations of this character could affect, in any respect, the jurisdiction of the Federal court over such suits where the citizenship of one of the parties was otherwise sufficient. Whenever a general rule as to property or personal rights, or injuries to either, is established by state legislation, its enforcement by a Federal court in a case between proper parties is a matter of course, and the

jurisdiction of the court, in such case, is not subject to state limitation." (Emphasis added)

Moreover, federal decisions have held the federal courts have power to entertain proceedings for appraisal created by state appraisal statutes. In TBK Partners, Ltd. v. Western Union Corporation, 517 F.Supp. 380 (S.D.N.Y. 1981), aff'd 675 F.2d 456 (2nd Cir. 1982), objectors to a proposed settlement of a stockholders' derivative action claimed the district court lacked jurisdiction over appraisal proceedings to assess the fair value of the shares of corporate stock. The objectors cited New York Business Corporation Law Section 623(h)(3) claiming it conferred on the Supreme Court for the judicial district wherein the corporation's offices are located "exclusive jurisdiction over appraisal proceedings." The district court disagreed, saying the statute was no more than a "venue provision designed to put an appraisal proceeding in one and only one judicial district per each company--and does not purport to be a grant of 'exclusive' state-court jurisdiction in the sense contended for by the objectors." TBK Partners at 388. See also Poe v. Marquette Cement Mfg. Corp., 376 F.Supp. 1054 (D.Md. 1974), where the court sitting in diversity held it had jurisdiction over an Illinois appraisal cause of action which was to be enforced by state courts.

Based on the above cases, the Court concludes its subject matter jurisdiction over this cause of action is not limited. Since the parties are diverse and the jurisdictional amount has been met the matter is properly before the Court.

APPLICABILITY OF THE ACT

52 Okl.St. Ann. §318.7 provides, "Nothing herein contained shall be construed to impair existing contractual rights nor shall it prohibit parties from contracting to establish correlative rights on the subject matter contained in this act."

In its motion for summary judgment plaintiff claims the Act by its express language does not apply to leases entered into before July 1, 1982, the effective date of the Act. The lease herein involved was entered into on September 25, 1979. Plaintiff had previously drilled and completed one well on the lease before the effective date and now seeks to drill another.

In response to plaintiff's argument, defendants claim the Act only applies to well sites entered after the operative date of the statute. Defendants argue plaintiff must comply with the Act in order to drill the new well since plaintiff is attempting to drill the new well after the operative date. In support of their argument, defendants point out the Legislature in §318.3 used the words "before entering upon a site for oil or gas drilling." In §318.5, certain requirements must be met "prior to entering the site." The defendants state:<sup>3</sup>

"The law clearly applies only to sites entered after the operative date of the statute, which was July 1, 1982. The plaintiff has admitted that it attempted to move onto a new well site after this Act took effect. The Act is perspective [sic] and meant to apply to such a situation. None of the damages provisions apply to existing sites. Only sites entered after the Act took effect invoke the requirements."

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<sup>3</sup> Defendants' brief in response to plaintiff's motion for summary judgment filed November 24, 1982, page 2.

The Due Process Clause of both the Oklahoma and United States Constitutions prevents a state statute from being applied to transactions and events antecedent to its passage if such an application of the statute divests any private "vested rights without due process of law."<sup>4</sup> The Oklahoma Supreme Court has recognized the rights conferred upon a lessee by an oil and gas lease give him a present, vested interest in land. Rich v. Doneghey, 71 Okl. 204, 177 P. 86, 89-90 (1918). Additionally, both the Oklahoma and federal constitutions contain provisions which forbid the retroactive application of a state statute which "impairs the obligation of contract."<sup>5</sup>

Under the traditional oil and gas lease, the lessee acquires the right to search, develop and produce oil and gas. See Hinds v. Phillips Petroleum Company, 591 P.2d 697, 698 (Okl. 1979). Included in this right, whether express or implied, is the right to use the surface to the extent reasonably necessary for the development of the oil and gas. Tenneco Oil Co. v. Allen, 515 P.2d 1391, 1396 (Okl. 1973) citing Schlegel v. Kinzie, 158 Okl. 93, 12 P.2d 223 (1932); Marland Oil Co. v. Hubbard, 168 Okl. 518, 34 P.2d 278, 279 (1934). Under the lease the lessee may enter upon the land as many times as is necessary to reasonably develop the premises;<sup>6</sup> his liability to the surface owner arises only

<sup>4</sup> U. S. Const. amend. XIV, §1; Okla. Const. art. II, §7.

<sup>5</sup> U.S. Const. Art. 1, §10; Oklahoma Const. art. II, §15.

<sup>6</sup> Of course, the number of wells upon a tract of land is limited by the pooling and spacing statutes enforced by the Oklahoma Corporation Commission. See generally 52 Okl. St. Ann. §87.1.

upon unreasonably necessary use of the surface to obtain the minerals.<sup>7</sup>

Generally, Oklahoma courts presume each statute is to operate prospectively. Only when it is clear from the express language of the statute, or is necessarily implied from the language contained within the statute, will courts find the Legislature intended retroactive application. Benson v. Blair, 515 P.2d 1363, 1365 (Okl. 1973); Board of Trustees of Police Pension and Retirement System v. Kern, 366 P.2d 415, 419 (Okl. 1961); State v. Ward, 189 Okl. 532, 118 P.2d 216, 223 (Okl. 1941). A statute is retroactive if its application destroys or impairs a "vested right," creates a new obligation, or imposes a new duty with regard to antecedent contracts. Wickham v. Gulf Oil Corporation, 623 P.2d 613, 616 (Okl. 1981); Jeffcoat v. Highway Contractors, Inc., 508 P.2d 1083, 1086 (Okl.App. 1972).

The Court believes it is clear from the language of 52 Okl. St. Ann. §318.7 the Legislature did not intend the Act to have retroactive effect. Thus, the Court believes the Act must necessarily apply to leases entered into after July 1, 1982, the operative date of the Act.

To adopt defendants' arguments and assume arguendo the Act applies only to well sites entered after the operative date would

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<sup>7</sup> Liability may be contractual under a surface damages clause contained in the lease. See, e.g., Davon Drilling Co. v. Ginder, 467 P.2d 470, 474 (Okl. 1970). Liability may also be imposed under theories of nuisance, strict liability and breach of statutory or regulatory duty. See Note, "Surface Damages in Oklahoma: Procedures for Payments and Penalties," 18 Tulsa L.J. 388, 344 (1982), n. 34.

constitute a retroactive application to those vested contractual rights obtained under leases entered into before the operative date. Contractually, a lease gives the right to a lessee for a certain period of time to search, develop and produce oil and gas. This right includes the right to drill one or more wells and a corresponding duty to reasonably develop the premises. See 2 W. Summers, The Law of Oil and Gas §398; Texas Consolidated Oils v. Vann, 258 P.2d 679, 687 (Okla. 1953). If the Act applies to well sites entered after the effective date, the right or duty to drill one or more wells is impaired by the new burdens placed by the Act upon the lessee under an existing oil and gas lease.<sup>8</sup> To apply the Act to plaintiff's oil and gas lease would "indeed impair the lease contract and prejudicially affect rights vested upon execution of the contract." Wickham v. Gulf Oil Corporation, supra at 616.

This result, when reviewed in light of the express language of the Act and general rules of statutory construction, does not appear to have been intended by the Legislature in the enactment of the Act.<sup>9</sup>

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<sup>8</sup> See Note, "Surface Damages in Oklahoma: Procedures for Payments and Penalties," 18 Tulsa L.J., 338, 346 (1982) where the author states, "Since Section 6 of the Oklahoma statute provides only for prospective application there does not seem to be a justifiable argument for the retroactive impairment of contract rights unless the Act is applied to a lease already in effect on July 1, 1982."

<sup>9</sup> Thus, whether such an impairment is reasonable is not pertinent to the Court's ruling. The Act clearly applies only to leases entered into after July 1, 1982.

Rule 56 of the Federal Rules of Civil Procedure provides summary judgment is proper when no genuine issue of material fact remains and the moving party is entitled to judgment as a matter of law. Bruce v. Martin-Marietta, 544 F.2d 442, 445 (10th Cir. 1976); and Ando v. Great Western Sugar Company, 475 F.2d 531, 535 (10th Cir. 1973). Because the Act does not apply to the lease at hand, plaintiff is entitled to judgment as a matter of law.<sup>10</sup>

IT IS THEREFORE ORDERED plaintiff's motion for summary judgment is sustained.

ENTERED this 15 day of April, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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<sup>10</sup> The Court notes, however, defendants are not left without a remedy for surface damage caused by plaintiff. Defendants may still bring a common law cause of action for damages caused by plaintiff's unreasonably necessary use of the surface.

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

FILED

FIREMAN'S FUND INSURANCE COMPANY, )  
a California insurance )  
corporation, )

Plaintiff, )

-vs- )

GARY WAYNE BAILEY, et al., )

Defendants. )

APR 17 1983

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

NO. 82-C-681-E ✓

J U D G M E N T

Pursuant to Order of this Court entered April 6, 1983, sustaining defendants, Gary Wayne Bailey and Juanita Bailey's Motion for Summary Judgment, after a hearing in open court on the 4th day of April, 1983, the Court finds as follows:

1. That plaintiff had a policy of liability insurance No. 274-AB-189-09-19, which was in full force and effect on August 6, 1981;

2. That said policy provides that it is not applicable to accidents which occur while any automobile covered by the policy is being used for any purpose as a taxicab;

3. That on August 6, 1981, defendant, Floyd Lauran Swabb, Jr., was operating an automobile covered by said policy of insurance; further, said defendant Swabb was an insured under the terms of said policy;

4. That said automobile was not being used for any purpose as a taxicab on the date of the accident in question.

5. That plaintiff has tendered into court for distribution among defendants, Gary Wayne Bailey, Victoria Edens Bailey, Jaunita Bailey, and Phillip Theodore Edens, its liability policy limit of \$25,000.00.

6. That defendants, Gary Wayne Bailey, Victoria Edens Bailey, Juanita Bailey, and Phillip Theodore Edens, a minor, suffered injuries and damages as a result of said accident; that said defendants have entered into a stipulation whereby said \$25,000.00 is agreed to be distributed as follows:

- A. \$5,000.00 to Gary Wayne Bailey;
- B. \$8,092.50 to Juanita Bailey;
- C. \$500.00 to Victoria Edens Bailey as mother and next friend of Phillip Theodore Edens;
- D. \$11,407.50 to Victoria Edens Bailey, individually.

7. That defendants, Gary Wayne Bailey, Juanita Bailey, Victoria Edens Bailey and Phillip Theodore Edens are entitled to disbursement of said \$25,000.00 as set out above; that further, said defendants' attorneys are entitled to attorney liens on their respective client's recoveries.

8. That plaintiff has no duty to defend under the provisions of said policy beyond payment of the \$25,000.00 previously tendered into court.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that defendant, Gary Wayne Bailey, be granted judgment in the amount of \$5,000.00.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Juanita Bailey be granted judgment in the amount of \$8,092.50.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Victoria Edens Bailey, mother and next friend of Phillip Theodore Edens, a minor, be granted judgment in the amount of \$500.00.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Victoria Edens Bailey, individually, be granted judgment in the amount of \$11,407.50

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court Clerk disburse the sum of \$5,000.00 to Gary Wayne Bailey and his attorney, J. Bradford Griffith, jointly.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court Clerk disburse the sum of \$8,092.50 to Juanita Bailey and her attorney, J. Bradford Griffith, jointly.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court Clerk disburse the sum of \$500.00 to Victoria Edens Bailey, as mother and next friend of Phillip Theodore Edens, a minor, and her attorney, John L. Harlan, jointly.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court Clerk disburse the sum of \$11,407.50 to Victoria Edens Bailey, individually, and to her attorney, John L. Harlan, jointly.

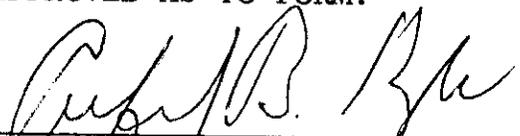
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff has paid into Court its liability limit of coverage, and therefore is relieved of any further duty to defend under said policy.

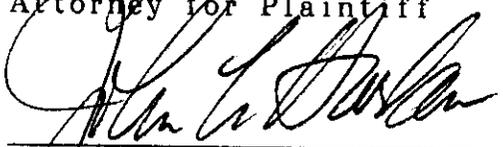
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon payment of said sums of the Court Clerk to said defendant judgment creditors, said judgments shall become fully satisfied, and the plaintiff and all defendants shall then be dismissed from further proceedings herein.

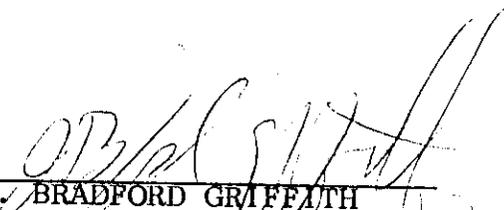
ENTERED this 15<sup>th</sup> day of April, 1983.

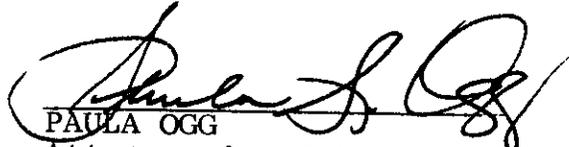
  
\_\_\_\_\_  
JAMES O. ELLISON  
United States District Judge

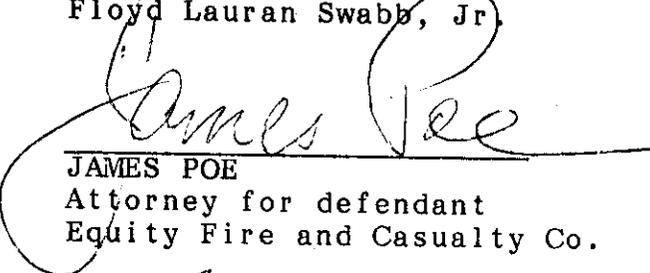
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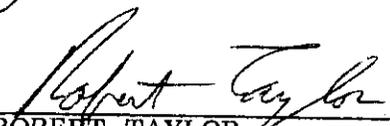
  
\_\_\_\_\_  
JOHN STUART  
Attorney for Plaintiff

  
\_\_\_\_\_  
JOHN L. HARLAN  
Attorney for defendant,  
Victoria Edens Bailey,  
individually and as mother and  
next friend of Phillip Theodore  
Edens

  
J. BRADFORD GRIFFITH  
Attorney for defendants  
Gary Wayne Bailey and  
Juanita Bailey

  
PAULA OGG  
Attorney for defendant  
Floyd Luran Swabb, Jr.

  
JAMES POE  
Attorney for defendant  
Equity Fire and Casualty Co.

  
ROBERT TAYLOR  
Attorney for defendant  
Mid-Continent Casualty Co.

APR 15, 1983

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

EDDIE R. STEPHENS

Plaintiff,

v.

RICHARD A. SCHWEIKER,  
Secretary of Health and  
Human Services,

Defendant.

No. 81-C-219-E

O R D E R

The Court has for consideration the Findings and Recommendations of the Magistrate filed on March 31, 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 re-evaluation of Plaintiff's disability pursuant to 20 CFR § 404.1520 and for the purpose of hearing additional evidence, including the testimony of a vocational expert or other specialists if the Secretary, in making the sequential evaluation of disability

as required by the regulations determines that such vocational testimony should be heard, or if Plaintiff desires to submit evidence on the vocational issue.

Dated this 15<sup>th</sup> day of April, 1983.

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

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

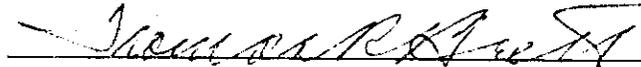
RODNEY DAYLE McDANIEL, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 ANN E. STRAUB, WALT DEBOE and )  
 LARRY MEACHUM, )  
 )  
 Defendants. )

NO. 82-C-1169-BV/ [Stamp]

ORDER

Pursuant to the motion to dismiss of Rodney Dayle McDaniel  
filed April 15, 1983, the captioned matter is hereby dismissed.

ENTERED this 15 day of April, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 TULSA TRACTOR COMPANY, )  
 JOHN SCOTT, d/b/a J & S FEED, )  
 and ANDY JOHNSON, )  
 )  
 Defendants. )

CIVIL ACTION NO. 83-C-4-E

**FILED**

APR 15 1983

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 with prejudice as to Third Claim for Relief only and as to Defendant Andy Johnson only. This Notice of Dismissal shall not affect in any manner whatsoever Plaintiff's other claims for relief against Defendants, Tulsa Tractor Company and John Scott, d/b/a J & S Feed.

Dated this 15th day of April, 1983.

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 April, 1983.

*Peter Bernhardt*  
Assistant United States Attorney

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

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

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

APR 15 1983

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 TULSA TRACTOR COMPANY, )  
 JOHN SCOTT, d/b/a J & S FEED, )  
 and ANDY JOHNSON, )  
 )  
 Defendants. )

CIVIL ACTION NO. 83-C-4-E

JOINT STIPULATION OF DISMISSAL

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 Defendant, John Scott, d/b/a J & S Feed, by Mac D. Finlayson, hereby file their joint dismissal with prejudice of the second claim for relief contained in the Complaint filed on January 3, 1983, insofar, and only insofar, as this action relates to the Defendant, John Scott, d/b/a J & S Feed. This Joint Stipulation of Dismissal shall not affect in any manner whatsoever

Plaintiff's other claims for relief against Defendants, Tulsa Tractor Company and Andy Johnson.

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney



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PETER BERNHARDT  
Assistant United States Attorney  
Attorney for Plaintiff



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MAC D. FINLAYSON  
Attorney for Defendant  
John Scott, d/b/a J & S Feed

*Entered*

FILED

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

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

WESLEY S. WALKER, JR., )  
 )  
 Plaintiff, )  
 )  
-vs- )  
 )  
ORKIN EXTERMINATING COMPANY, INC., )  
 )  
 Defendant. )

No. 77-C-311-E

ORDER

NOW on this 11th day of April, 1983, the plaintiff's Motion to Review the Taxation of Costs comes on for hearing, and the plaintiff being represented by his attorney, Robert L. Bainbridge of Crawford, Crowe & Bainbridge, P.A., and the defendant being represented by its attorney, John M. Imel of Moyers, Martin, Conway, Santee & Imel, and the Court having reviewed the file, heard the arguments of counsel and being fully advised in the premises

FINDS that the taxation of costs by the Clerk of the Court in the amount of \$2,828.75 should be sustained with the exception that the costs taxed against the plaintiff for the mileage expenses incurred by Dr. M. K. Johnson in the amount of \$1,034.00 should be excluded from the costs taxed against the plaintiff. It is therefore

ORDERED, ADJUDGED AND DECREED that costs in the amount of \$1,794.75 be and are hereby taxed against the plaintiff and the defendant be awarded a judgment against the plaintiff in the amount of \$1,794.75.

*J. O. ELLISON*

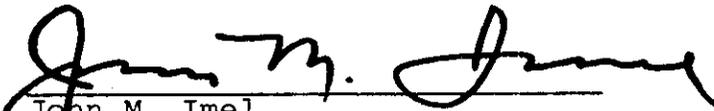
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JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

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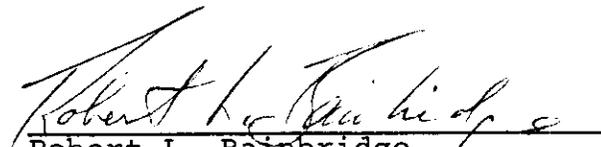
Moyers, Martin, Conway, Santee  
& Imel

By:

  
\_\_\_\_\_  
John M. Imel  
Attorney for the Defendant

Crawford, Crowe & Bainbridge, P.A.

By:

  
\_\_\_\_\_  
Robert L. Bainbridge  
Attorney for the Plaintiff



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

FILED

KAMO Electric Cooperative, Inc.,  
A Corporation,

Plaintiff,

-vs-

Case No. 82-C-13-C

*June 15 1983*  
*U.S. District Court*

Archie Mason, et al.,

Defendants.

JUDGMENT AND ORDER DIRECTING PAYMENT  
OF AWARD OF COMMISSIONERS

This matter coming on to be heard on this 15<sup>th</sup> day of April, 1983, pursuant to regular assignment, and it appearing that all of the Defendants have been duly served as required by the Court and Rule 71A of the Rules of Civil Procedure more than twenty (20) days prior to this date, and that none of said Defendants have filed an Answer in this cause raising any issue as to the right of the Plaintiff to take and appropriate the easements hereinafter described, and that Plaintiff is entitled to judgment condemning and vesting in Plaintiff the rights-of-way hereinafter described, all as prayed for in its Petition; and

It further appearing that the Commissioners appointed herein have made and returned to this Court their Report of the compensation and damages to which the restricted owners are entitled for the taking and appropriation of said rights-of-way.

That the United States of America has filed an exception to the Commissioners award. That the attorneys of record for the Plaintiff and Defendants have entered into a stipulation waiving jury trial and agreeing that judgment may be taken in this proceedings in the amounts set opposite the tracts, to-wit:

Tract No. 1.....	Amount:	\$	556.00
Tract No. 2A.....	Amount:		5702.80
Tract No. 2B.....	Amount:		1825.00
Tract No. 3.....	Amount:		1500.00
Tract No. 4.....	Amount:		6690.00.

IT IS THEREFORE ORDERED, AND DECREED that Plaintiff have and recover judgment against the Defendants and each of them, condemning and vesting in Plaintiff a perpetual easement and right-of-way for the construction, operation and maintenance of an electric transmission system of wires, cables and fixtures aerially suspended from and supported by structures limited as to number and location, as set forth in the Complaint, for the transmission of electric current and energy at such voltages as may be desired by the Plaintiff in the operation of Plaintiff's electric transmission system over and across the following described tracts of land:

Tract No. 1

No. of Structures: 1

Property Owners: Archie Mason

A strip of land adjoining the West line of the W/2 of the NW/4 of the NE/4 of the NE/4 of Section 32, Township 25 North, Range 6 East, Osage County, Oklahoma. The East line of said strip is described as follows:

Beginning at a point approximately 44 feet East of the NW corner of the NE/4 of said Section 32, thence in a Southwesterly direction to a point approximately 506 feet South of the NW corner of the NE/4 of said Section 32.

Tract No. 2

No. of Structures: 10

Tract No. 2A

Property Owner: Bennie Mason, a/k/a Bennie Joe Mason a/k/a Bennie Mason, Sr.

A strip of land 100 feet in width, including any area in this tract on the 100-foot strip which extends beyond the entry point of the centerline because of the angle of the centerline with the property line, in the NW/4 and the N/2 of the SW/4 of Section 32, Township 25 North, Range 6 East, and the N/2 of the SE/4 of Section 31, Township 25 North, Range 6 East, Osage County, Oklahoma, the centerline of which is described as follows:

Beginning at a point approximately 6 feet West of the Northeast corner of the NW/4 of said Section 32, thence in a Southwesterly direction approximately 1,177 feet to a point of deflection (36° 51' right) located approximately 108 feet West and 1,172 feet South of the Northeast corner of the NW/4 of said Section 32, thence in a Southwesterly direction approximately 1,997 feet to a point approximately 1,171 feet East of the Southwest corner of the NW/4 of said Section 32, thence in a Southwesterly direction approximately 1,753 feet to a point approximately 1,320 feet South and 15 feet East of the Northwest corner of the SW/4 of said Section 32.

Plus a 50-foot by 50-foot strip of land for guying, lying Southeast of and adjacent to the above described 100-foot strip at the point of deflection in the NW/4 of Section 32.

Tract No. 2B

Property Owner: Archie Mason

A strip of land 100 feet in width, including any area in this tract on the 100-foot strip which extends beyond the entry point of the centerline because of the angle of the centerline with the property line in the S/2 of the SW/4 of Section 32, Township 25 North, Range 6 East, and the E/2 of the SE/4 of the SE/4 of Section 31, Township 25 North, Range 6 East, Osage County, Oklahoma, the centerline of which is described as follows:

Beginning at a point approximately 1,320 feet South and 15 feet East of the Northwest corner of the SW/4 of Section 32, thence in a Southwesterly direction approximately 805 feet to a point of deflection (41° 42' left) located approximately 518 feet West and 714 feet North of the Southeast corner of said Section 31, thence in a Southerly direction approximately 714 feet to a point approximately 513 feet West of the Southeast corner of said Section 31.

Plus a 50-foot by 50-foot strip of land for guying, lying Northwest of and adjacent to the above described 100-foot strip at the point of deflection in the SE/4 of Section 31.

Tract No. 3

No. of Structures: 1

Property Owners: Archie L. Mason, Margaret R. Mason, Bennie Joe Mason, and Clement L. Mason

A strip of land 100 feet in width in Lot 4 (NW/4 of the NW/4) of Section 5, Township 24 North, Range 6 East, Osage County, Oklahoma, the centerline of which is described as follows:

Beginning at a point approximately 155 feet East of the NW corner of said Section 5, thence in a Southerly direction approximately 1212 feet to a point approximately 153 feet East of the SW corner of Lot 4 of said Section 5.

Tract No. 4

No. of Structures: 7

Property Owners: Ted Mashburn Executor of the Estate of Lorena H. Mashburn, Deceased

A strip of land 100 feet in width in the SW/4 of the NW/4 and the NW/4 of the SW/4 and the SW/4 of the SW/4 of Section 5, Township 24 North, Range 6 East, Osage County, Oklahoma, the centerline of which is described as follows:

Beginning at a point approximately 153 feet East of the NW corner of the SW/4 of the NW/4 of said Section 5, thence in a Southerly direction approximately 1324 feet to a point approximately 150 feet East of the SW corner of the SW/4 of the NW/4 of said Section 5, thence in a Southerly direction approximately 2645 feet to a point approximately 151 feet East of the SW corner of said Section 5;

and

A strip of land 100 feet in width in the N/2 of the NW/4 of Section 8, Township 24 North, Range 6 East, Osage County, Oklahoma, the centerline of which is described as follows:

Beginning at a point approximately 151 feet East of the Northwest corner of said Section 8, thence in a Southerly direction approximately 1324 feet to a point approximately 150 feet East of the Southwest corner of the NW/4 of the NW/4 of said Section 8, LESS that part owned by the City of Fairfax, Oklahoma.

together with the rights, privileges and authority of entering upon said tracts for the purpose of erecting, operating, maintaining or removing said transmission lines and systems, and the right to cut, trim or remove any trees within the limits of said rights-of-way, and the right to remove any structure or obstruction now or hereafter located within the limits of said

rights-of-way, if in Plaintiff's judgment such trees or structures are likely to endanger said transmission system or interfere with its operation, construction, maintenance, operation or removal of said electric transmission system, by Plaintiff, its successors and assigns; but nevertheless reserving to each of the Defendants the right to make any use of the above described tracts which is consistent with the use thereof by the Plaintiff for the purposes above mentioned, and which will not endanger or interfere with the operation or maintenance of said electric transmission system.

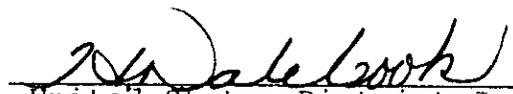
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Amended Report of Commissioners dated May 19, 1982, heretofore filed in this cause on May 20, 1982, be and the same is hereby ratified, confirmed and approved.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Clerk of this Court be, and he is hereby directed to disburse the amounts to which the parties have stipulated in the total sum of \$16,226.00, which has heretofore been paid into the Registry of this Court, as follows:

Tract No. 1	- Archie Mason	\$ 556.00
Tract No. 2A	- Bennie Mason, a/k/a Bennie Joe Mason a/k/a Bennie Mason, Sr.	5,702.80
Tract No. 2B	- Archie Mason	1,825.00
Tract No. 3	- Archie L. Mason, Margaret R. Mason, Bennie Joe Mason and Clement L. Mason	1,500.00
Tract No. 4	- Ted Mashburn, Executor of the Estate of Lorena H. Mashburn, deceased	6,690.00.

IT IS FURTHER ORDERED by the Court that the Clerk of this Court be, and he is hereby directed to distribute the amounts to which the parties have stipulated so that the hereinabove named persons receive the amount as set opposite their names for each tract, respectively.

The Court further adjudges and decrees that when the above set forth amounts have been paid as above stated, that the case then be closed.

  
United States District Judge

OKAY AS TO FORM:

*Got Hartley*  
\_\_\_\_\_  
Attorney for Plaintiff

*Wm. B. Bunker*  
\_\_\_\_\_  
Attorney for Defendants

KAMO2-22/5-10



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

WILLIAMS CENTER FORUM, INC., )  
an Oklahoma corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
ROBERT K. BROWN, d/b/a LION )  
PACIFIC FILM SERVICE, )  
 )  
Defendant. )

Case No. 82-C-800-C

**FILED**

APR 15 1983

DEFAULT JUDGMENT

Jack D. Silver, Clerk  
U.S. District Court  
Northern District of Oklahoma

This matter comes on for hearing before the Court this 15th day of April, 1983, pursuant to assignment by the Court. Plaintiff, Williams Center Forum, Inc., appeared by its attorneys, Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, Inc. by John E. Rooney, Jr., and the Defendant, Robert K. Brown, did not appear either in person or by attorney. The Court having examined the files and records in this case and having reviewed Plaintiff's Motion for Default Judgment along with the supporting pleadings FINDS:

1. That Plaintiff, Williams Center Forum, Inc., is an Oklahoma corporation with its principal place of business in Tulsa, Oklahoma.
2. That Robert K. Brown is a citizen of the State of California.
3. That the amount in controversy exceeds Ten Thousand Dollars (\$10,000) exclusive of interest and costs.

4. That this action is based on a lease agreement entered into between the parties on or about September 1, 1981, relating to real estate located in Tulsa, Oklahoma.

5. That said lease agreement was for a term of one year commencing on September 3, 1981 and ending on September 2, 1982. That by the terms of said lease agreement, Defendant, Robert K. Brown, agreed to pay rent and to pay interest at the rate of 18% on all unpaid and past-due rent or other amounts or charges due. That the lease agreement also provided that in the event of legal proceedings for the recovery of rent or for other amounts due under the lease, the non-prevailing party shall pay to the prevailing party all expenses incurred therefor, including reasonable attorneys fees.

6. That Defendant, Robert K. Brown, breached the rental agreement by failing to pay rent and other amounts due.

7. That the amount of unpaid monies due and owing by Defendant, Robert K. Brown, to Plaintiff, Williams Center Forum, Inc., under the lease agreement is Thirty-one Thousand, Eight Hundred Ninety-one and 69/100 Dollars (\$31,891.69), plus interest at the rate of 18% from April 19, 1982 until paid.

8. That the Defendant, Robert K. Brown, was duly and regularly served with summons in this case on August 26, 1982, as shown by the return of service filed in this Court on September 2, 1982.

9. That this Court has jurisdiction over Defendant, Robert K. Brown, pursuant to the Oklahoma long arm statutes, due to the fact that the cause of action sued upon herein arises from the Defendant's transacting business in the state of Oklahoma.

10. That this Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332.

11. That venue is proper in this case pursuant to 28 U.S.C. § 1391.

12. That Defendant, Robert K. Brown, was given notice of both the Motion for Default Judgment with supporting pleadings as well as this hearing, but has totally failed to appear or file a responsive pleading.

13. That Defendant, Robert K. Brown, is wholly in default having failed to appear or file a responsive pleading.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that judgment be and it is hereby granted in favor of Plaintiff, Williams Center Forum, Inc., and against Defendant, Robert K. Brown, for the sum of Thirty-one Thousand, Eight Hundred Ninety-one Dollars and 69/100 (\$31,891.69) plus interest at the rate of 18% from April 19, 1982 until paid, together with Plaintiff's court costs and its other charges and expenses, plus Plaintiff's attorney's fees in this case in the amount of \$ 2552.<sup>50</sup>.

s/H. DALE COOK

\_\_\_\_\_  
H. DALE COOK  
UNITED STATES DISTRICT JUDGE

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

FIRST BANK OF GROVE, an Oklahoma  
banking corporation,

Plaintiff,

vs.

EDWARD MICHAEL CHILDS, an individual,  
DERYL A. BORDERS, III, an individual,  
and HOME PRODUCTS, INC., a suspended  
Oklahoma corporation,

Defendants.

No. 82-C-1074C

APR 13 1983  
JACK C. SIMS, Clerk  
U. S. DISTRICT COURT

CORRECTED  
JOURNAL ENTRY OF JUDGMENT

This cause came on regularly for trial before the court on Wednesday, April 13, 1983, with Works, Lentz & Pottorf, Inc., Attorneys at Law, by Mark W. Dixon appearing as counsel for plaintiff and no one appearing for defendant Edward Michael Childs only, and proof having been made to the satisfaction of the court that defendant Edward Michael Childs only has had proper notice of trial but has failed to appear, and no cause or reason having been shown for postponement or delay of the trial, the court proceeded to hear the evidence adduced by plaintiff. Now, the court having heard the case, and finding that said plaintiff is entitled to judgment as herein provided, and defendant's default having been entered,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that plaintiff have and recover from defendant, Edward Michael Childs only, the sum of \$12,588.88, together with his costs and disbursements incurred in this action taxed at \$95.60, plus a reasonable attorney's fee for plaintiff's attorneys of record in the amount of \$1,560.00, with interest thereon at the rate of 9.16% per annum from date of judgment until paid.

Dated this 13th day of April, 1983.

15/ H. Dale Cook  
Judge of the District Court for the  
Northern District of Oklahoma

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

FILED  
APR 14 1983  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT  
No. 82-C-527-BT ✓

MURRAY J. FLIPPO and ANNICE FLIPPO, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 TERMINIX INTERNATIONAL, a corporation, )  
 and MARYLAND CASUALTY COMPANY, a )  
 corporation, )  
 )  
 Defendants. )

ORDER SUSTAINING DEFENDANT'S  
MOTION FOR SUMMARY JUDGMENT

Before the Court for consideration is the motion for summary judgment of defendant, Maryland Casualty Company. Plaintiffs have filed their response thereto. For the reasons set forth below, the Court finds defendant's motion for summary judgment should be sustained.

As its basis for summary judgment, defendant alleges it has been improperly joined as a party to the lawsuit. Defendant claims it was the liability carrier for Terminix; that it had not insured the plaintiffs nor bonded Terminix.

Except when the insured has a claim against an uninsured motorist,<sup>1/</sup> a liability insurer cannot be joined as a defendant with an insured tortfeasor unless the liability policy is required by statute to be carried by the insured. Subscribers at Casualty Reciprocal Exchange v. Sims, 293 P.2d 578, 582-83 (Okl. 1956); and Beverly v. Elam, 162 P.2d 180, 182 (Okl. 1945). However, where the insurance is against loss from liability imposed by law, the insurer

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1. See Keel v. MFA Insurance Company, 553 P.2d 153 (Okl. 1976).

may be joined with the insured in a tort action against the insured. Eckels v. Traverse, 362 P.2d 683, 686-87 (Okla. 1961); and Graves v. Harrington, 177 Okla. 448, 60 P.2d 622, 625 (Okla. 1936). It does not appear from the record, nor has any party urged defendant is required by statute or ordinance to carry liability insurance.

Rule 56 of the Federal Rules of Civil Procedure provides summary judgment is proper when no genuine issue of material fact remains and the moving party is entitled to judgment as a matter of law. Bruce v. Martin-Marietta, 544 F.2d 442, 445 (10th Cir. 1976); and Ando v. Great Western Sugar Company, 475 F.2d 531, 535 (10th Cir. 1973). It appears as a matter of law defendant was improperly joined as a defendant in this matter.

IT IS THEREFORE ORDERED defendant's motion for summary judgment is sustained.

ENTERED this 14<sup>th</sup> day of April, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

FILED

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

APR 14 1983

SAN FRANCISCO-OKLAHOMA PETROLEUM )  
EXPLORATION CORPORATION, )  
Plaintiff, )

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

vs. )

NO. 82-C-190-B

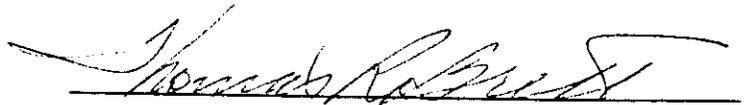
CARSTAN OIL COMPANY, INC., )  
COURTNEY G. ROGERS, an individual, )  
and WILLIAM R. ROGERS, an individ- )  
ual, )

Defendants. )

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 in favor of the defendant, William R. Rogers, and against the plaintiff.

DATED this 14 day of April, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

FILED

APR 12 1983

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

NORMAN CLARK, )  
 )  
Plaintiff, )  
 )  
v. ) No. 83-C-3-BT  
 )  
DENISE DAVIS and AAA )  
INSURANCE CLUB, )  
 )  
Defendants. )

O R D E R

Before the Court for consideration is the motion to dismiss of defendant, AAA Insurance Club. Plaintiff has not filed a response, but has filed a pleading entitled "Motion for Demurrer" which the Court will treat as a response to defendant's motion.

In his complaint, plaintiff alleges his vehicle was involved in an accident with the vehicle of defendant, Denise Davis. Plaintiff claims the accident was caused by Davis and that plaintiff suffered damages in the total amount of \$3,640.72.

Defendant, AAA Insurance Club, has filed its motion to dismiss pursuant to Fed.R.Civ.P. 12(b)(1), for lack of subject matter jurisdiction. Defendant claims plaintiff has failed to allege diversity of citizenship and the \$10,000 jurisdictional amount. 28 U.S.C. §1332 provides in pertinent part as follows:

"(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$10,000, exclusive of interest and costs, and is between--

(1) citizens of different states;"

Plaintiff is a citizen of the State of Oklahoma. It is not clear from either plaintiff's complaint or defendant's motion to dismiss and brief in support where the citizenship of defendant lies. It is, however, clear the amount in controversy herein does not exceed \$10,000. Thus, the Court lacks subject matter jurisdiction over this matter. 1/

Plaintiff originally named Denise Davis as a defendant to the lawsuit. He apparently has never attempted to serve Davis and has marked through Davis' name on the complaint. Assuming plaintiff intends to maintain this action against Davis, the Court finds it lacks subject matter jurisdiction over Davis for the reasons applicable to defendant, AAA Insurance Club.

IT IS THEREFORE ORDERED defendant's motion to dismiss for lack of subject matter jurisdiction is sustained.

ENTERED this 14<sup>th</sup> day of April, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

- 
1. In the cover sheet plaintiff filled out when he filed his complaint plaintiff states the basis of jurisdiction for the action is a federal question. The Court finds there is no federal question involved herein.

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

**FILED**

APR 14 1983

SAN FRANCISCO-OKLAHOMA PETROLEUM )  
EXPLORATION CORPORATION, )  
 )  
Plaintiff, )

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

vs. )

NO. 82-C-190-B

CARSTAN OIL COMPANY, INC., )  
COURTNEY G. ROGERS, an individual, )  
and WILLIAM R. ROGERS, an individ- )  
ual, )  
 )  
Defendants. )

FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW

By Order dated the 28th day of September, 1982, plaintiff's motion for partial summary judgment on Count I of plaintiff's complaint alleging violations of the registration provisions of the Securities Act of 1933 and seeking rescission of the sale of the security and restitution of the purchase price was granted against the defendants. In granting the plaintiff's motion for partial summary judgment against the defendants with respect to the federal registration claim, the Court determined:

1. The undivided fractional interest in the oil well constituted a security within the meaning of 15 U.S.C. §77(b)(1);
2. The security was sold by means of the mail or other instrumentality of interstate commerce; and
3. The security was not registered with the Securities and Exchange Commission or the Oklahoma Securities Commission.

On February 4, 1983 the Court vacated the judgment as against William R. Rogers, upon the ground that the record disclosed a material question of fact. The matter as to William R. Rogers came on for trial to the Court on March 17, 1983; the sole issue for consideration presented was whether William R. Rogers ("Rogers") is liable for the sale of the unregistered security as a "controlling person" pursuant to 15 U.S.C. §77o, an "issuer" pursuant to 15 U.S.C. §77 b, or as a result of this Court disregarding the fiction of the corporate entity of Carstan Oil Company, Inc. After considering the evidence, the applicable legal authorities presented, and the arguments of counsel, the Court enters the following Findings of Fact and Conclusions of Law:

#### FINDINGS OF FACT

1. Plaintiff is an Oklahoma corporation with its principal place of business in Tulsa, Oklahoma. Defendant, Courtney G. Rogers, is a resident of the State of Kansas and at all times material hereto was a director and officer of Carstan Oil Company, Inc. ("Carstan"). Defendant, William R. Rogers, is a resident of Hutchinson, Kansas. Defendant, Carstan, is a Kansas corporation with its principal place of business in Shawnee Mission, Kansas.

2. Carstan was organized in March and April of 1979 principally by Courtney G. Rogers to engage in the oil and gas development business. Courtney G. Rogers had recently experienced other failing business ventures so was concerned about judgment

creditors reaching his stock ownership in the newly formed Carstan. Courtney G. Rogers solicited his father, William, to participate in the organization of Carstan and to serve as an officer and/or director while ostensibly holding 100% of the outstanding stock of Carstan. As an accommodation to his son, Courtney, William consented to the subterfuge.

3. At the time Carstan was formed, William gave Courtney \$1,000.00, and several months later the sum of \$500.00 for general Carstan expenses. William and his wife bought a 1/64th working interest in two leases from Carstan. William subsequently received a 1/64th interest in another lease in exchange for securing a \$10,000 loan for Carstan at a local Hutchinson, Kansas bank. William also received a 1/64th working interest in a well for being a director of Carstan. William received no dividends or other payment or thing of value from Carstan. William and his wife were required to pay their proportionate share of the lease operating expenses concerning their 3/64ths working interests.

4. William R. Rogers, at the time of the formation of Carstan, had little or no experience in the oil and gas development business, he having been engaged in the janitorial supply business for approximately 23 years in Hutchinson, Kansas.

5. Although William R. Rogers was designated a director of Carstan, he did not participate in the active operation of the business of Carstan nor was he consulted by his son, Courtney G. Rogers, the chief operating officer of Carstan, concerning its business affairs. As a director William R. Rogers performed no

official functions or duties except to sign annual corporate documents prepared at the direction of his son, Courtney.

6. For all intents and purposes Carstan was owned and operated by Courtney G. Rogers, with all of the stock of Carstan being held in the name of William R. Rogers for and on behalf of his son Courtney. The facts and circumstances establish Carstan was the alter ego of Courtney G. Rogers but not of William R. Rogers who was not active in the business of Carstan.

7. Defendant William R. Rogers was a director of and sole shareholder of Carstan during the months of January and February 1981.

8. William R. Rogers had no knowledge of the transaction between the plaintiff and the defendants Carstan Oil Company and Courtney G. Rogers, nor the manner or method Carstan sold the fractional oil and gas interests involved. The actual selling of oil and gas interests was exclusively carried out by Courtney G. Rogers as the chief operating officer and sole functionary of Carstan.

#### CONCLUSIONS OF LAW

1. The Court has jurisdiction over the subject matter and the parties to this action. 28 U.S.C. §§1331 and 1332.

2. Any Finding of Fact which might be properly characterized a Conclusion of Law is incorporated herein.

3. The Securities Act of 1933 ("Securities Act") imposes liability on

"Every person, who, by or through stock ownership, agency or otherwise ... controls any person liable under Section 11 or 12 ... unless the controlling person had no knowledge of or reasonable ground to believe in the existence of the facts by reason of which the liability of the controlled person is alleged to exist."

15 U.S.C. §77o. The term "control", as defined by the Securities Act, means:

"The possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through voting securities, by contract or otherwise."

17 CFR 23.405 (reprinted in Fed.Sec.L.Rptr., CCH paragraph 3342.) Section 15, and the definition of control, are to be interpreted broadly to permit imposition of liability wherever the fact of control exists. Standia Oil & Uranium Co. v. Wheelis, 251 F.2d 269 (10th Cir. 1951).

Under 15 U.S.C. §78t:

"A controlling person is liable unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action."

4. Once it is established that William R. Rogers is a "controlling" person, the burden shifts to William R. Rogers to show that he had no knowledge of or reasonable ground to believe in the existence of the facts by reason of which the liability of the control person is alleged to exist. Stern v. American Bank Corporation, 429 F.Supp. 818 (E.D. Wis. 1977); Myzel v. Fields, 386 F.2d 718 (8th Cir. 1967) cert. denied 390 U.S. 951, 88 S.Ct. 1043, 19 L.Ed.2d 1143 (1968); Moeriman v. Zipco, Inc., 302 F.Supp. 439 (E.D. N.Y. 1969).

5. William R. Rogers as a director and sole shareholder of Carstan was a "controlling person" of Carstan Oil Company within the meaning of 15 U.S.C. §77o.

6. Because William R. Rogers was wholly inactive as a director of Carstan, the Court concludes he had no knowledge of or reasonable ground to believe in the existence of the facts giving rise to the securities registration violation herein. Further, as an inactive director, the Court concludes William R. Rogers acted in good faith concerning the sale of the oil and gas interests herein and did not directly or indirectly induce the act or acts constituting the violation and cause of action.

7. William R. Rogers is not an "issuer" of the security offered and sold to the plaintiffs by Carstan within the meaning of 15 U.S.C. §77b. The evidence establishes Courtney G. Rogers and Carstan are the "issuers." Securities and Exchange Commission v. International Chem. Dev. Corp., 469 F.2d 20 (10th Cir. 1972) and Andrews v. Blue, 489 F.2d 367 (10th Cir. 1973).

8. The Court should not pierce the corporate veil insofar as the defendant, William R. Rogers, is concerned as Carstan was not the alter ego of William R. Rogers.

9. A separate Judgment in keeping with the Findings of Fact and Conclusions of Law expressed herein should be entered this date. The parties are to pay their own respective attorneys fees and costs in reference to the claim against William R. Rogers.

ENTERED this 14 day of April, 1983.

A handwritten signature in cursive script, reading "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

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

DEAN ALLISON WHEELER,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

No. 82-C-1191-E  
(81-CR-58-E)

ORDER DENYING MOTION TO  
VACATE, SET ASIDE OR CORRECT SENTENCE

The Court has before it the motion of Dean Allison Wheeler, No. 04651-062, to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255. The Movant entered a plea of guilty to an Indictment charging him with violation of Title 18, U.S.C. § 2314. He was sentenced to five (5) years in prison on September 22, 1981.

The Movant applied under Rule 35 of the Federal Rules of Criminal Procedure for a reduction of his sentence on December 14, 1981. By order of the Court filed January 6, 1982, the motion for modification of sentence was denied in part and granted in part. The Court recommended that the Defendant may be released on parole at such time as the United States Parole Commission may determine, pursuant to Title 18, U.S.C. § 4205(b)(2).

By order of the Court filed February 8, 1982, the Movant's second motion for reduction of sentence pursuant to Rule 35 was overruled.

In support of his motion to vacate, set aside or correct his sentence the Movant states four grounds upon which relief should be granted. First he claims that a conflict of interest existed on the part of the presiding Judge H. Dale Cook. Secondly he alleges that there was a conflict of interest on the part of his legal counsel in that counsel simultaneously represented the financial institution

Movant is alleged to have defrauded. Thirdly he alleges that representation of counsel was ineffective and that counsel failed to explain the various defense options available to Movant, and fourthly Movant claims that his plea of guilty was unintelligent and uninformed due to the failure of counsel to inform the Movant of the available options for defense.

Title 28, U.S.C.A. § 2255 allows a prisoner in custody to petition the sentencing court to vacate and set aside the judgment and discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate. Such relief is only appropriate if the sentence was imposed in violation of the Constitution or laws of the United States or if the Court was without jurisdiction to impose the sentence or if the sentence was in excess of the maximum authorized by law or is otherwise subject to collateral attack. The Court has examined the record in this case and finds that the records and files conclusively show that the prisoner is entitled to no relief.

I.

Movant alleges that he is entitled to a vacation of his sentence because of a conflict of interest on the part of the presiding Judge, H. Dale Cook. Movant alleges that Judge Cook owned a "large and significant pecuniary interest" in the financial institution which the Movant is alleged to have defrauded. Title 28, U.S.C. § 455(b)(4) requires the disqualification of a Judge when he knows that he has "a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding." This financial interest, however, is limited to ownership of a legal or equitable interest in the party. Section 455(d)(4).

However, whether a judge is so connected with the litigation as

to make it improper for him to sit is a matter confined to consideration and discretion of the judge himself. Shadid v. Oklahoma City, 494 F.2d 1267 (10th Cir. 1974). It must be noted that in this case the participation of Judge Cook was limited to the sentencing of the prisoner upon a plea of guilty. The record reflects that in the proceedings of August 5, 1981, Judge Cook complied with Rule 11 of the Federal Rules of Criminal Procedure for the acceptance of guilty pleas. The Court advised the Defendant of the nature of the charge, the maximum penalty, the right to plead not guilty, the right to a trial by jury, his right to cross examination in that trial and the right not to be compelled to incriminate himself, and that his answers to questions of the Court under oath may later be used against him in a prosecution for perjury or false statement. The Court determined that the plea was voluntary and not the result of force or threats or of promises apart from a plea agreement. The record also reflects that the sentence given Dean Allison Wheeler on September 22, 1981 was well within the maximum allowed by law. It also reflects that the Court modified the sentence by recommending that the Defendant may be released on parole at such time as the United States Parole Commission may determine pursuant to Title 18, U.S.C. § 4205(b)(2).

This Court finds that the sentence imposed on Dean Allison Wheeler was appropriate, just and reasonable under the circumstances of the case.

## II.

The Movant attacks the proceedings under which he pled guilty by alleging that his plea of guilty was uninformed and unintelligent and that he was denied effective representation of counsel because of counsel's simultaneous representation of the financial institution he is alleged to have defrauded and because of counsel's failure to

explain the various defense options available to him.

Under 28 U.S.C. § 2255 allegations of an involuntary plea and the lack of effective assistance of counsel would require an evidentiary hearing unless the motions, files and records conclusively show that a petitioner was entitled to no relief. Machibroda v. United States, 368 U.S. 487, 82 S.Ct. 510 (1961); Semet v. United States, 369 F.2d 90 (10th Cir. 1966). The record of a Rule 11 plea proceeding is a part of the "records" contemplated by § 2255. An evidentiary hearing is not required when the movant's allegations merely contradict earlier statements in the Rule 11 plea proceedings. Hedman v. United States, 527 F.2d 20 (10th Cir. 1975). Movant is not alleging that his plea was induced by fear, coercion or mental incapacity. He merely alleges that he feared the consequences of a trial. The record of the proceedings of August 5, 1981 reflect that in response to questions of the Court, Movant stated that he desired to pled guilty, that his plea of guilty was made voluntarily and of his own free will, that he had not in any way been forced, threatened or promised anything by any person to get him to enter a plea of guilty to Count 2. Movant also stated that he was not under the influence of any drug, liquor, medicine or anything that might in any way affect his ability to fully understand and appreciate the proceedings and that he considered himself competent. The Movant represented to the Court that he was satisfied with his attorney and that his attorney had made an adequate investigation of all matters pertinent to the situation. The Movant also represented to the Court that he had pled guilty because he was in fact guilty and described to the Court the method by which he would present a check to the Utica National Bank drawn on a Catoosa bank knowing that there were insufficient funds to cover the check.

The burden on the Movant to establish a claim of ineffective

assistance of counsel is great. Ellis v. Oklahoma, 430 F.2d 1352 (10th Cir. 1970). The current standard in the Tenth Circuit as stated in Dyer v. Crisp, 613 F.2d 275 (10th Cir. 1980), rehearing denied February 20, 1980, cert. denied, 100 S.Ct. 1342, requires that representation not fall below that expected of a reasonable, competent and skillful defense attorney. There is nothing in the record to suggest that Movant's counsel, Mr. Frost, fell below that standard. During sentencing proceedings, Mr. Frost made a compelling argument to the Court for rehabilitation and probation for his client in lieu of imprisonment. He also discussed with the Court the contention that the exact amount of money still owed to Utica Bank was in dispute and that there was a civil suit in Tulsa County District Court pending on that matter.

Movant has been unable to show any prejudice to him due to the alleged ineffectiveness of his counsel, conflict of interest of his counsel or the alleged conflict of the presiding Judge. Movant voluntarily entered a plea of guilty to the charges and described the offense committed and was sentenced to a term of imprisonment not only allowable under the law, but reasonable under the circumstances.

For the foregoing reasons, the Court finds that the motion of Dean Allison Wheeler to vacate, set aside or correct his sentence pursuant to 28 U.S.C., § 2255 should be denied.

IT IS THEREFORE THE ORDER OF THIS COURT that no evidentiary hearing is required since the files and records of the case conclusively show that Movant is not entitled to relief.

IT IS FURTHER ORDERED that the motion of Dean Allison Wheeler to vacate, set aside or correct his sentence be and hereby is denied.

ORDERED this 14<sup>TH</sup> day of April, 1983.

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

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

ALVIN D. MAYBERRY, )  
 )  
 Plaintiff, )  
 )  
 v. ) No.81-C-369-E ✓  
 )  
 RICHARD A. SCHWEIKER, )  
 Secretary of Health and )  
 Human Services )  
 )  
 Defendant. )

**FILED**  
APR 14 1983  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

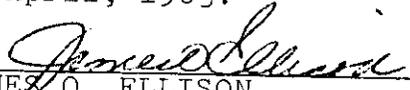
O R D E R

The Court has for consideration the Findings and Recommendations of the Magistrate filed on March 29, 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 re-evaluation of Plaintiff's disability pursuant to 20 CFR 404.1520 and for the purpose of hearing additional evidence, including the testimony of a vocational expert and such other evidence as the Secretary or Plaintiff desires to offer on the vocational and disability issues.

Dated this 13<sup>th</sup> day of April, 1983.

  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

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

FIRST BANK OF GROVE, an Oklahoma  
banking corporation, )  
)  
)  
Plaintiff, )  
)  
vs. )  
)  
EDWARD MICHAEL CHILDS, an individual, )  
DERYL A. BORDERS, III, an individual, )  
and HOME PRODUCTS, INC., a suspended )  
Oklahoma corporation, )  
)  
Defendants. )

No. 82-C-1074C

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

APR 13 1983

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

JOURNAL ENTRY OF JUDGMENT

This cause came on regularly for trial before the court on ~~Thursday~~ <sup>Wednesday</sup> April 13, 1983, with Works, Lentz & Pottorf, Inc., Attorneys at Law, by Mark W. Dixon appearing as counsel for plaintiff and no one appearing for defendant Edward Michael Childs only, and proof having been made to the satisfaction of the court that defendant Edward Michael Childs only has had proper notice of trial but has failed to appear, and no cause or reason having been shown for postponement or delay of the trial, the court proceeded to hear the evidence adduced by plaintiff. Now, the court having heard the case, and finding that said plaintiff is entitled to judgment as herein provided, and defendant's default having been entered,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that plaintiff have and recover from defendant, Edward Michael Childs only, the sum of \$12,888.00, together with his costs and disbursements incurred in this action taxed at \$95.60, plus a reasonable attorney's fee for plaintiff's attorneys of record in the amount of \$1,560.00, with interest thereon at the rate of ~~10%~~ <sup>9.16</sup> per annum from date of judgment until paid.

Dated this 13th day of April, 1983.

151 H. Dale Cook  
Judge of the District Court for the  
Northern District of Oklahoma

MPI:wb  
4/7/83

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

**FILED**  
APR 18 1983  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

FRANCES VIRGINIA BROWNING, )  
personally, and as the repre- )  
sentative of the Heirs of )  
CLARENCE A. BROWNING, Deceased, )  
Plaintiff, )  
vs. )  
FIBREBOARD CORPORATION, et al., )  
Defendants. )

No. 82-C-131-BT

JOURNAL ENTRY OF JUDGMENT

NOW on this 8th day of February, 1983, this cause comes on to be heard on the Motion for Summary Judgment of Defendant, Raymark Industries, Inc. The parties appeared by their respective counsel, and the Court, being fully advised in the premises and on the consideration of all the papers filed herein and statements of counsel, finds that the Defendant's Motion for Summary Judgment should be sustained, and the Court finds that Plaintiff has no evidence tending to prove any exposure by the Plaintiff to Defendant's products.

The Plaintiffs further reiterate the position they took on the 8th day of February, 1983, in regard to requesting the Court to adopt the alternative theory of liability and/or enterprise theory of liability per the Abbott v. Sindall case.

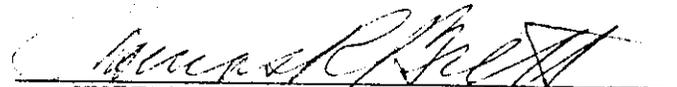
BE IT THEREFORE ORDERED, ADJUDGED AND DECREED that the Motion for Summary Judgment of Defendant, Raymark Industries,

LAW OFFICES  
UNGERMAN,  
CONNER &  
LITTLE

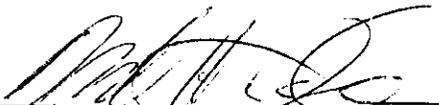
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2727 EAST 21 ST.  
SUITE 400  
P. O. BOX 2099  
TULSA, OKLAHOMA  
74101

Inc., be, and the same is, hereby sustained, and judgment entered in the favor of the Defendant, Raymark Industries, Inc., and that Plaintiff take nothing by her Complaint filed herein.

DATED this 13<sup>TH</sup> day of April, 1983.

  
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

  
\_\_\_\_\_  
Mark H. Iola

Attorney for Plaintiff

  
\_\_\_\_\_  
Robert D. Baron

Attorney for Defendant

MHI:slb  
4/7/83

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, )  
 )  
vs. )  
 )  
FIBREBOARD CORPORATION, et al., )  
 )  
Defendants. )

**FILED**  
APR 13 1983  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

NO. 82-C-131-BT

JOURNAL ENTRY OF JUDGMENT

NOW, on this 13<sup>th</sup> day of April, 1983, this cause comes on to be heard on the Motion for Summary Judgment of the Defendant, GAF Corporation. The parties having filed the appropriate responses according to the provisions of Rule 56(c), and the Court, being fully advised in the premises, and upon consideration of all the papers filed herein and statements of counsel, finds that the Defendant's Motion for Summary Judgment should be sustained, and the Court finds that Plaintiff has no evidence tending to prove any exposure by the Plaintiff to Defendant's products.

The Plaintiffs further reiterate the position that they took on the 8th day of February, 1983, in regard to requesting the Court to adopt the alternative theory of liability and/or enterprise theory of liability per the Abbott v. Sindall case.

BE IT THEREFORE ORDERED, ADJUDGED AND DECREED that the Motion for Summary Judgment of Defendant, GAF Corporation, be, and the same is, hereby sustained, and judgment entered in favor of the Defendant, GAF Corporation, and that Plaintiff take nothing by her Complaint filed herein.

LAW OFFICES  
UNGERMAN,  
CONNER &  
LITTLE

MIDWAY BLDG.  
2727 EAST 21 ST.  
SUITE 400

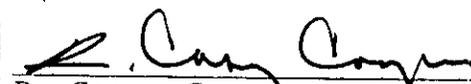
P. O. BOX 2099  
TULSA, OKLAHOMA  
74101

DATED this 13 day of April, 1983.

  
United States District Judge

APPROVED AS TO FORM AND CONTENT:

  
Mark H. Iola  
Attorney for Plaintiff

  
R. Casey Cooper  
Attorney for Defendant,  
GAF Corporation

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

FRANCIS VIRGINIA BROWNING, )  
personally and as the )  
representative of the heirs of )  
Clarence A. Browning, deceased, )  
Plaintiff, )  
vs. )  
FIBREBOARD CORPORATION, )  
et al., )  
Defendants. )

~~FILED~~

~~1983  
Jack G. Silver, Clerk  
U. S. DISTRICT COURT~~

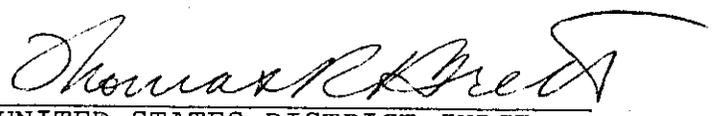
NO. 82-C-141-BT  
131

FILED  
APR 13 1983

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

ORDER

NOW on this 13 day of April, 1983, this matter comes before the Court on a Stipulation for Dismissal against the Defendant, Owens-Corning Fiberglas Corporation only. The Court, being fully advised in the premises, and for good cause shown, finds that Plaintiff's claims against the Defendant, Owens-Corning Fiberglas Corporation, are hereby ordered dismissed with prejudice to the refiling of the same.

  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
vs. )  
 )  
GERALD D. LaVELLE, )  
 )  
Defendant. )

CIVIL ACTION NO. 83-C-72-C

**FILED**

APR 13 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 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 13th day of April, 1983.

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

*Nancy A. Nesbitt*

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 13th day of April, 1983.

*Nancy A. Nesbitt*  
Assistant United States Attorney

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

**FILED**

FRANCES VIRGINIA BROWNING, )  
 personally, and as the repre- )  
 sentative of the Heirs of )  
 CLARENCE A. BROWNING, Deceased, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FIBREBOARD CORPORATION, et al., )  
 )  
 Defendants. )

APR 13 1983

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

No. 82-C-131-BT

O R D E R

NOW on this 13<sup>th</sup> day of April, 1983, there came  
 on before the undersigned United States District Judge for  
 the Northern District of Oklahoma the parties' Stipulation  
 for Dismissal with Prejudice. The Court finding that the  
 parties have compromised and settled their differences,  
 finds that an Order of dismissal with prejudice should be  
 issued and it is hereby ordered that the above-entitled  
 action by the Plaintiff against the Defendant, Ryder Industries,  
 Inc., only, is hereby dismissed with prejudice, the rights  
 to the bringing of a future action.

*Thomas R. Brett*  
 UNITED STATES DISTRICT JUDGE

LAW OFFICES

UNGERMAN,  
CONNER &  
LITTLE

MIDWAY BLDG.  
2727 EAST 21 ST.  
SUITE 400

P. O. BOX 2099  
TULSA, OKLAHOMA  
74101

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

FIRST BANK OF GROVE, an Oklahoma  
banking corporation,  
  
Plaintiff,  
  
vs.  
  
EDWARD MICHAEL CHILDS, an individual,  
DERYL A. BORDERS, III, an individual,  
and HOME PRODUCTS, INC., a suspended  
Oklahoma corporation,  
  
Defendants.

No. 82-C-1074C

**FILED**  
IN OPEN COURT

APR 13 1983

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

JOURNAL ENTRY OF JUDGMENT

This cause came on regularly for trial before the court on ~~Thursday~~ <sup>Wednesday</sup>,  
April 13, 1983, with Works, Lentz & Pottorf, Inc., Attorneys at Law, by Mark W.  
Dixon appearing as counsel for plaintiff and no one appearing for defendant  
Edward Michael Childs only, and proof having been made to the satisfaction of  
the court that defendant Edward Michael Childs only has had proper notice of  
trial but has failed to appear, and no cause or reason having been shown for  
postponement or delay of the trial, the court proceeded to hear the evidence  
adduced by plaintiff. Now, the court having heard the case, and finding that  
said plaintiff is entitled to judgment as herein provided, and defendant's  
default having been entered,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that  
plaintiff have and recover from defendant, Edward Michael Childs only, the sum  
of \$12,888.00, together with his costs and disbursements incurred in this action  
taxed at \$95.60, plus a reasonable attorney's fee for plaintiff's attorneys of  
record in the amount of \$1,560.00, with interest thereon at the rate of ~~10%~~ <sup>9.16</sup> per  
annum from date of judgment until paid.

Dated this 13th day of April, 1983.

151 H. Dale Cook  
Judge of the District Court for the  
Northern District of Oklahoma

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

FILED  
APR 13 1983  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

G & G ENERGY, INC., and J.C.P.  
INVESTMENTS CORPORATION, INC.,  
Plaintiffs,  
-vs-  
M. D. WILLIAMS,  
Defendant.

No. 82-C-7-B ✓

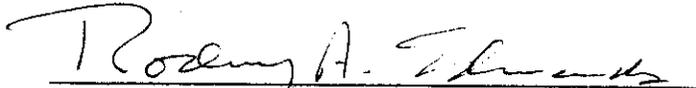
JUDGMENT

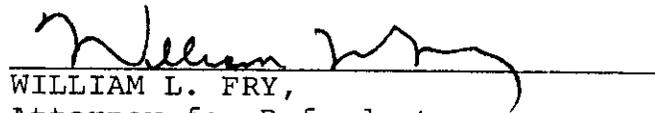
NOW on this 13<sup>th</sup> day of April, 1983, the above styled cause comes on before the Court for hearing upon confirmation of the award of arbitrators appointed in the above styled and numbered cause. The Court, being advised that the plaintiffs, G & G Energy, Inc., and J.C.P. Investments Corporation, Inc., have accepted the award of the arbitrators, and that the defendant, M. D. Williams, has accepted the award of arbitrators, and that both parties hereby request the Court to confirm said award and to enter judgment as fully set forth in the Award of Arbitrators filed with this Court January 7, 1983, finds that the award is fair and equitable and should be confirmed.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by this Court that the award of the arbitration team of Richard W. Coburn, Steven K. Iverson and Wayne E. Swearingen, filed January 7, 1983, be confirmed and the same shall become the judgment of the Court.

Richard R. Brett  
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

  
\_\_\_\_\_  
RODNEY A. EDWARDS,  
Attorneys for Plaintiffs

  
\_\_\_\_\_  
WILLIAM L. FRY,  
Attorney for Defendant

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

**FILED**

APR 15 1983

MERLAND MORGAN and  
HELEN MORGAN,

Plaintiffs,

vs.

FIBREBOARD CORPORATION,  
et al.,

Defendants.

NO. 82-C-781-C

W. C. Silver, Clerk  
U.S. District Court  
Northern District of Oklahoma

O R D E R

NOW on this 12<sup>th</sup> day of April, 1983, this matter comes before the Court on a Stipulation for Dismissal against the Defendant, Owens-Corning Fiberglas Corporation only. The Court, being fully advised in the premises, and for good cause shown, finds that Plaintiffs claims against the Defendant, Owens-Corning Fiberglas Corporation, are hereby ordered dismissed with prejudice to the refiling of the same.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

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

APR 18 1983

HAROLD KENNETH THOMPSON and )  
HELEN LOUISE THOMPSON, )  
 )  
 )  
 ) Plaintiffs, )  
 )  
 )  
 )  
 )  
 ) vs. )  
 )  
 )  
 )  
 ) FIBREBOARD CORPORATION, )  
 )  
 ) et al., )  
 )  
 ) Defendants. )

NO. 82-C-836-C

O R D E R

NOW on this 12<sup>th</sup> day of April, 1983, this matter comes before the Court on a Stipulation for Dismissal against the Defendant, Owens-Corning Fiberglas Corporation only. The Court, being fully advised in the premises, and for good cause shown, finds that Plaintiffs claims against the Defendant, Owens-Corning Fiberglas Corporation, are hereby ordered dismissed with prejudice to the refiling of the same.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

**FILED**

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

APR 15 1983

UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

THEODORE E. NEUMAYR, )

Defendant. )

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

CIVIL ACTION NO. 82-C-402-B

ORDER GRANTING JUDGMENT ON THE PLEADINGS

On this 5th day of April, 1983, at 10:45 o'clock, A.M., this matter came on before the Court for a pretrial conference. Plaintiff, United States of America, appeared by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant appeared not.

Defendant, Theodore E. Neumayr, was sent notice by the Clerk of the Court on January 10, 1983, of the pretrial setting on this date. This notice was mailed to Defendant's last known address and the notice was not returned to the Court Clerk.

During the pretrial hearing there came on for the Court's consideration the motion of Plaintiff for judgment on the pleadings or in the alternative for summary judgment filed on February 8, 1983. A copy of this motion was mailed by the attorney for Plaintiff to the Defendant at his last known address on February 8, 1983, which copy was not returned to Plaintiff's attorney. Plaintiff filed its Complaint on April 5, 1982, alleging that Defendant is indebted to Plaintiff in the amount of \$539.10 as of March 5, 1982. On September 29, 1982, the

Defendant was personally served with Alias Summons and a copy of the Complaint by a United States Marshal Deputy. On November 2, 1982, the Defendant sent a letter to the Clerk of the Court, which was treated as an Answer and filed on November 2, 1982. This letter of Defendant which was treated as an Answer does not deny that the Defendant owes the amount alleged in the Complaint to the Plaintiff.

The Court finds that all of the allegations contained in Plaintiff's Complaint are admitted and uncontroverted and Plaintiff is accordingly entitled to a judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiff is entitled to a judgment on the pleadings pursuant to its claim set forth in its Complaint; and

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that judgment be entered in favor of Plaintiff, United States of America and against the Defendant, Theodore E. Neumayr, in the amount of \$539.10, plus interest from the date of judgment at the rate of 9 1/2 percent per annum until the indebtedness is fully paid and costs of this action.

IT IS SO ORDERED this 13 day of April, 1983.

S/Thomas R Brett  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

FRANK KEATING  
United States Attorney

Peter Bernhardt  
PETER BERNHARDT  
Assistant United States Attorney

FILED

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

APR 13 1983

1000 1/2 Block (1st)  
Tulsa, Oklahoma

UNC TETON EXPLORATION )  
DRILLING COMPANY, INC., )  
 )  
Plaintiff, )  
 )  
-vs- )  
 )  
JIM MILLER, d/b/a J. M. )  
SERVICE, and GORDON TAYLOR, )  
d/b/a TAYLOR OIL AND GAS, )  
 )  
Defendants. )

No. 82-C-624-B

ORDER

This action comes before the Court on the stipulation of the parties to dismiss this action,

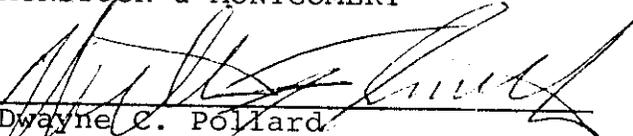
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this action be dismissed.

Done this 13 day of APRIL, 1983.

  
DISTRICT JUDGE

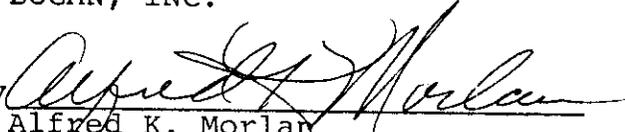
APPROVED AS TO FORM AND CONTENTS:

BLACKSTOCK, JOYCE, POLLARD,  
BLACKSTOCK & MONTGOMERY

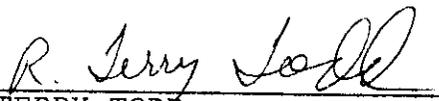
By   
Dwayne C. Pollard  
William F. Smith  
515 South Main Mall  
Tulsa, OK 74103  
(918) 585-2751

Attorneys for Plaintiff

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

By   
Alfred K. Morlan  
201 West Fifth, Suite 400  
Tulsa, OK 74103  
(918) 581-8200

Attorneys for Plaintiff

  
R. TERRY TODD  
15 South Poplar, Suite 107  
Sapulpa, OK 74066  
(918) 224-1176

Attorney for Defendants

FILED

APR 13 1983

40

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

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

LARRY GALLOWAY,

Plaintiff,

vs.

TRUCK TRANSPORT, INC., and  
CLEMEN L. SLINKARD,

Defendants.

NO. 82-C-818-B ✓

ORDER OF DISMISSAL

ON this 15<sup>th</sup> day of April, 1983, upon the written

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

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

Thomas R. Bretts  
JUDGE, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

APPROVALS:

Gerard K. Donovan  
GERARD K. DONOVAN, Attorney for the Plaintiff

Alfred B. Knight  
ALFRED B. KNIGHT, Attorney for the Defendants

**FILED**

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

APR 15 1983

JAMES R. BIDDICK, L. W. BIDDICK, )  
LLOYD W. BIDDICK, JR., and )  
GEORGE E. REVARD, )

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

Plaintiffs, )

vs. )

No. 81-C-602-E

JOHN B. SWANK, JR., RICHARD T. )  
PERRY and NPC HOLDING, INC., )  
a Delaware corporation, )

Defendants. )

ORDER OF DISMISSAL WITH PREJUDICE

Now on this 13<sup>th</sup> day of April, 1983, the above styled and numbered cause comes on for consideration by the Court on the Joint Stipulation For Dismissal filed herein by the plaintiffs and defendants. The Court, having examined the Joint Stipulation For Dismissal, finds that the plaintiffs and the defendants, John B. Swank, Jr., and NPC Holding, Inc., have entered into a settlement of the claims set forth in the Complaint and that the causes of action set forth therein should be dismissed with prejudice as against the defendants, John B. Swank, Jr., Richard T. Perry and NPC Holding, Inc., pursuant to the Joint Stipulation For Dismissal.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the causes of action filed by the plaintiffs against the defendants are hereby dismissed with prejudice to future filing.

S/ JAMES O. ELLISON

United States District Judge

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

APR 13 1983

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

UNITED STATES OF AMERICA, )

Plaintiff, )

vs. )

MICHAEL G. HOOKER, )

Defendant. )

CIVIL ACTION NO. 83-C-205-E

AGREED JUDGMENT

This matter comes on for consideration this 12 day of April, 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, Michael G. Hooker, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Michael G. Hooker, was personally served with Summons and Complaint on March 25, 1983, 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 \$351.66, 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,

Michael G. Hooker, in the amount of \$351.66, plus interest at the legal rate from the date of this Judgment until paid.

S/ JAMES O. ELLISON

---

UNITED STATES DISTRICT JUDGE

APPROVED:

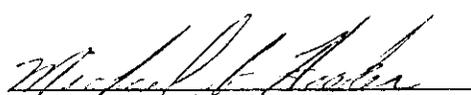
UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney



---

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



---

MICHAEL G. HOOKER

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FORD MOTOR CREDIT COMPANY, )  
a Delaware corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
D & L FORD, INC., an Oklahoma )  
corporation; et al., )  
 )  
Defendant. )

No. 83-C-177-B

**FILED**

**APR 12 1983**

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

STIPULATION OF DISMISSAL

Now on this 12 day of April, 1983, it is hereby stipulated by and between the parties hereto that the above captioned action is hereby dismissed with prejudice, each party to pay their own costs.

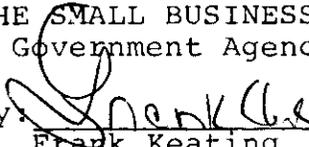
FORD MOTOR CREDIT COMPANY

By: Thomas G. Marsh  
Thomas G. Marsh, Attorney  
DYER, POWERS, MARSH & ARMSTRONG  
525 South Main, Suite 210  
Tulsa, Oklahoma 74103  
918/587-0141

D & L FORD, INC.  
Don and Sylvia Hendricks

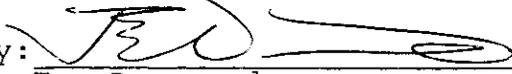
By: Jon Running  
Jon Running  
Suite 1700, Bank of Oklahoma Tower  
Tulsa, Oklahoma 74172

THE SMALL BUSINESS ADMINISTRATION  
a Government Agency

By: 

Frank Keating  
U.S. District Attorney for the  
Northern District of Oklahoma  
Federal Building  
Tulsa, Oklahoma 74103

THE CLEVELAND NATIONAL BANK  
aka THE CLEVELAND BANK

By: 

Tom Drummond  
902 Utica Bank Tower  
Tulsa, Oklahoma 74104

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

CLARENCE HUBBARD, et al.,  
Plaintiffs,

BRAY LINES, Inc., an Oklahoma  
Corporation, et al.,  
Defendants.

and

FIRST NATIONAL BANK OF CUSHING,  
a National Banking Corporation,  
Third-Party Plaintiff,

vs.

LAWRENCE H. PUCO, BIG DADDY  
TRUCKING, INC., an Oklahoma  
Corporation, DELBERT ANDERSON,  
and HAPPY TIMES TRUCKING, INC.,  
an Oklahoma Corporation,  
Third-Party Defendant.

Case No. 80-C-671-C

**FILED**

APR 11 1983

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

ORDER GRANTING SUMMARY JUDGMENT TO DEFENDANT AND  
THIRD-PARTY PLAINTIFF FIRST NATIONAL BANK OF CUSHING  
A NATIONAL BANKING CORPORATION AGAINST PLAINTIFF  
DELBERT ANDERSON AND HAPPY TIMES TRUCKING, INC., AN OKLAHOMA CORPORATION

On this 8<sup>th</sup> day of April, 1983, the motion of the defendant and  
third-party plaintiff First National Bank of Cushing, a national banking  
corporation, for summary judgment against the plaintiff Delbert Anderson and  
third-party defendant Happy Times Trucking, Inc., an Oklahoma Corporation,  
comes on for decision before the undersigned Chief Judge of the United States

District Court for the Northern District of Oklahoma. The time allotted by local court rule for response or objection has passed and no objection or response to the motion for summary judgment has been filed.

Being fully apprised in the premises and having reviewed the motion, supporting affidavit and brief of defendant and third-party plaintiff First National Bank of Cushing, the pleadings and the court file, the Court finds that no material issue of fact remains in controversy as to the counter-claim of the defendant First National Bank of Cushing against the plaintiff Delbert Anderson and as to the third-party complaint of the third-party plaintiff First National Bank of Cushing against third-party defendant Happy Times Trucking, Inc., an Oklahoma Corporation, and that the First National Bank of Cushing, is entitled, as a matter of law, to judgment as prayed for in the motion for summary judgment of the defendant and third party plaintiff First National Bank of Cushing, a national banking corporation.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that judgment be entered in favor of the defendant and third-party plaintiff First National Bank of Cushing, a National Banking Corporation, against the plaintiff Delbert Anderson and third-party defendant Happy Times Trucking, an Oklahoma Corporation, for the sum of \$6,681.55 plus interest thereon at the rate of 12% per annum on said amount from November 14, 1980 until paid, for a reasonable attorney's fee of \$1,002.23 and the costs of this action with interest on said fee and costs at the legal rate from this date until paid, for confirmation as of October 13, 1981 of all right, title and interest to the First National

Bank of Cushing in and possession of one 1979 Freightliner # CA213HM157062 which truck was previously granted to the First National Bank of Cushing by pre-judgment replevin order, for confirmation of the sale of that truck for salvage and receipt by the First National Bank of Cushing of insurance proceeds and that the \$63,000.00 pre-judgment replevin bond posted by the First National Bank of Cushing, a national banking corporation be and is hereby discharged.

*131 H. Dale Cook*  
\_\_\_\_\_  
Chief Judge of the United States  
District Court for the Northern  
District of Oklahoma

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

FILED

APR 11 1983 W

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

JACOB R. SIGMAN, JR., )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 PAWHUSKA READY MIX COMPANY, )  
 BILL ERWIN d/b/a PAWHUSKA )  
 READY MIX COMPANY, and )  
 JOHNNY J. AMES, )  
 )  
 Defendants. )

No. 82-C-417-E

NOTICE OF DISMISSAL

COMES NOW the Plaintiff, JACOB R. SIGMAN, JR., by his attorney of record, NORMAN GILDER, hereby dismisses his cause of action, without prejudice, against the Defendant, JOHNNY J. AMES, only, pursuant to an Order of the Court entered February 8, 1983.

GREER AND GREER

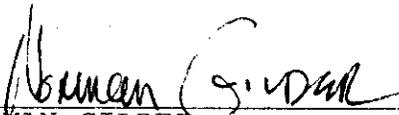
By: Norman Gilder  
NORMAN GILDER  
Attorney at Law  
3010 South Harvard, Suite 112  
Tulsa, Oklahoma 74114  
(918) 745-0691

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF MAILING

I, NORMAN GILDER, do hereby certify that on the 8th day of April, 1983, I mailed a true and correct copy of the above and foregoing NOTICE OF DISMISSAL, with sufficient postage fully pre-paid thereon, to:

Mr. Alfred B. Knight  
Knight, Wagner, Stuart, Wilkerson & Lieber  
Attorneys at Law  
616 South Main, Suite 205  
Tulsa, Oklahoma 74119

  
\_\_\_\_\_  
NORMAN GILDER

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

CLARENCE HUBBARD, et al., )  
 )  
 Plaintiffs, )  
 )  
 BRAY LINES, Inc., an Oklahoma )  
 Corporation, et al., )  
 )  
 Defendants. )  
 )  
 and )  
 )  
 FIRST NATIONAL BANK OF CUSHING, )  
 a National Banking Corporation, )  
 )  
 Third-Party Plaintiff, )  
 )  
 vs. )  
 )  
 LAWRENCE H. PUCO, BIG DADDY )  
 TRUCKING, INC., an Oklahoma )  
 Corporation, DELBERT ANDERSON, )  
 and HAPPY TIMES TRUCKING, INC., )  
 an Oklahoma Corporation, )  
 )  
 Third-Party Defendant. )

Case No. 80-C-671-C

**FILED**

APR 17 1983

F. B. P. Silver, Clerk

ORDER GRANTING SUMMARY JUDGMENT TO DEFENDANT  
THIRD-PARTY PLAINTIFF FIRST NATIONAL BANK OF CUSHING  
A NATIONAL BANKING CORPORATION AGAINST PLAINTIFF  
LAWRENCE H. PUCO AND THIRD-PARTY DEFENDANT BIG  
DADDY TRUCKING, INC., AN OKLAHOMA CORPORATION

On this 8<sup>th</sup> day of April, 1983, the motion of the defendant,  
third-party plaintiff First National Bank of Cushing, a national banking  
corporation, for summary judgment against the plaintiff Lawrence H. PucO and  
the third-party defendant Big Daddy Trucking, Inc., an Oklahoma Corporation,

comes on for decision before the undersigned Chief Judge of the United States District Court for the Northern District of Oklahoma. The time allotted by local court rule for response or objection has passed and no objection or response has been filed by the plaintiff Lawrence H. Pucio or third-party defendant Big Daddy Trucking, Inc., an Oklahoma Corporation.

Being fully apprised in the premises and having reviewed the motion, supporting affidavit and brief of the defendant, third-party plaintiff First National Bank of Cushing, all the pleadings and the court file, the Court finds that no material fact is in issue as to the counter-claim of the defendant First National Bank of Cushing against plaintiff Lawrence H. Pucio and as to the third-party complaint of the third party plaintiff First National Bank of Cushing against Big Daddy Trucking, Inc., and that the defendant, third-party plaintiff First National Bank of Cushing is entitled to judgment, as a matter of law, against plaintiff Lawrence H. Pucio and third-party defendant Big Daddy Trucking, Inc., as prayed for in the motion for summary judgment of defendant and third-party plaintiff First National Bank of Cushing, a national banking corporation.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that judgment be entered in favor of the defendant, third-party plaintiff First National Bank of Cushing against the plaintiff Lawrence H. Pucio and the third-party defendant Big Daddy Trucking, Inc., an Oklahoma Corporation, for the sum of \$22,853.28 plus interest thereon at the rate of 14.25% per annum on said amount from September 3, 1980 until paid, for a reasonable attorney's fee of \$3,427.00 and the costs of this action with interest on said fee and cost at the legal rate from this date until paid and for confirmation of all right,

title and interest in and possession of one 1979 Freightliner # CA213HM157073 which truck was previously granted to the defendant, third-party plaintiff First National Bank of Cushing by pre-judgment replevin order and that the \$63,000.00 pre-judgment replevin bond posted by the defendant third-party plaintiff First National Bank of Cushing, a national banking corporation, be and is hereby discharged.

*131 H. Dale Cook*  
\_\_\_\_\_  
Chief Judge of the United States  
District Court for the Northern  
District of Oklahoma

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

RODNEY ROLSTON and  
KATHLEEN M. ROLSTON,  
  
Plaintiffs,

v.

WESTERN PACIFIC FINANCIAL  
CORPORATION, a Delaware  
corporation,  
  
Defendant.

No. 82-C-690-C

**FILED**

APR 11 1983

U.S. District Court  
Oklahoma City, Oklahoma

ORDER

This matter comes on for consideration this 8<sup>th</sup> day of April, 1983, pursuant to stipulation for dismissal with prejudice filed by both parties herein. After considering said Motion, the Court finds the same should be granted. IT IS THEREFORE ORDERED that the above-styled cause and action be and the same is hereby dismissed with prejudice to the rights of the parties to refile the same.

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

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

**FILED**

APR - 8 1983

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

MID-STATES AIRCRAFT ENGINES, INC.,  
an Oklahoma corporation,

Plaintiff,

vs

No. 82-C-699-C

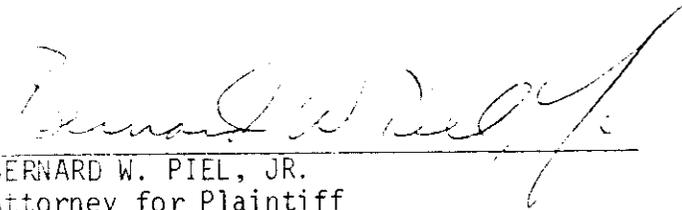
JAMES MORTON,

Defendant.

*Notice of*  
DISMISSAL WITHOUT PREJUDICE

Comes now the Plaintiff, Mid-States Aircraft Engines, Inc., by and through its attorney, Bernard W. Piel, Jr., and dismisses the above-styled action without prejudice to the refiling of the same.

DATED this 6th day of April, 1983.

  
BERNARD W. PIEL, JR.  
Attorney for Plaintiff  
3414 South Yale  
Tulsa, Oklahoma 74135  
(918) 749-4411

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

TOYOTA OF TULSA, INC., )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 DAVOOD KHALEGHI, )  
 )  
 Defendant. )

**FILED**

APR - 8 1983

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

No. 82-C-767-E

STIPULATION OF DISMISSAL

COMES NOW the Plaintiff, Toyota of Tulsa, Inc., by and through its attorney, Thomas G. Marsh, and the Defendant by and through his attorney, Gary W. Wood, and hereby stipulate that the above entitled cause be, and the same is hereby, dismissed with prejudice, and each party is to bear their own costs.

TOYOTA OF TULSA, INC.

By: Thomas G. Marsh  
Thomas G. Marsh, Its Attorney  
525 South Main, Suite 210  
Tulsa, OK 74103 918/587-0141

DAVOOD KHALEGHI

By: Gary W. Wood  
Gary W. Wood,  
Attorney for Defendant  
2617 East 21st Street  
Tulsa OK 74104 918/744-6119

**FILED**

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

APR - 8 1983

Jack C. Silver, Clerk  
U.S. District Court  
Northern District of Oklahoma

RALPH D. KENDALL, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 RICHARD S. SCHWEIKER, )  
 Secretary of Health and )  
 Human Services of the )  
 United States of America, )  
 )  
 Defendant. )

CIVIL ACTION NO. 82-C-1209-E

O R D E R

For good cause shown, pursuant to 42 U.S.C. § 405(g),  
this cause is remanded for further administrative action.

Dated this 7 day of April, 1983.

Jack C. Silver  
UNITED STATES DISTRICT JUDGE

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

**FILED**

APR - 8 1983

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

THE FEDERAL DEPOSIT INSURANCE )  
CORPORATION, a federal banking )  
agency, as Receiver for )  
Penn Square Bank, N.A., )

Plaintiff, )

vs. )

No. 83-C-245-B

PAUL S. REVARD, RICHARD W. )  
REVARD, and GEORGE E. REVARD, )  
Individuals, )

Defendants. )

NOTICE OF  
DISMISSAL

The Federal Deposit Insurance Corporation ("FDIC"), solely in its capacity as Receiver of Penn Square Bank, N.A., hereby dismisses the above-entitled action without prejudice to the filing of a future action as to the Defendants.



JOHN R. BARKER  
KENNETH E. DORNBLASER  
GABLE & GOTWALS  
20th Floor  
Fourth National Bank Building  
Tulsa, Oklahoma 74119  
(918) 582-9201

ATTORNEYS FOR PLAINTIFF

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

**FILED**

STONE ENTERPRISES, INC., a )  
Nevada corporation, and TOM )  
CHILDERS, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
W. K. JENKINS, )  
 )  
Defendant. )

APR - 6 1983

U.S. District Court

No. 81-C-47-E

O R D E R

UPON oral application of the Plaintiffs and for good cause shown, the Court finds the above-captioned action should be dismissed without prejudice. The Court has contacted opposing counsel and is advised there is no objection.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above-captioned case is dismissed without prejudice.

DONE this 7<sup>th</sup> day of April, 1983.

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

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

COMMUNICATION FEDERAL CREDIT UNION, Successor in Interest of Tulsa Bell Federal Credit Union and Pioneer Bell Federal Credit Union,  
Plaintiff,  
vs.  
INTER-CONTINENTAL COMPUTING, INC., and ENTITY X,  
Defendants.

**FILED**

APR - 7 1983

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

No. 82-C-460-C

ORDER DISMISSING PLAINTIFF'S COMPLAINT WITH PREJUDICE  
AND DISMISSING DEFENDANT'S COUNTERCLAIM WITH PREJUDICE

NOW on this 7<sup>th</sup> day of April, 1983, Plaintiff Communication Federal Credit Union having filed a motion to dismiss its Complaint with prejudice and Defendant Citibank (New York State), N.A. having filed a motion to dismiss its Counterclaim with prejudice, the Court finds that both of said motions are made for good cause shown and that both of said motions should be granted.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED, that the Complaint of Plaintiff Communication Federal Credit Union filed herein be and the same is hereby dismissed with prejudice.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Counterclaim of the Defendant Citibank (New York State), N.A. filed herein be and the same is hereby dismissed with prejudice.

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



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

FILED

APR 7 1983

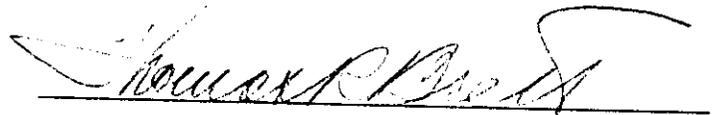
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

REYNARD E. SPENCE, )  
 )  
 ) Plaintiff, )  
 )  
vs. )  
 ) NO. 82-C-730-B  
 )  
 ) UNITED STATES OF AMERICA, )  
 ) JAMES B. HAMMETT, )  
 ) FRANCES R. GAJAN and )  
 ) WILLIAM H. WARDS, )  
 )  
 ) Defendants. )

J U D G M E N T

Pursuant to the Findings of Fact and Conclusions of Law entered this date, IT IS HEREBY ADJUDGED the defendant, United States of America, is to have judgment against the plaintiff, Reynard E. Spence, and the plaintiff's action against the defendants, James B. Hammett, Frances R. Gajan and William H. Wards is hereby dismissed. Costs are assessed against the plaintiff and each party is to pay his own respective attorneys fees.

ENTERED this 7<sup>th</sup> day of April, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

**FILED**

EMERY CARROLL, )  
)  
Plaintiff, )  
)  
vs. )  
)  
SAFETY-KLEEN CORP., )  
)  
Defendant. )

No. 82-C-44-E

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

ORDER OF DISMISSAL

This matter came on for consideration on this 6 day of April, 1983, upon the Joint Application for Dismissal With Prejudice filed herein. The Court being duly advised in the premises, finds that said application for dismissal is in the best interests of justice and should be approved, and the above styled and numbered cause of action dismissed with prejudice to a refiling.

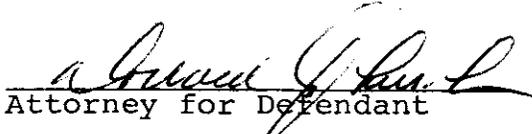
IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the Joint Application for Dismissal With Prejudice by the parties be and the same is hereby approved and the above styled and numbered cause of action and Complaint is dismissed with prejudice to a refiling.

S/ JAMES O. ELLISON

Approved:

JAMES O. ELLISON  
United States District Judge

  
Attorney for Plaintiff

  
Attorney for Defendant



of \$10,000.00 actual damages, \$3,000.00 punitive damages, together with his costs of action, and that both compensatory and punitive damages shall bear interest at the rate of 9.16 % per annum from the effective date of this judgment until the date paid.

Dated effective this 31st day of March, 1983.

FOR ALL OF WHICH LET EXECUTION ISSUE.

s/H. DALE COOK

---

H. Dale Cook, United States District Judge  
Northern District of Oklahoma

**FILED**

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

APR - 5 1983

CHARLOTTE HAYS, as mother )  
 and surviving kin of PATRICK )  
 RILEY HAYS, deceased, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FRANK G. LOVE ENVELOPES, INC., )  
 )  
 Defendant. )

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

No. 82-C-491-E

ORDER OF DISMISSAL

This matter came on for consideration on this 16 day of April, 1983, upon the Joint Application for Dismissal With Prejudice filed herein. The Court being duly advised in the premises, finds that said application for dismissal is in the best interests of justice and should be approved, and the above styled and numbered cause of action dismissed with prejudice to a refiling.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the Joint Application for Dismissal With Prejudice by the parties be and the same is hereby approved and the above styled and numbered cause of action and Complaint is dismissed with prejudice to a refiling.

S/ JAMES O. ELLISON

Approved:

\_\_\_\_\_  
JAMES O. ELLISON  
United States District Judge

*Don L. Deo*  
Attorney for Plaintiff

*Ronald Purcell*  
Attorney for Defendant

FILED

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

APR - 6 1983

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 83-C-113-C
	)	
RICHARD A. DELOZIER,	)	
	)	
Defendant.	)	

AGREED JUDGMENT

This matter comes on for consideration this 6<sup>th</sup> day of April, 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 A. Delozier, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Richard A. Delozier, was served with Summons and Complaint on February 7, 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 \$393.93, 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 A. Delozier, in the amount of \$393.93, plus interest at the legal rate from the date of this Judgment until paid.

131 H. Dale Cook  
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

Philard L. Rounds, Jr.  
PHILARD L. ROUNDS, JR.  
Assistant U.S. Attorney

Richard A. Delozier  
RICHARD A. DELOZIER

FILED

APR 8 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. )  
 )  
 JAMES E. WILLIAMS, )  
 )  
 Defendant. )

CIVIL ACTION NO. 83-C-34-B

DEFAULT JUDGMENT

This matter comes on for consideration this 6th day of April, 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, James E. Williams, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, James E. Williams, 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, James E. Williams, for the principal sum of \$745.46, plus interest at the legal rate from the date of this Judgment until paid.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

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

FILED

1983

APR 11 1983  
U.S. DISTRICT COURT

CLARK PACKING COMPANY,  
an Oklahoma corporation,  
  
Plaintiff,  
  
-vs-  
  
INGREDIENT TECHNOLOGY  
CORPORATION, a Delaware  
corporation, d/b/a PRINCE  
CORPORATION,  
  
Defendant.

No. 82-C-410-E

ORDER OF DISMISSAL WITH PREJUDICE

It appearing to the Court by the stipulation of the parties dismissing the above referenced litigation with prejudice and further requesting the Court to enter an Order of Dismissal with Prejudice, and it further appearing to the Court that the matter has been fully settled, adjusted and compromised, and that the Defendant Ingredient Technology Corporation d/b/a Prince Corporation has paid to the Plaintiff Clark Packing Company the amount of Four Thousand and no/100 Dollars (\$4,000.00) in full, total and complete settlement of all claims which Plaintiff either brought or could have brought in the present litigation and further that the Plaintiff has given to the Defendant a complete release of all claims and liabilities; therefore,

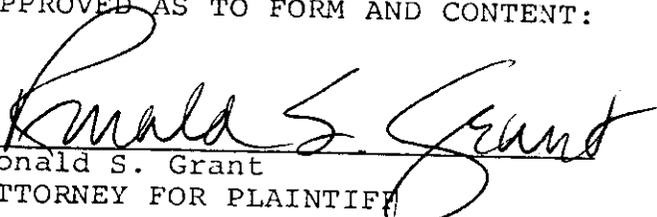
IT IS ORDERED, ADJUDGED and DECREED that the above referenced litigation be and hereby is dismissed with prejudice.

DATED this 6 day of April, 1983.

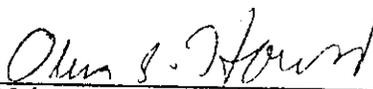
S/ JAMES O. ELLISON

James O. Ellison  
United States District Judge

APPROVED AS TO FORM AND CONTENT:

  
\_\_\_\_\_  
Ronald S. Grant  
ATTORNEY FOR PLAINTIFF

and

  
\_\_\_\_\_  
Oliver S. Howard  
ATTORNEY FOR DEFENDANT

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

NELLIE C. PERKINS, )  
 )  
 Plaintiff, )  
 )  
 v. ) No. 82-C-32-E  
 )  
 RICHARD A. SCHWEIKER, )  
 Secretary of Health and )  
 Human Services of the )  
 United States of America, )  
 )  
 Defendant. )

APR 11 1983  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

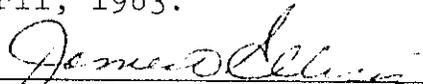
O R D E R

The Court has for consideration the Findings and Recommendations of the Magistrate filed on March 25, 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 re-evaluation of Plaintiff's disability pursuant to 20 CFR § 416.920 and for the purpose of hearing additional evidence, including the testimony of a vocational expert and such other evidence as the Secretary or Plaintiff desires to offer on the vocational and disability issues.

Dated this 6<sup>th</sup> day of April, 1983.

  
JAMES D. ELLISON  
UNITED STATES DISTRICT JUDGE

0441803

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

FILED

4-6 1983

62

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

BRUCE E. DANCER and ORA FAY )  
DANCER, )

Plaintiffs, )

- vs - )

No. 81-C-849-E ✓

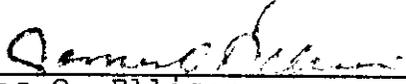
TLC FARM LINES, INC., a )  
corporation, GUARANTEE )  
INSURANCE COMPANY, a )  
corporation, and SELAH GAIL )  
FISHER, )

Defendants. )

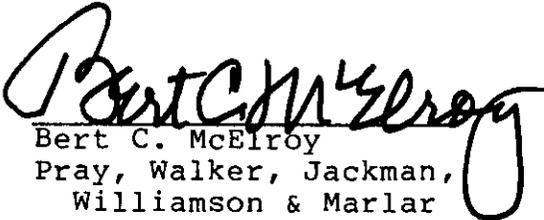
ORDER DISMISSING COMPLAINT AND  
CROSS-CLAIM WITH PREJUDICE

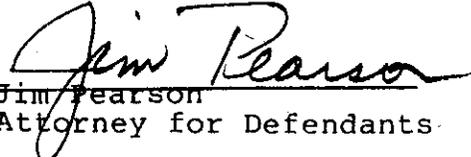
On this 6<sup>th</sup> day of APRIL, 1983, this matter comes on for hearing on the Joint Application to Dismiss Complaint and Cross-Claim. The Court finds a settlement has been reached among all parties and the Complaint and Cross-Claim should be dismissed with prejudice.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED the Complaint and Cross-Claim are dismissed with prejudice.

  
James O. Ellison,  
United States District Judge

APPROVED:

  
Bert C. McElroy  
Pray, Walker, Jackman,  
Williamson & Marlar  
Attorneys for Plaintiffs

  
Jim Pearson  
Attorney for Defendants



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

**FILED**

APR 1983

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

IMOGENE DUVALL,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 81-C-558-E
	)	
	)	
SIPES FOOD MARKETS, INC.,	)	
	)	
Defendant.	)	

ORDER APPROVING JOINT STIPULATION FOR DISMISSAL

THIS cause having come before the Court pursuant to a Stipulation for Dismissal with Prejudice executed by the attorneys of record for both the Plaintiff and the Defendant, and it appearing to the Court that the parties have entered into a Settlement Agreement in the above-styled cause and mutually agreed to a dismissal of this action; and it further appearing to the Court that such Stipulation should be granted,

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the claims of each of the parties against the other should be and hereby are dismissed with prejudice.

IT IS FURTHER ORDERED that each party shall bear its own attorney's fees and costs in the above-styled cause of action.

SO ORDERED this 6th day of April, 1983.

S/ THOMAS R. BRETT

JUDGE OF THE UNITED STATES DISTRICT COURT

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

**FILED**

APR 13 1983

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

WILLIAM J. SATTERFIELD,  
Plaintiff,

vs.

TEXACO INC., a corporation,  
Defendant.

NO. 81-C-51-C

DISMISSAL

COMES NOW the Defendant, Texaco Inc., by and through its attorney of record, James D. Hurley, and pursuant to FED. R. CIV. P. 41 and in accordance with the Order of the Court filed in this cause on July 20, 1982, approving the Stipulated Agreement of Settlement previously executed by the parties, hereby dismisses its counterclaims filed in the above-styled cause.

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

CERTIFICATE OF MAILING

I, James D. Hurley, hereby certify that on the \_\_\_\_\_ day of April, 1983, I mailed a copy of the above Dismissal to Richard D. White, Jr., Attorney for Plaintiff, 317 East Rogers Boulevard, Skiatook, Oklahoma 74070, with sufficient postage prepaid.

\_\_\_\_\_  
James D. Hurley

**FILED**

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

APR - 5 1983 *A*

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

GORDON SECURITIES, LTD.,	)
	)
Plaintiff,	)
	)
vs.	)
	)
WILLIAM HOLLENSWORTH and McCALLISTER	)
& MAPLES, a Partnership, VICTORY	)
NATIONAL BANK OF NOWATA,	)
	)
Defendants.	)
	)
RICHARD J. DENT,	)
	)
Third-Party	)
Defendant.	)

NO. 81-C-39-C ✓

AMENDED JUDGMENT

Judgment having heretofore been entered on August 30, 1982 and the plaintiff's motion to amend said judgment or, alternatively for relief from judgment having been duly presented to and considered by this Court and a decision having been duly rendered thereon,

It is Ordered and Adjudged,

that the judgment of August 30, 1982 should be and is hereby amended as follows:

that the plaintiff, Gordon Securities, Ltd. recover of the defendant, William Hollensworth pre-judgment interest on the principal sum of \$700,000 at the rate of 6% per annum from the date of December 19, 1980 to the date of the original judgment, which is August 30, 1982;

that in all other respects the judgment of August 30, 1982 shall remain unchanged.

It is so Ordered this 5<sup>th</sup> day of April, 1983.

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

*14*

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

APR - 4 1983

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 KELLEY R. BUCHANAN, )  
 )  
 Defendant. )

CIVIL ACTION NO. 83-C-138-C

AGREED JUDGMENT

This matter comes on for consideration this 4<sup>th</sup> day of April, 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, Kelley R. Buchanan, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Kelley R. Buchanan, was personally served with Summons and Complaint on March 7, 1983. The Defendant has not filed her Answer but in lieu thereof has agreed that she is indebted to the Plaintiff in the amount alleged in the Complaint and that Judgment may accordingly be entered against her in the amount of \$281.63, 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,

Kelley R. Buchanan, in the amount of \$281.63, plus interest at the legal rate from the date of this Judgment until paid.

131 H. Dale Cook  
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

Nancy A. Nesbitt  
NANCY A. NESBITT  
Assistant U.S. Attorney

Kelley R. Buchanan  
KELLEY R. BUCHANAN

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

GUY BALDWIN and Wife, )  
SUE ANN BALDWIN, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
CESSNA AIRCRAFT COMPANY, and )  
WIPLINE INTERNATIONAL, INC., )  
 )  
Defendants. )

NO. 82-C-9-C ✓

**FILED**

APR - 4 1983 *Jem*

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

ORDER

Now before the Court for its consideration is the Motion of Defendant Wipline International, Inc. to dismiss for lack of in personam jurisdiction. An amended complaint has been filed herein, naming Wipline, Inc. and Wipaire, Inc. as additional parties defendant. It has been stipulated by defendant Wipline International that if the Court has jurisdiction over Wipline International, that it has jurisdiction over Wipline, Inc. and Wipaire, Inc. as well. On the other hand, if no jurisdiction exists as to Wipline International, no jurisdiction exists as to the other corporate entities. Plaintiffs have not objected to this stipulation.

According to affidavits supplied to the Court, Wipline International, Inc. is a Minnesota corporation with its sole place of business in Inver Grove Heights, Minnesota. The corporation has no offices or employees in Oklahoma; it is not domesticated in Oklahoma; and it has no authorized service agent in Oklahoma. Wipline International has not transacted any business in or contracted to supply services or materials to Oklahoma.

It owns no property in Oklahoma. The sale of the floats installed on the Cessna airplane herein was conducted and concluded in the State of Minnesota, by a Minnesota corporation to another Minnesota corporation. The design, manufacture, testing, assembly, installation and delivery of the allegedly defective amphibious floats were all done in Minnesota by a Minnesota corporation.

Plaintiff Guy Baldwin has submitted affidavits which do not contradict the substance of the affidavits of Wipline International. Baldwin cites his telephone conversations with Wipline International in Minnesota, some of which were initiated by Wipline. Wipline International also advertises in aviation trade magazines which are circulated throughout the United States, including Oklahoma. Subsequent to the accident at issue herein, Dr. Baldwin purchased new floats directly from Wipaire, Inc. However, the contract was entered into in Minnesota, payment was made in Minnesota, and the floats were installed at defendant's facility in Minnesota.

In diversity cases, federal district court sitting in Oklahoma looks to Oklahoma long-arm statutes in determining whether it has in personam jurisdiction over nonresidents. Federal Natl. Bank & Trust Co. of Shawnee v. Moon 412 F.Supp. 644 (W.D.Okla. 1976). Under 12 O.S. 1971, §187(a) (1) & (2), and under 12 O.S. 1971 §1701.03(a) (1) of the Uniform Interstate and International Procedure Act, an individual (or corporation) is subject to in personam jurisdiction if he involves himself in the transaction of any business within this State. The only limitation placed upon a court in exercising in personam jurisdiction is that of due process, as stated by the Supreme Court in International Shoe Co. v. State of Washington, 326 U.S. 310, 66 S.Ct. 154, 90 L.Ed. 95 (1945), and in McGee v. International Life Ins. Co., 355 U.S. 220, 788

S.Ct. 199, 2 L.Ed.2d 223 (1957). In International Shoe Co., Supra, and in McGee, supra, the Supreme Court has stated that the due-process limitation is essentially based on "minimum contacts"; that is, nonresident of the forum is subject to in personam jurisdiction in the forum with which he had minimum contacts, providing maintenance of the suit does not offend traditional notions of fair play and substantial justice.

Just what amounts to minimum contacts must be decided by the facts of each case. Vacu-Maid, Inc. v. Covington, 530 P.2d 137, 139 (Okla.App. 1974). Oklahoma has made it clear that "the Oklahoma long-arm statutes were intended to extend the jurisdiction of Oklahoma courts over non-residents to the outer limits permitted by the due process requirements of the Fourteenth Amendment of the United States Constitution." Vacu-Maid, supra, at 141.

In Crescent Corp. v. Martin, 443 P.2d 111 (Okla. 1968) the court held that not only must the record show that the defendant must have voluntarily conducted continuing activities in Oklahoma, but that "it must appear from the record that plaintiff's cause of action arises out of or is based on the same acts of defendant alleged to confer jurisdiction in personam of said defendant under the cited statute." In Precision Polymers v. Nelson, 512 P.2d 811 (Okla. 1973), the Supreme Court found, in applying this principle, that defendant was not subject to in personam jurisdiction since the nonresident corporation (Precision Polymers, Inc.) never transacted any business or committed any act in Oklahoma with regard to the allegedly defective material and supplies. While the nonresident corporation manufactured the supplies, they were sold to another company whose principal place of business was in Alabama. Then at the direction of the Alabama company, Precision Polymers delivered

the material and supplies it had sold to the Alabama company to job sites in Oklahoma and Missouri. However, the Court distinguished the plaintiff's cause of action regarding the Missouri job site and the Oklahoma job site, and apparently Precision Polymers conceded jurisdiction as to the cause of action regarding Oklahoma.

In World-Wide Volkswagen Corp. v. Woodson, 445 U.S. 286, 100 S.Ct. 559, 62 L.Ed.2d 490 (1980), the Supreme Court held that the nonresident corporation (World-Wide Volkswagen) carried on no activity whatsoever in Oklahoma:

They close no sales and perform no services there. They avail themselves of none of the privileges and benefits of Oklahoma law. They solicit no business there either through salespersons or through advertising reasonably calculated to reach the State. Nor does the record show that they regularly sell cars at wholesale or retail to Oklahoma customers or residents or that they indirectly, through others, serve or seek to serve the Oklahoma market. In short, respondents seek to base jurisdiction on one, isolated occurrence and whatever inferences can be drawn therefrom: the fortuitous circumstance that a single Audi automobile, sold in New York to New York residents, happened to suffer an accident while passing through Oklahoma.

World-Wide Volkswagen, supra, at 295. The Court noted further that it is not mere foreseeability that a product will find its way into the forum State that is critical, but rather "that the defendant's conduct and connection with the forum State are such that he should reasonably anticipate being haled into court there." World-Wide Volkswagen, supra, 297. In this connection the court noted that if the sale of a product of a manufacturer or distributor is "not simply an isolated occurrence, but arises from the efforts of the manufacturer or distributor to serve, directly or indirectly, the market for its product in other States, it is not unreasonable to subject it to suit in one of those States if its

allegedly defective merchandise has there been the source of injury to its owner or to others." Id. The criterion under World-Wide Volkswagen that the minimum contacts requirement of the Due Process clause is satisfied if a corporation "delivers its products into the stream of commerce with the expectation that they will be purchased by consumers in the forum State." World-Wide Volkswagen, supra, 298. In analyzing the fact situation in this case, the court decided that the mere fact of marginal revenues derived from the sale of automobiles in New York which were capable of use in Oklahoma "is far too attenuated a contact to justify that State's exercise of in personam jurisdiction over them." World-wide Volkswagen, supra, 299.

Surely there is no more contact by Wipline International herein with Oklahoma than that rejected by the Supreme Court in World-Wide Volkswagen, supra. From the record in this case, the conduct and connection of Wipline International with Oklahoma are not such that it could reasonably anticipate being haled into court here.

Based on the undisputed facts herein, there are insufficient contacts by Wipline International with Oklahoma to confer in personam jurisdiction over this non-resident corporation.

Therefore Defendant's Motion to Dismiss Wipline International, Inc., and by stipulation, Wipline, Inc., and Wipaire, Inc. should be and hereby is sustained.

It is so Ordered this 4<sup>th</sup> day of April, 1983.

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

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR - 4 1983 km

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 KELLEY R. BUCHANAN, )  
 )  
 Defendant. )

CIVIL ACTION NO. 83-C-138-C ✓

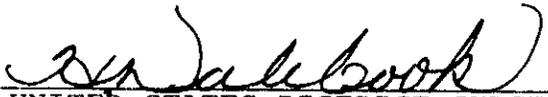
AGREED JUDGMENT

This matter comes on for consideration this 14 day  
of April, 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, Kelley R. Buchanan, appearing pro se.

The Court, being fully advised and having examined the  
file herein, finds that the Defendant, Kelley R. Buchanan, was  
personally served with Summons and Complaint on March 7, 1983.  
The Defendant has not filed her Answer but in lieu thereof has  
agreed that she is indebted to the Plaintiff in the amount  
alleged in the Complaint and that Judgment may accordingly be  
entered against her in the amount of \$281.63, 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,

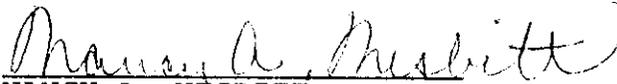
Kelley R. Buchanan, in the amount of \$281.63, plus interest at the legal rate from the date of this Judgment until paid.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING  
United States Attorney

  
NANCY A. NESBITT  
Assistant U.S. Attorney

  
KELLEY R. BUCHANAN

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

UNITED BANK OF DENVER, )  
 )  
 Appellant, )  
 )  
 vs. )  
 )  
 JOHN B. JARBOE, Trustee, )  
 )  
 Appellee. )

NO. 82-C-284-C ✓

**FILED**

APR - 4 1983 *km*

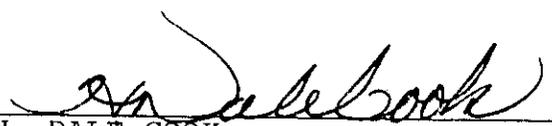
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

J U D G M E N T

It is the ruling of this court that the United Bank of Denver properly secured its interests in the State of Colorado.

It is the judgment of the court that the United Bank of Denver should be and hereby is adjudged a secured creditor as to all mobile equipment, and is entitled to the proceeds of the sale to Petroleum Reserve Corporation to such extent, in addition to the judgment for cash proceeds of accounts receivable or contract rights in the Trustee's hands and other relief properly awarded by the decision of March 1, 1982.

It is so Ordered this 4<sup>th</sup> day of April, 1983.

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

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

UNITED BANK OF DENVER, )  
 )  
 Appellant, )  
 )  
 vs. )  
 )  
 JOHN B. JARBOE, Trustee, )  
 )  
 Appellee. )

NO. 82-C-284-C ✓

**FILED**

APR - 4 1983 *rm*

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

O R D E R

United Bank of Denver (hereinafter "the Bank"), the appellant, is appealing herein from the judgment of the United States Bankruptcy Court for the Northern District of Oklahoma entered in this case on March 1, 1982, whereby the appellee was awarded judgment as against this appellant. The Bankruptcy Court determined that the Bank had not properly perfected its security interest in Oklahoma where the Bankrupt, Golf Course Builders Leasing, Inc., hereinafter "GCB", "chief place of business" was located. The Bank had instead perfected its security interest in Colorado. Secondly, the Bankruptcy Court concluded that the Bank had reasonable cause to believe that GCB was insolvent at the time of a later filing of financing statements in Oklahoma, shortly before involuntary proceedings in bankruptcy were commenced against GCB in the Northern District of Oklahoma. Thus the court concluded that the Bank had committed a voidable preference by the second filing which the court declared ineffective as against the Trustee and therefore denied the

Bank's alternate claim of priority of its security interest, as well as its principal assertion of priority resulting from its initial Colorado filings.

In concluding that GCB's "chief place of business" was in the State of Oklahoma, the Bankruptcy Court focused on business volume and concluded that GCB conducted its greatest volume of business activity in Oklahoma. The court also found that the main part of GCB's business operations were managed and conducted in Oklahoma and that its apparent and physical presence was established almost exclusively in Oklahoma.

Section 9-103 of Title 12A of the Oklahoma Statutes, repealed in 1981, provides as follows:

(2) If the chief place of business of a debtor is in this state, this Article governs the validity and perfection of a security interest and the possibility and effect of proper filing with regard to general intangibles or with regard to goods of a type which are normally used in more than one jurisdiction (such as automotive equipment, rolling stock, airplanes, road building equipment, commercial harvesting equipment, construction machinery and the like) if such goods are classified as equipment or classified as inventory by reason of their being leased by the debtor to others. Otherwise, the law (including the conflict of laws rules) of the jurisdiction where such chief place of business is located shall govern. If the chief place of business is located in a jurisdiction which does not provide for perfection of the security interest by filing or recording in that jurisdiction, then the security interest may be perfected by filing in this state.<sup>1</sup>

The Oklahoma Code comment for §9-103(2) states as follows in pertinent part:

---

<sup>1</sup>It should be noted that the Colorado statutory language as to §9-103 is identical to that of Oklahoma. Therefore, the issue is: Where did GCB maintain its "chief place of business."

The state of the chief place of business of the debtor governs the validity and perfection of a security interest in intangible mobile equipment. Mobile equipment includes harvesting equipment, oil field rigs and equipment, vehicles of a common carrier which are used in many states. The reason for this rule is that the state of the debtor's chief place of business is the place an interested party is likely to go for information . . . .

The official Uniform Commercial Code Comment accompanying §9-103 provided in pertinent part that:

"Chief place of business" does not mean the place of incorporation; it means the place from which in fact the debtor manages the main part of his business operations. That is the place where persons dealing with the debtor would normally look for credit information, and is the appropriate place for filing. The term "chief place of business" is not defined in this Section or elsewhere in this Act. Doubt may arise as to which is the "chief place of business" of a multi-state enterprise with decentralized, autonomous regional offices. A secured party in such a case may easily protect himself at no great additional burden by filing in each of several places. Although under this formula, . . . there will be doubtful situations, the subsection states a rule which will be simple to apply in most cases, which will make it possible to dispense with much burdensome and useless filing, and which will operate to preserve a security interest in the case of non-scheduled operations.

In the case of In Re J.A. Thompson & Son, Inc. v. Shepherd Machinery Co. 665 F2d 941, 949 - 950 (9th Cir. 1982), the court examined the difficulties in interpreting the term "chief place of business" under the Code:

"Clearly the drafters of §9-103(2) contemplated a two-fold inquiry focusing first on the "place from which . . . . the debtor manages the main part of his business operations," and second, on the reasonable expectations of creditors. With respect to the debtor's "place of management" the comment is somewhat confusing. On the one hand the comment could be read as referring to the location of the central or executive management of the debtor's multi-state operation. On the other hand, the comment could easily be read as referring to the place from which the single largest plant or project of a multi-state operation is managed on a daily basis. If the latter location is intended, then business volume generated by any given plant or project is crucial to the "chief place of business" inquiry.

The court then turned to a subsequent revision of §9-103 to clear up this confusion over the proper interpretation of "place of management," noting that although this revision was not in effect on the relevant date, and therefore is not controlling, it is nonetheless entitled to substantial weight in construing the earlier law." May Dept. Stores, Co. v. Smith, 572 F.2d 1275, 1278 (8th Cir. 1978). The California amendment to Section 9-103 is the same as the Oklahoma revision of 1981, §9-103.1(3)(d):

"A debtor shall be deemed located at his place of business if he has one, at his chief executive office if he has more than one place of business; otherwise, at his residence. . ."

The court in Thompson then rejected the "business volume" criterion as the sole relevant consideration as well as expectations of creditors in the state where the business volume was generated. The court noted that in cases where the chief executive offices cannot be readily identified, other factors must be considered, such as the location of Board of Directors' meetings, management offices, payroll and other business records. As to the persons seeking credit information, courts should consider "the reasonable expectations of a representative number of creditors." In re Thompson, supra, 950. The court then concluded as follows:

"Thus, the inquiry with respect to "place of management" focuses on the location which serves as executive headquarters for the debtor's multi-state operation, and not on the location which generates the largest business volume. See Preliminary Draft No. 2 at 38, Review Committee for Article 9 of the U.C.C. (1979). This is unquestionably a sound approach to the "place of business" inquiry and an approach which fosters a certain degree of stability in the debtor-creditor relationship, as the location of the chief executive offices of a multi-state enterprise is far less likely to change than the relative business volume generated by its various plants or operations.

Other courts have supported this interpretation of §9-103(2). In Westinghouse Credit Corp. v. Rovi Property Management Corp., 607 S.W. 2d 682

(Ky. Ct. Appl. 1980), the lower court's determination that the debtor had equipment in and had done excavating in Kentucky was held to be insufficient evidence upon which to base the determination that Kentucky was the seat of operations for the debtor. The court noted that "It is readily apparent that a debtor could have several permanent places of business in various jurisdictions, but only one chief place of business from where all its business activities were managed and directed."

The determination of GCB's "chief place of business" is an issue of law. Where, as here, the underlying facts are not disputed, the issue is only what legal conclusion should be drawn from them. Stafos v. Jarvis, 477 F.2d 369, 372 (10th Cir. 1973).

The undisputed facts in this action support the conclusion that GCB's "chief place of business" was in Denver, Colorado, not in Oklahoma, as the Bankruptcy Court found. GCB was incorporated in Colorado in 1975. Its capital stock is owned solely by Louis T. Hammer, who was also the majority stockholder in another Colorado corporation, LHI. GCB was formed for the principal purpose of owning and leasing to LHI equipment used in landscaping. At the time when the Bank made its loan to GCB and executed its security interest in Colorado, GCB had begun to conduct surface mining operations in Oklahoma. With the exception of two pieces of equipment leased to LHI and located in Idaho, all of GCB's equipment was located in Oklahoma in 1977. GCB was managed solely by Hammer, who sometimes spent two days per week in Oklahoma. Any offices maintained by GCB in Oklahoma were temporary. The office in Quinton, Oklahoma was leased on a month-to-month basis for six to seven months at the end of 1976 and the beginning of 1977. Then it was moved to Muskogee, Oklahoma for six weeks and finally to a temporary structure at a mine site in Chelsea, Oklahoma. Final negotiations for contracts and leases were always the responsibility of Hammer,

and were usually completed by mail from Denver. The accounting operations were managed from Denver; most bills were sent or forwarded to Denver; payroll payments were mailed from Denver. All the officers and directors of GCB resided in Colorado. Insurance on equipment as well as workmen's compensation insurance was carried by a Denver firm. Most equipment was purchased or leased by Hammer through the Denver office of GCB (actually at LHI headquarters).

It is clear from the testimony taken in the Bankruptcy proceedings that the Oklahoma offices of GCB were temporary mine offices, not the chief executive office or the place from which Hammer managed GCB or to which the majority of creditors sent bills. The Oklahoma offices were not "decentralized, autonomous regional offices" of the type mentioned in the Code comments. There can be little doubt that GCB's chief executive office was in Denver, not Oklahoma.

Therefore, it is the ruling of this court that the Bank properly secured its interests in the State of Colorado, and thus the issue of voidable preference need not be reached.

It is the judgment of the court that the Bank should be and hereby is adjudged a secured creditor as to all mobile equipment, and is entitled to the proceeds of the sale to Petroleum Reserve Corporation to such extent, in addition to the judgment for cash proceeds of accounts receivable or contract rights in the Trustee's hands and other relief properly awarded by the decision of March 1, 1982.

It is so Ordered this 4<sup>th</sup> day of April, 1983.

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

**FILED**

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

APR 1 1983

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

ROBERT S. LIENDO, )  
)  
Plaintiff, )  
)  
v. )  
)  
WESTVIEW NATIONAL BANK, )  
a Texas corporation, and )  
RALPH M. DUGGER, an individual )  
)  
Defendants. )

No. 83-C-46-BT

O R D E R

Before the Court are the motions to dismiss of defendant Westview National Bank and defendant Ralph M. Dugger. The plaintiff has filed his responses thereto.

This is a cause of action for abuse of process. Plaintiff was the payee of two checks drawn by Paul Waffler. Plaintiff cashed the checks, one for \$200.00 and the other for \$300.00, at the Westview National Bank (the "bank"). The checks were returned to the bank due to "no account" at the drawee bank. The defendant bank then turned to plaintiff for payment of the checks. When payment was not forthcoming, the defendant Dugger, as a representative of the defendant bank, complained to the local public prosecutor of Waco, Texas who in turn filed a criminal action against the plaintiff and caused a warrant to be issued for plaintiff's arrest. Plaintiff was subsequently arrested by the Tulsa, Oklahoma police pursuant to the Texas arrest warrant, and incarcerated for twenty-two days in the Tulsa County jail. Before plaintiff's arrest defendants were aware plaintiff was in

Tulsa, Oklahoma as defendant Dugger had talked with plaintiff numerous times by long distance telephone.

Defendant Westview National Bank is located in Waco, Texas with no offices or employees in the State of Oklahoma. It is a national bank; thus, venue of an action against it is governed by 12 U.S.C. §94 which provides as follows:

"Actions and proceedings against any association under this chapter may be had in any district or Territorial court of the United States held within the district in which such association may be established, or in any State, county, or municipal court in the county or city in which said association is located having jurisdiction in similar cases."

The bank claims venue is improper in this court and seeks dismissal of plaintiff's complaint pursuant to Fed.R.Civ.P.

12(b)(3).

In response, plaintiff claims the bank has waived its venue privilege under 12 U.S.C. §94. Plaintiff claims the actions of the bank through its employee Ralph M. Dugger are inconsistent with the assertion of the §94 privilege. In particular, plaintiff claims the bank through Dugger placed numerous long distance telephone calls from Waco, Texas, to the plaintiff in Tulsa, Oklahoma, attempting to collect on the checks. Plaintiff claims Dugger instituted a criminal action in Waco, Texas, which caused a warrant to be issued for plaintiff's arrest, at all times knowing the warrant would eventually find its way to and be carried out in Tulsa. Plaintiff also claims once he was arrested Dugger refused to allow plaintiff to be released on bond until the bad

checks were paid, thus utilizing the legal processes of this state to collect a civil debt.

In support of his claim of waiver, plaintiff relies on Attorney General v. Industrial National Bank of Rhode Island, 404 N.E.2d 1215 (Mass.Sup.Ct. 1980), and cites the following passage where the court said:

"Generally, in order to prove that a nonresident national bank by its conduct has waived the right to be exempt from suit in the forum State, the plaintiff must show that the bank previously had undertaken to enforce obligations within the State or had enlisted the aid of that State's legal processes to further or protect its own business interests there." Id. at 1218. (Emphasis added)

However, plaintiff fails to fully cite the above quote. The court further states, "For example, a judge may consider how many times the bank has brought suit or has been sued in local courts without raising a venue objection under §94." Id. at 1218. And the court further concludes:

"The Attorney General has failed to prove that the bank waived its venue privileges under §94. There is no contention that the bank expressly agreed or consented to be sued in Massachusetts. The bank was diligent in seasonably asserting its venue privilege. There is no indication of the extent to which the bank has been involved in litigation in Massachusetts." Id. at 1218.

Moreover, that a bank has waived its §94 privilege may not be hastily presumed. In Atlantic Quality Construction Corp. v. First Pennsylvania Bank, N.A., 440 F.Supp. 213, 215 (D.P.R. 1976), the Court cited Buffum v. Chase National Bank, 192 F.2d 58, 61 (2nd Cir.) cert. denied 298 U.S. 677 (1936), which set forth the test on waiver of the §94 privilege:

"Waiver is not presumed. It must be thoroughly substantiated by the party relying on it. It is a voluntary abandonment of a known right and so '[i]f the only proof of intention to waive rests on what a party does or forbears to do, his acts or omissions to act should be so manifestly consistent with and indicative of an intent to relinquish voluntarily a particular right that no other reasonable explanation of his conduct is possible [citation omitted].'"

Here, there is nothing in the record which shows the bank has been involved in litigation in Tulsa County or the State of Oklahoma. It is clear the bank instituted a proceeding in Texas which resulted in the issuance of a warrant and plaintiff's arrest by Tulsa police. Even assuming the bank took advantage of plaintiff's incarceration to coerce payment of the checks, the Court does not find the bank's isolated conduct sufficient to constitute a waiver of the §94 privilege. Such limited use of the processes of the State of Oklahoma does not indicate a voluntary relinquishment of the bank's venue rights in accordance with the criteria for waiver announced in Buffum v. Chase National Bank, supra at 61. See also Bechtel v. Liberty National Bank, 534 F.2d 1335 (9th Cir. 1976), where it was held a national bank did not waive its venue rights by having acquired ownership of property by means of a deed in lieu of foreclosure and having instituted forfeiture and receivership proceedings within the district where sued.

Under 28 U.S.C. §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." Venue against the bank appears to be proper in the United States District Court for the Western District of Texas, Waco Division. The Court thus finds the action against the bank should be transferred.

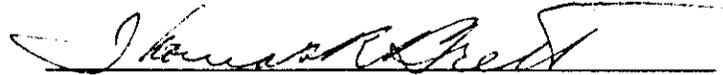
Defendant Ralph M. Dugger has filed a motion to dismiss on the basis that the Court lacks in personam jurisdiction over him.

Because the Court finds the action against the bank should be transferred to the Western District of Texas, the Court also finds the action against Dugger should be transferred to that district pursuant to 28 U.S.C. §1404(a). Section 1404(a) provides "for the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought." The action against Dugger could have been brought in the Western District of Texas. Further, it is in the "interest of justice" to avoid overlapping trials containing duplicative proof, excess costs incurred by all parties and the government, and the waste of valuable court time in the trial of repetitive claims. In re Viatron Computer Systems Corporation Litigation, 86 F.R.D. 431,

434 (D.Mass. 1980). Thus, the Court does not address defendant Dugger's motion to dismiss.<sup>1</sup>

For the above reasons, the Court finds the bank's motion to dismiss should be sustained. Sua sponte, the Court transfers the action against the bank to the United States District Court for the Western District of Texas, Waco Division, pursuant to 28 U.S.C. §1406(a). The Court also transfers the action against defendant Dugger to the Western District of Texas, Waco Division, pursuant to 28 U.S.C. §1404(a).

IT IS SO ORDERED this 3<sup>ST</sup> day of March, 1983.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

<sup>1</sup> It is not necessary that the Court address the question of in personam jurisdiction over defendant Dugger. A district court may transfer an action "in the interest of justice" even if it lacks personal jurisdiction over the defendant and without regard to whether venue is proper in that court. See Gipromer v. SS Tempo, 487 F.Supp. 631, 632 (S.D.N.Y. 1980); Goldlawr v. Heiman, 369 U.S. 463, 466 (1961); and Corke v. Sameiet M.S. Song, 572 F.2d 77, 80 (2nd Cir. 1978).

**E I L E D**

APR - 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. )  
 )  
 DARREL F. GORDON, )  
 )  
 Defendant. )

CIVIL ACTION NO. 82-C-826-E

DEFAULT JUDGMENT

This matter comes on for consideration this 1<sup>st</sup> day of April, 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, Darrel F. Gordon, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Darrel F. Gordon, was served with Summons and Complaint on September 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, Darrel F. Gordon, for the principal sum of \$1,054.38, plus interest at the legal rate from the date of this Judgment until paid.

UNITED STATES DISTRICT JUDGE

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

HYDRO CONDUIT CORPORATION, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JAMES W. MILLER, d/b/a MILLER )  
 CONSTRUCTION COMPANY, UNITED )  
 STATES FIDELITY AND GUARANTY )  
 COMPANY, a Maryland Corporation, )  
 )  
 Defendants. )  
 )  
 vs. )  
 )  
 THE CITY OF BROKEN ARROW, OKLA- )  
 HOMA, )  
 )  
 Plaintiff, and Third )  
 Party Plaintiff, )  
 )  
 vs. )  
 )  
 BENHAM-BLAIR & AFFILIATES, INC., )  
 a Delaware corporation, d/b/a )  
 W. R. HOLWAY AND ASSOCIATES, )  
 )  
 Third Party Defendant. )

**FILED**

APR - 1 1983

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

No. 76-C-154-E

JOURNAL ENTRY OF JUDGMENT

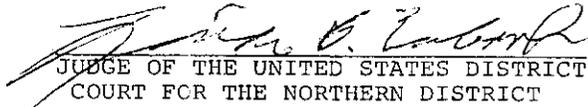
On this 30<sup>th</sup> day of MARCH, 1983,

the parties Joint Motion to Settle Journal Entry of Judgment came on before the Court for hearing. The Court finds that the parties have agreed to settle the Journal Entry of Judgment as follows and have further agreed not to appeal the terms of said Journal Entry of Judgment.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Journal Entry of Judgment between the City of Broken Arrow and James W. Miller, d/b/a Miller Construction Company, shall be settled as follows:

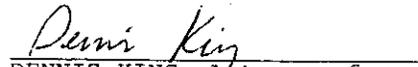
IT IS THEREFORE, ORDERED ADJUDGED AND DECREED that the defendant, James M. Miller, d/b/a Miller Construction Company, have and recover judgment of and from the defendant, the City

of Broken Arrow, Oklahoma, for the sum of \$129,445.74 with pre-judgment interest thereon at the rate of 6% per annum from February 2, 1976, until January 28, 1980, plus attorney fees for the trial of this matter in the amount of \$25,000, plus attorney fees and costs of appeal in the amount of \$6,195.35. Said judgment shall bear interest at the rate of 10% per annum from January 28, 1980, until it is paid.

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

APPROVED AS TO FORM:

  
DAVID H. SANDERS, Attorney  
for James W. Miller, d/b/a  
Miller Construction Co.

  
DENNIS KING, Attorney for  
the City of Broken Arrow