

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

D.W. CHRISCO,

Plaintiff,

-vs-

No. 83-C-556-E

FILED

MISSOURI-KANSAS-TEXAS
RAILROAD COMPANY, A
Corporation,

MAR 29 1985

Defendant.

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

JUDGMENT

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

IT IS ORDERED AND ADJUDGED that the plaintiff, D. W. Chrisco, recover of the defendant, Missouri-Kansas-Texas Railroad Company, the sum of \$50,000.00 together with prejudgment interest at the rate of 15% per annum from the 2nd day of June, 1983, until date of judgment for a total judgment of \$ 63,597.48 , with interest thereon at the rate of 10.08 % as provided by law, and his costs of action.

Dated at Tulsa, Oklahoma, this 26th day of March, 1985.

~~JACK C. SILVER, Clerk
U.S. District Court~~

By S/ JAMES O. ELLISON

U.S. D. J.

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

FILED
MAR 20 1985

CLERK OF DISTRICT COURT

RICHARD W. BOHAN, an)
individual,)

Plaintiff,)

vs.)

THE UNIVERSITY OF TULSA,)
a corporate body;)

FRANK K. WALWER, individually)
and in his official capacity as)
Dean of The University of Tulsa,)
College of Law;)

JOHN F. HICKS, individually and)
in his official capacity as the)
Assistant Dean of The University)
of Tulsa, College of Law;)

No. 85-C-234-C

CHARLES W. ADAMS, individually)
and in his official capacity as)
faculty member of The University)
of Tulsa, College of Law, and as)
Faculty Advisor for the Tulsa)
Law Journal;)

SCOTT R. ROWLAND, individually)
and in his official capacity as)
the Editor-In-Chief of the Tulsa)
Law Journal; and,)

JAMES E. CARRINGTON; JOHN DECKER;)
SUSAN JACKSON; PAUL R. THOMAS;)
DIANE TIMMONS; RANDALL VAUGHN;)
and, JANE J. WELCH,)
individually and in their)
official capacities as members)
of the Board of Editors for the)
Tulsa Law Journal of The)
University of Tulsa, College of)
Law,)

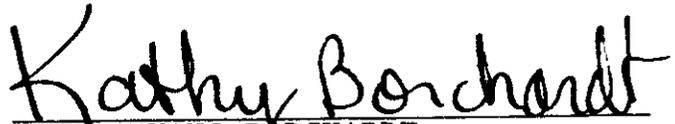
Defendants.)

NOTICE OF DISMISSAL

To the above-named Defendants:

You are hereby notified that Richard W. Bohan, plaintiff in the above-entitled action, hereby dismisses the action without prejudice pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, permitting dismissal by the plaintiff, without order of court, by the filing of a notice of dismissal at any time before service by the adverse party of an answer or a motion for summary judgment.

Dated March 28, 1985.



KATHY EVANS BORCHARDT
Attorney for Plaintiff
423 South Boulder Avenue
Pythian Building, Mezzanine
Tulsa, Oklahoma 74103
(918) 585-1271

CERTIFICATE OF MAILING

I hereby certify that on this 29th day of March, 1985, a true and correct copy of the above and foregoing instrument was mailed, with proper postage thereon fully prepaid, to:

T. Hillis Eskridge
Boesche, McDermott & Eskridge
Attorneys for The University of Tulsa
320 South Boston Building, Suite 1300
Tulsa, Oklahoma 74103

George W. Owens
Owens & McGill
Attorneys for Scott R. Rowland
1606 First National Bank Building
Tulsa, Oklahoma 74103

Frank K. Walwer
The University of Tulsa, College of Law
3120 East 4th Place
Tulsa, Oklahoma 74104

John F. Hicks, Assistant Dean
The University of Tulsa, College of Law
3120 East 4th Place
Tulsa, Oklahoma 74104

Charles W. Adams, Professor of Law
The University of Tulsa, College of Law
3120 East 4th Place
Tulsa, Oklahoma 74104

S. Diane Timmons
2862-B East 51st Street
Tulsa, Oklahoma 74105

James E. Carrington
6715 South Lewis, #152
Tulsa, Oklahoma 74136

Susan Jackson
4308 East 27th Street
Tulsa, Oklahoma 74146

John Decker
3538 East Latimer Place
Tulsa, Oklahoma 74115

Paul R. Thomas
1353 East 42nd Place
Tulsa, Oklahoma 74105

Jane J. Welch
1404 South 124th East Avenue
Tulsa, Oklahoma 74128

Randall Vaughn
12536 East 37th Place
Tulsa, Oklahoma 74146

Kathy Borchardt
KATHY EVANS BORCHARDT

Entered

FILED

MAR 29 1985

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

KENNETH W. HARMON,
Defendant.

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

CIVIL ACTION NO. 85-C-208-B

AGREED JUDGMENT

This matter comes on for consideration this 29 day
of March, 1985, the Plaintiff appearing by Layn R.
Phillips, United States Attorney for the Northern District of
Oklahoma, through Nancy Nesbitt Blevins, Assistant United States
Attorney, and the Defendant, Kenneth W. Harmon, appearing pro se.

The Court, being fully advised and having examined the
file herein, finds that the Defendant, Kenneth W. Harmon,
acknowledged receipt of Summons and Complaint on March 8, 1985.
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 \$176.93, plus interest at the rate
of 15.05 percent per annum and administrative costs of \$.61 per
month from August 10, 1983, and \$.68 per month from January 1,
1984, until judgment, plus interest thereafter at the legal rate
from the date of judgment until paid, plus the costs of this
action.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Kenneth W. Harmon, in the amount of \$176.93, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from August 10, 1983, and \$.68 per month from January 1, 1984, until judgment, plus interest thereafter at the current legal rate of 10.08 percent from the date of judgment until paid, plus the costs of this action.

S/ THOMAS R. BRETT

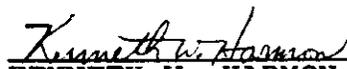
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney


NANCY NESBITT BLEVINS
Assistant U.S. Attorney


KENNETH W. HARMON

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

ABDULLAH RAMADAN SHABAZZ,]
]
 Plaintiff,]
]
 -VS-]
]
 WARDEN L. T. BROWN, et al,]
]
 Defendants.]

CASE **FILED** 81-C-24-ED

MAR 29 1985

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

AGREED JOURNAL ENTRY OF JUDGMENT

NOW ON THIS 27th DAY OF March, 1985, the Court being fully advised of the premises herein, finds that Plaintiff, by his attorney of record, Thomas E. Salisbury, and Defendants, by their attorney of record, Assistant Attorney General Robert A. Nance, have entered into and agreed to the settlement of the above-styled action. The Court finds that the terms of this agreed settlement are just and fair and represent an equitable settlement of this action.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that pursuant to the agreement of the parties that the Plaintiff shall be placed upon work release status forthwith assuming that proper employment and other reasonable prerequisites are met by Plaintiff.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Defendants or their successors in interest shall not take any retaliatory actions against the Plaintiff because of his litigation in this action; however, this shall not be construed as any limitation upon the agents of the Department of

THOMAS E. SALISBURY
1 WEST 41ST STREET
SUITE B
SAND SPRINGS,
OK 74063
(918) 599-9155

Corrections to properly punish Plaintiff for any acts which may violate the rules and regulations governing inmates within the custody of the Department of Corrections.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Plaintiff is a prevailing party within the meaning of 42 U.S.C. Section 1988 and that therefore his appointed counsel, Thomas E. Salisbury, is entitled to a reasonable attorney's fee. Said counsel shall promptly file with this Court his application for fees with supporting documents. If the Defendants agree to the amount requested by counsel they should promptly pay said sum. Should Defendants seek to contest the amount of attorney's fees requested they should file an application for a hearing on this issue before this Court within ten (10) days after their receipt of counsel's application for attorney's fees. Should Defendants not agree to pay the sum requested by counsel and if they do not request a hearing within ten (10) days then counsel for Plaintiff should request such a hearing before this Court.

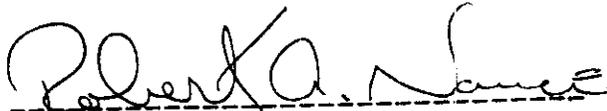
DATED THIS 27th DAY OF March, 1985.

S/ JAMES O. ELLISON

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

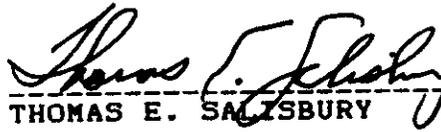
THOMAS E. SALISBURY
24 WEST 41ST STREET
SUITE B
SAND SPRINGS,
OK 74063
(918) 599-9155

APPROVED AS TO FORM AND CONTENT:



ROBERT A. NANCE
Assistant Attorney General

Attorney for Defendants



THOMAS E. SALISBURY
Attorney at Law

Attorney for Plaintiff

THOMAS E. SALISBURY
24 WEST 41ST STREET
SUITE B
SAND SPRINGS,
OK 74063
(918) 599-9155

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

MAR 29 1985

CLERK
DISTRICT COURT

MARY VIRGINIA KEY,)
)
 Plaintiff,)
)
 v.) Case No. 84-C-568-C
)
 GENERAL ELECTRIC COMPANY;)
 GENERAL ELECTRIC SAVINGS AND)
 SECURITY PROGRAM; and, AETNA LIFE)
 INSURANCE COMPANY,)
)
 Defendants.)

ORDER

On presentation of a Stipulation for Dismissal filed in
the within proceeding;

IT IS ORDERED, ADJUDGED, AND DECREED THAT:

1. Plaintiffs' Complaint, including all claims therein,
shall be and is hereby dismissed with prejudice.
2. Each party shall bear their or its own costs in this
matter.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

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

FILED
MAR 29 1985

KENNETH JOHNSON,)
)
Petitioner,)
)
v.)
)
JERRY SUNDERLAND, and THE)
ATTORNEY GENERAL OF THE STATE)
OF OKLAHOMA,)
)
Respondents.)

JACK S. JONES, CLERK
U.S. DISTRICT COURT

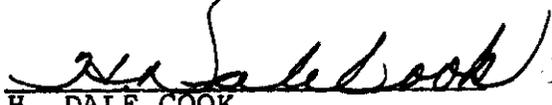
No. 84-C-81-C

O R D E R

The Court has for consideration the Petitioner's Motion to Dismiss Without Prejudice. On March 29, 1985 the Magistrate filed Findings and Recommendations in which the Magistrate recommends that the Court enter an Order dismissing Petitioner's Petition for Writ of Habeas Corpus without prejudice. The Magistrate further states that the Respondents have no objection to Petitioner's Motion to Dismiss his Petition for Writ of Habeas Corpus without prejudice. Petitioner's request to dismiss his petition without prejudice was contained in a letter from the Petitioner received by the Magistrate on February 7, 1985. Following the receipt of the letter, the Magistrate conducted a telephone conference call and was advised by the respondents that they had no objection to the Petitioner's request to dismiss without prejudice, and the Petitioner requested that an Order be entered dismissing his Petition without prejudice. The Court will therefore consider the Petitioner's letter as a Motion to Dismiss pursuant to Rule 41(a)(2) of the Fed. R.Civ.P.

It is therefore Ordered that Petitioner's Motion to Dismiss his Petition for Writ of Habeas Corpus Without Prejudice is sustained and the Petition for Writ of Habeas Corpus of Kenneth Johnson is hereby dismissed without prejudice.

It is so Ordered this 29 day of March,
1985.


H. DALE COOK
CHIEF UNITED STATES
DISTRICT JUDGE

FILED

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

WALTER J. GIBSON, CLERK
U.S. DISTRICT COURT

RAMONA B. HOPPER
Plaintiff,

vs.

E. W. BURROWS d/b/a BURROWS
BROTHERS CONSTRUCTION COMPANY,
Defendant and Third-Party
Plaintiff,

No. 84-C-454-C

vs.

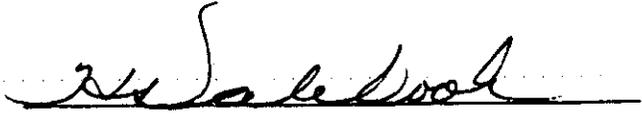
MARK EDWIN MORSE and HOPPER
UTILITY, INC.,
Third-Party Defendants.

J U D G M E N T

This matter came on before the Court for determination of third-party defendants' motion for summary judgment. There being no controverted material facts, the issues having been duly considered, and a decision having been duly rendered in accordance with the Order granting summary judgment,

IT IS ORDERED AND ADJUDGED that the third-party defendants, Mark Edwin Morse and Hopper Utility, Inc., are entitled to judgment against third-party plaintiff, E. W. Burrows, and are thereby dismissed from this proceeding.

IT IS SO ORDERED this 28 day of March, 1985.



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

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

F I L E D

MAR 27 1985

IN RE: WILBUR F. STEMMONS,)
)
 Debtor.)

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

Bk. No. 84-00320
Case No. ~~C-85-0133-C~~

85-C-133-C

ORDER OF DISMISSAL OF APPEAL
WITH PREJUDICE

NOW on this 27 day of March, 1985, the Application of the Appellant to dismiss his appeal with prejudice comes on before the Court and the Court having been advised that the matter is MOOT because the bankruptcy proceeding has been dismissed, grants the Application and hereby ORDERS

that this Appeal is dismissed with prejudice.

s/H. DALE COOK

Judge of the District Court

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 MARK A. DIX,)
)
 Defendant.)

MAR 27 1985

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

CIVIL ACTION NO. 85-C-121-E

DEFAULT JUDGMENT

This matter comes on for consideration this 26th day of March, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through James E. Pohl - Special, Assistant United States Attorney, and the Defendant, Mark A. Dix, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Mark A. Dix, acknowledged receipt of Summons and Complaint on February 22, 1985. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendant, Mark A. Dix, for the principal sum of \$1,518.18, plus accrued interest of \$506.76 as of January 2, 1985, plus interest on the principal sum of \$1,518.18 at 7 percent from January 2, 1985, until judgment,

plus interest thereafter at the current legal rate of 10.08
percent from date of judgment until paid, plus costs of this
action.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

Entitled

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 DENNIS E. ODLE,)
)
 Defendant.)

MAR 27 1985

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

CIVIL ACTION NO. 85-C-119-E

DEFAULT JUDGMENT

This matter comes on for consideration this 26th day of March, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through James E. Pohl - Special, Assistant United States Attorney, and the Defendant, Dennis E. Odle, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Dennis E. Odle, acknowledged receipt of Summons and Complaint on February 28, 1985. 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, Dennis E. Odle, for the principal sum of \$2,450.00, plus accrued interest of \$708.73 as of November 18, 1984, plus interest on the

principal sum of \$2,450.00 at 7 percent from November 18, 1984,
until judgment, plus interest thereafter at the current legal
rate of 10.08 percent from date of judgment until paid, plus
costs of this action.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

MAR 27 1985

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 LARRY D. FREDERICK,)
)
 Defendant.)

CIVIL ACTION NO. 85-C-135-E

AGREED JUDGMENT

This matter comes on for consideration this 26th day of March, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Larry D. Frederick, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Larry D. Frederick, acknowledged receipt of Summons and Complaint on February 28, 1985. 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 \$5,551.24, plus accrued interest of \$518.81 as of September 30, 1984, plus interest thereafter at the rate of 4 percent per annum until paid, plus costs of this action.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Larry D. Frederick, in the amount of \$5,551.24, plus accrued interest of \$518.81 as of September 30, 1984, plus interest thereafter at the rate of 4 percent per annum until paid, plus costs of this action.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney


NANCY NESBITT BLEVINS
Assistant U.S. Attorney


LARRY D. FREDERICK

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

RONNIE D. HODGE and)
MARY S. HODGE,)
)
Plaintiffs,)
)
vs.)
)
NATIONAL AMERICAN INSURANCE)
COMPANY,)
)
Defendant.)

F I L E D

MAR 27 1985

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

No: 84-C-69-E

O R D E R

ON this 26th day of March, 1985,
the Joint Application for an Order of Dismissal with Prejudice came
on before the Court for hearing. The Court finds that the parties
have settled the issues in dispute and that the case should be dismissed
with prejudice.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED, that the
plaintiff's claims against the defendant are hereby dismissed with
prejudice.

S/ JAMES O. ELLISON
JUDGE OF THE UNITED STATES DISTRICT
COURT

APPROVED AS TO FORM:

Ira L. Edwards, Jr.
IRA L. EDWARDS, Attorney for Plaintiff

Ray H. Wilburn
RAY H. WILBURN, Attorney for Defendant

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

MAR 27 1985

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

JAMES L. SMITH,

Plaintiff,

v.

UNITED STATES OF AMERICA,
INTERNAL REVENUE SERVICE,
COMMISSIONER OF INTERNAL
REVENUE, NORRELL C. SMITH,
and SUN REFINING & MARKETING
COMPANY, a corporation,

Defendants.

NO. 83-C-589-B

O R D E R

This matter came on for jury trial pursuant to regular setting on March 18, 1985. The defendant Norrell C. Smith announced ready to proceed to trial and the plaintiff stated through his counsel of record that he was not ready to proceed with the scheduled jury trial and renewed his motion for continuance which was objected to by the defendant. The Court directed that plaintiff's action is dismissed with prejudice for failure of plaintiff to prosecute, pursuant to Rule 41, Federal Rules of Civil Procedure, for the reasons and on the grounds stated below.

This action was commenced on July 8, 1983, and plaintiff amended his complaint to allege various tort causes of action on March 20, 1984. On March 20, 1984, the Court entered a Scheduling Order setting jury trial for May 21, 1984.

On April 24, 1984, Plaintiff moved for an enlargement of time and, on May 16, 1984, the Court set completion of discovery for May 29, 1984, and set trial for June 18, 1984.

Motions for summary judgment were filed by defendants, and the Court entered judgment in favor of all Government defendants on August 17, 1984, after a hearing on July 11, 1984. The Court, by Order dated January 2, 1985, vacated the summary judgment with respect to defendant, Norrell C. Smith, finding that an issue of material fact remained as to "whether defendant, Norrell C. Smith, knew or should have known that service of levy on plaintiff's employee would violate plaintiff's right to a 90-day deficiency notice under 26 U.S.C. §6213(a)."

The Court's Order of January 2, 1985 set the following schedule:

1. Exchange witness lists - January 15, 1985
2. Complete discovery - January 25, 1985
3. Exchange exhibits and file agreed pretrial order -
February 4, 1985
4. Trial briefs, voir dire, jury instructions -
February 11, 1985
5. Jury Trial - February 18, 1985

On February 2, 1985 plaintiff moved to extend time for discovery and continue the trial set for February 18, 1985. Defendant moved for dismissal for failure to prosecute due to

plaintiff's failure to exchange exhibits and to cooperate in formulating a pretrial order according to the Order of January 2, 1985. Both motions were overruled on February 8, 1985, and the Court ordered exhibits to be exchanged, and agreed pretrial order to be submitted by February 15, 1985. On February 14, 1985, plaintiff again moved for an extension of time and defendant again moved for dismissal for failure to prosecute due to plaintiff's failure once again to comply with the revised scheduling order. Both motions were overruled at docket call on February 19, 1985.

On February 14, 1985, plaintiff moved for leave to enter the appearance of a new lead counsel, William A. Cohan, of Colorado, to join with Robert A. Flynn in representing plaintiff. Mr. Cohan was granted leave on February 20, 1985, and the Court ordered that exhibits be exchanged and that an agreed pretrial order be submitted by February 22, 1985. The case was passed for trial at the docket call on February 19, 1985 due in part to the recent addition of Mr. Cohan as counsel. The case was set for trial February 26, 1985. The case was passed to March 18, 1985, on February 26, 1985.

The Agreed Pretrial Order was filed on February 25, 1985. A motion for continuance signed by Mr. Cohan was filed on March 15, 1985, and was overruled on March 15, 1985. That motion was based on alleged trial conflicts of Mr. Cohan. Counsel for the parties were notified on March 15, 1985, by

telephone, that a jury would be selected on March 18, 1985, and the case would be tried during the week of March 18, 1985.

Just prior to the docket call, which was held on March 18, 1985 at 9:30 a.m., the Court contacted Mr. Cohan in Colorado by telephone. Mr. Cohan stated that he had no trial conflict with this case for the week of March 18, 1985. He stated that his future trial settings were in April and May, and that he needed time to prepare for those cases. He stated by telephone that he was "moving" during the week of March 18, 1985.

At the docket call on March 18, 1985, plaintiff filed another motion for continuance, citing the same grounds as in previous motions which had been overruled. Plaintiff claimed that at a deposition of Angie Savinelli in Austin, Texas, on January 24, 1985, the day before the discovery cut-off, plaintiff learned information which required further discovery in order to prepare for trial.

There was no good ground for the extension of discovery and continuance of the trial. The only issue that remained to be decided in this case was whether defendant Norrell C. Smith knew or should have known that plaintiff had been deprived of a right to a notice of deficiency by defendant's conduct in serving a levy. Defendant conceded in the pretrial order and trial brief that the assessment of tax at the Austin Service Center should be abated. The discovery requested by plaintiff

could not reasonably have led to evidence relevant to the sole issue to be decided at trial.

Upon denial of the motion for continuance at the call of the jury docket, Robert A. Flynn, counsel for plaintiff, stated that plaintiff was not ready for trial, and that he was authorized to seek a dismissal of the action so that an appeal could be taken from the Court's denial of the motion for continuance filed at docket call.

The Court then dismissed the action against defendant, Norrell C. Smith, the only remaining defendant, for failure of plaintiff to prosecute, explaining that such a dismissal was with prejudice.

IT IS THEREFORE ORDERED that the Amended Complaint be and is hereby dismissed with respect to defendant, Norrell C. Smith, pursuant to Rule 41(b), Federal Rules of Civil Procedure.

ENTERED this 26 day of March, 1985.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that a copy of the foregoing proposed Order has been served by mailing a copy thereof on this 22nd day of March 1985, to:

Robert A. Flynn
Attorney at Law
1717 East 15th Street
Tulsa, Oklahoma 74104

William A. Cohan
Post Office Box 10264
Aspen, Colorado 81611

John R. Richards
Richards, Paul & Wood
9 East 4th Street, Suite 400
Tulsa, Oklahoma 74103



MICHAEL E. GREENE

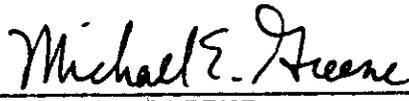
CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing
Judgment has been made on the 22nd day of March 1985,
by mailing a copy thereof to:

Robert A. Flynn
Attorney at Law
1717 East 15th Street
Tulsa, Oklahoma 74104

William A. Cohan
Post Office Box 10264
Aspen, Colorado 81611

John R. Richards
Richards, Paul & Wood
9 East 4th Street, Suite 400
Tulsa, Oklahoma 74103



MICHAEL E. GREENE

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

FILED
MAR 27 1985
CLERK
DISTRICT COURT

CREDIT ALLIANCE CORPORATION,)
)
Plaintiff,)
)
vs.)
)
FRED R. ESCOTT, individually,)
and d/b/a ESCOTT DRILLING &)
PRODUCTION; and)
JUANITA ESCOTT,)
)
Defendants.)

No. 84-C-702-Cv

J U D G M E N T

This action came on for trial before the Court upon stipulation of the parties and the issues having been duly tried and a decision having been duly rendered,

IT IS SO ORDERED AND ADJUDGED that the plaintiff, Credit Alliance Corporation, recover of the defendant, Fred R. Escott d/b/a Escott Drilling and Production and the defendant Juanita Escott, jointly and severally, the sum of \$266,146.95 plus late charges accrued through December 31, 1984 in the amount of \$14,681.35, late charges accruing in the amount of \$137.92 per diem beginning January 1, 1985 and continuing until paid, reasonable attorney fees, and its costs of action.

IT IS SO ORDERED this 26 day of March, 1985.


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

plaintiff, Ernest Dale Thompson, as father, guardian and next friend of Jason Thompson, a minor, recover of defendant Shelter Mutual Insurance on the minor's behalf the sum of \$1,500.00, with interest thereon at the rate of 10.08% per annum as provided by law, from which amount costs and expenses including medical bills and attorney's fees attributable to the minor shall be paid, the remaining sum to be deposited in one or more banking or savings and loan institutions approved by the Court if the remaining sum is in excess of \$1,000.00, as provided by 12 Okl.St. Ann. §83; and 4) that plaintiffs recover of defendant, Shelter Mutual Insurance, their costs of action.

Judgment is hereby entered in favor of the defendant on plaintiffs' claim of intentional infliction of emotional distress and plaintiffs' claim of punitive damages.

DATED at Tulsa, Oklahoma this 27th day of March, 1985.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Entered

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

GORDON W. AND PANSY L. STECKER,)
)
)
 Plaintiffs,)
)
 vs.)
)
 UNITED STATES OF AMERICA,)
)
)
 Defendant.)
)
)
 JOE N. AND EVELYN A. HAMPTON,)
)
)
 Plaintiffs,)
)
 vs.)
)
 UNITED STATES OF AMERICA,)
)
)
 Defendant.)
)
)
 FELIX J. AND CAROLINE N. FORTE,)
)
)
 Plaintiffs,)
)
 vs.)
)
 UNITED STATES OF AMERICA,)
)
)
 Defendant.)

No. 84-C-704-E
Consolidated with

F I L E D

MAR 27 1985

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

No. 84-C-705-B

No. 84-C-710-B

O R D E R

NOW on this 26th day of March, 1985 comes on for hearing the above styled case and the Court, being fully advised in the premises finds three separate complaints were filed with this Court each seeking refund of "frivolous tax return" penalties imposed pursuant to 26 U.S.C. § 6702.

For the purpose of judicial expediency these cases have been consolidated and motions for summary judgment filed therein are now at issue before the Court.

13

The facts as reflected in the pleadings show that Plaintiffs filed federal income tax returns for the tax years 1979 - 1981 on which they reported wage income of amounts between \$19,000 - \$36,000. For each return filed Plaintiffs subsequently filed forms 1040X, Amended U.S. Individual Income Tax Returns, on which Plaintiffs deducted the wages reported on their original returns stating that the original figures were based on erroneous information furnished on their W-2 forms. There was no indication of the basis on which they determined the original figures were incorrect.

Upon receipt of Plaintiffs' 1040X forms the IRS assessed a \$500 penalty for each such form filed by Plaintiffs. Plaintiffs have paid 15% of the penalty as required by statute and now challenge the penalty assessment.

The issues presented to this Court are whether Form 1040X is a return or purported return within the meaning of § 6702, whether the documents filed by Plaintiffs contained sufficient information to remove them from the realm of § 6702; and whether Plaintiffs' filing of amended tax returns is based on a position which is frivolous. These questions are issues of law for the Court to decide. Holker v. U.S., 737 F.2d 751, 752 (8th Cir. 1984); U.S. c. Grabinski, 727 F.2d 681, 686 (8th Cir. 1984); U.S. v. Moore, 627 F.2d 830, 834 (7th Cir. 1980) cert. denied, 450 U.S. 916, 101 S.Ct. 1360, 67 L.Ed.2d 342 (1981).

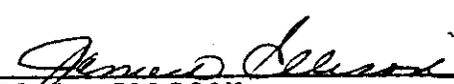
Plaintiffs maintain that Form 1040X is not a return within the meaning of § 6702. They emphasize the fact that they originally filed 1040 forms and paid the tax amount required.

Plaintiffs argue that the 1040X forms were filed in order to put into motion the procedure for obtaining refunds, and as such are not considered tax returns. This argument is meritless. Taxpayers may not obtain a refund without filing a return. 26 C.F.R. § 301.6402-3(a)(1)(1983). Since Plaintiffs' purpose in filing 1040X forms was to obtain a refund, the documents filed, 1040X forms, must be construed as purported returns under § 6702. Holker, 737 F.2d at 752; Nichols v. United States, 575 F.Supp. 320 (D.Minn. 1983). As the 1040X amends Plaintiffs' reported income to zero it contains information on which the substantial correctness of the self-assessment may be judged. 26 U.S.C.A. § 6702(a)(1)(B). Section 6702 authorizes immediate penalty assessment if the filing of the purported return is due to a frivolous position or a desire to delay or impede the administration of federal income tax laws.

Wages and salaries are income within the meaning of the sixteenth amendment, giving Congress the power to tax income. U.S. v. Richards, 723 F.2d 646 (8th Cir. 1984).

By amending their tax returns to show the wages previously reported are not income Plaintiffs have taken a position which has been repeatedly rejected as frivolous by the courts. Holker v. U.S., 737 F.2d 751 (8th Cir. 1984); Funk v. C.I.R., 687 F.2d 264 (8th Cir. 1982); Nichols v. U.S., 575 F.Supp 320 (1983).

Accordingly it is ORDERED, ADJUDGED AND DECREED that the Defendant's motions for summary judgment are granted. Plaintiffs' complaints are dismissed with prejudice.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

MAR 26 1985

GRETA L. COULSON and)
BOB L. COULSON,)
)
Plaintiffs,)
)
-vs-)
)
RALPH E. WILLIAMS,)
)
Defendant.)

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

No. 84-C-237-C

JUDGMENT

This action came on for trial on February 26, 1985, before a jury of six and thereafter on February 28, 1985, the jury returned a verdict in favor of the Plaintiffs determining that the Plaintiffs by direct and imputed negligence were 50% responsible for their own damages and determining that the Plaintiff Greta L. Coulson sustained damages in the sum of \$5,000.00 and the Plaintiff Bob L. Coulson sustained damages in the sum of \$3,000.00. IT IS ORDERED AND ADJUDGED

That the Plaintiff Greta L. Coulson have judgment against the Defendant for the sum of \$2,500.00 together with prejudgment interest in the sum of \$375.00; that the Plaintiff Bob L. Coulson have judgment against the Defendant for the sum of \$1,500.00 plus attorneys fees in the sum of \$1,612.50 to be taxed as costs herein; and that Plaintiffs jointly have judgment against the Defendant for accrued costs in the sum of \$332.75— plus interest thereon at the rate of 10.08 percent per annum from February 28, 1985.

Dated this 26 day of March, 1985.

s/H. DALE COOK

H. Dale Cook
Chief, U. S. District Judge

Approved as to Form:

Briggs, Patterson, Eaton & Berg
Attorneys for Plaintiffs

By Dale J. Briggs
Dale J. Briggs

Wilburn, Knowles & King
Attorneys for Defendant

By Dennis King
Dennis King

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

MAR 26 1985

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

MONTGOMERY WARD,)
)
 Plaintiff,)
)
 vs.) No. 83-C-716-C
)
 SOUTHWEST SPORTING GOODS,)
)
 Defendant.)

J U D G M E N T

This matter came on for non-jury trial before the Court, and the issues having been duly tried and a decision having been duly rendered in accordance with the Findings of Fact and Conclusions of Law filed simultaneously herein,

IT IS ORDERED AND ADJUDGED, that the plaintiff take nothing, that the action be dismissed on the merits and that the parties bear their own attorney fees and costs of this action.

IT IS SO ORDERED this ²⁶ day of March, 1985.



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

Entered

FILED

MAR 26 1985

JULIA S. DUNN, CLERK
U.S. DISTRICT COURT

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

R. L. CLARK DRILLING,)	
)	
Plaintiff,)	
)	
vs.)	No. 83-C-720-C
)	
SCHRAMM, INC.,)	
)	
Defendant.)	

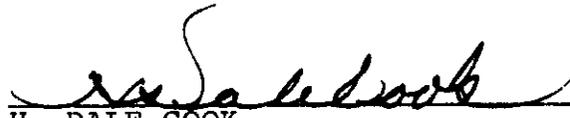
ORDER OF JUDGMENT PURSUANT TO RULE 56

By order rendered on August 3, 1984, in pretrial conference, this Court granted the motion for summary judgment of third-party defendants F. B. Wright Company and Philadelphia F. B. Wright Distribution Company as against defendant Schramm, Inc. F. B. Wright Co. and Philadelphia F. B. Wright Distribution Co. now request this Court enter the judgment under F.R.Cv.P. 56.

First, Schramm filed a Motion to Reconsider the summary judgment ruling on August 6, 1984. By reason of the November 26, 1984, settlement of the case between the remaining parties, Schramm, Inc. and R. L. Clark Drilling and this Court's Judgment Dismissing by Reason of Settlement, filed February 21, 1985, the Court finds Schramm's Motion to Reconsider is hereby moot.

IT IS THEREFORE ORDERED that judgment be granted for the third-party defendants F. B. Wright and Philadelphia F. B. Wright Distribution Company against Schramm, Inc. under Rule 56 and entered accordingly.

IT IS SO ORDERED this 26 day of March, 1985.



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

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

FILED

MAR 26 1985

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

UTICA NATIONAL BANK & TRUST)
COMPANY,)
)
Plaintiff,)
)
vs.)
)
JOHN L. COCKRUM, et al,)
)
Defendants.)

No. 83-C-388-B

SUPPLEMENTAL FINDINGS OF FACT
AND CONCLUSIONS OF LAW

This cause came on for hearing before the Court on February 28, 1985, on the Plaintiff's Motion for Entry of Judgment and Suggestion of Stay Dissolution, filed herein on November 29, 1984. Plaintiff appeared by and through its counsel, Doerner, Stuart, Saunders, Daniel & Anderson and S. Douglas Dodd, and the Defendant Joint Venture Company appeared by and through its counsel, Jack Winn. Having thoroughly examined the pleadings on file herein and having heard and considered the arguments of counsel presented to the Court, the Court finds and concludes:

I.

FINDINGS OF FACT

1. The Court hereby adopts its Findings of Fact set forth and filed on December 23, 1983, in the above-referenced action with the additions and exceptions set forth below.

2. The previous reference in paragraph 2 of the Court's Findings of Fact filed herein on December 23, 1983, related to the

bankruptcy stay then in effect as to Joint Venture Company, is now amended to remove the reference to the bankruptcy stay as set forth with more particularity below.

3. The Defendant Joint Venture Company filed its voluntary Petition for Relief under Chapter 11 of the United States Bankruptcy Code on December 19, 1983, thereby imposing the automatic stay provided for by Section 362 of the Bankruptcy Code upon further proceedings in this action against Joint Venture Company.

4. At hearing before the Court on February 28, 1985, Plaintiff submitted to the Court an Order of the United States Bankruptcy Court for the District of New Mexico in which that Court ordered that the case styled In Re: Joint Venture Company (No. 11-83-01429MR) in the United States Bankruptcy Court for the District of New Mexico be dismissed for failure to comply with the orders of that Court. Said Order of the Bankruptcy Court was executed and filed on the 27th day of November, 1984.

5. By virtue of the dismissal of the subject bankruptcy proceeding, styled In Re: Joint Venture Company, as referenced above, the automatic stay provided by Section 362 of the United States Bankruptcy Code ceased to exist upon the 27th day of November, 1984.

6. Save for the Supplemental Findings of Fact and amendments referenced above, the Court hereby adopts its Findings of Fact filed herein on December 23, 1983, as if the same were fully set forth herein.

7. In addition to the foregoing Findings of Fact, the Court finds that on March _____, 1985, the parties herein filed with the

Court certain Statements and Stipulations as to facts material to this action. Those Stipulations filed include:

- (a) That the Defendants stipulate that an additional attorneys' fee to be claimed by the Plaintiff in the prosecution of the instant motion for entry of judgment in the amount of \$883.50 is reasonable based upon the normal hourly rates for the time expended and upon the time and billing records of Plaintiff's attorneys.

II.

CONCLUSIONS OF LAW

1. The Court hereby adopts fully its Conclusions of Law filed herein on December 23, 1983, and applies the same to the Defendant Joint Venture Company, save and except for the amendments and exceptions set forth below.

2. The automatic stay previously in effect as to the Defendant Joint Venture Company, pursuant to the provisions of Section 362 of the United States Bankruptcy Code, no longer exists by virtue of the dismissal of the bankruptcy action in the United States Bankruptcy Court for the District of New Mexico styled In Re: Joint Venture Company, Case No. 11-83-01429MR, and there is no longer any impediment which would prevent the entry of judgment in favor of the Plaintiff, Utica National Bank & Trust Company, and against the Defendant Joint Venture Company.

ENTERED this 26th day of March, 1985.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Entered

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

UTICA NATIONAL BANK & TRUST)
COMPANY,)
)
Plaintiff,)
)
vs.)
)
JOHN L. COCKRUM, et al,)
)
Defendants.)

No. 83-C-388-B

FILED

MAR 26 1985

JUDGMENT

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

This cause having come on for hearing on the 28th day of February, 1985, upon Plaintiff's Motion for Entry of Judgment and Suggestion of Stay Dissolution, and the Court having examined the pleadings on file herein, having heard the arguments of counsel, having issued its Supplemental Findings of Fact and Conclusions of Law, and having concluded that the Plaintiff is entitled to summary judgment against the Defendant Joint Venture Company on both the claims of the Plaintiff and the counterclaim of the Defendants,

IT IS ORDERED, ADJUDGED AND DECREED that judgment be entered in favor of the Plaintiff, Utica National Bank & Trust Company, and against the Defendant Joint Venture Company in the amount of \$879,649.57, together with post-judgment interest at the rate of 9.17% per annum, \$1,851.55 for its costs of action, attorney fees in the amount of \$21,692.16, and supplemental attorney fees in the amount of \$883.50.

DATED this 26 day of March, 1985.

S/ THOMAS R. BRETT

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED
FEB 26 1985
JACK C. SUMNER, CLERK
U.S. DISTRICT COURT

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

GUY BALDWIN and wife, SUE)
ANN BALDWIN,)
)
Plaintiffs,)
)
vs.)
)
CESSNA AIRCRAFT COMPANY,)
)
Defendant.)

82-C-9-C

NO. 84-C-878-C

ORDER OF DISMISSAL WITHOUT PREJUDICE

The above matter coming on for consideration on this 26th day of February, 1985, upon the Joint Application for Dismissal Without Prejudice filed herein by the parties hereto, and the Court being fully advised in the premises, finds that said Application for Dismissal Without Prejudice is in the best interest of justice and should be approved, and the above styled and numbered cause of action be dismissed without prejudice.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the Joint Application for Dismissal Without Prejudice by the parties be, and the same is hereby approved, and the above styled and numbered cause of action and complaint of the plaintiffs is dismissed without prejudice to a refileing as to said defendant, Cessna Aircraft Company.

W. S. Saltschick
UNITED STATES DISTRICT JUDGE

93

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

FILED

MAR 25 1985

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

JACK GREEN and ALVERETTA GREEN,)
)
 Plaintiffs,)
)
 v.)
)
 FIBREBOARD CORPORATION, et al.,)
)
 Defendants.)

No. 83-C-580-C

STIPULATION FOR DISMISSAL

Comes now Mark H. Iola, counsel for the Plaintiffs, and Barkley, Ernst, White & Hartman, by and through Andrew S. Hartman, counsel for H. B. Fuller Company, and show the Court that the issues between the Plaintiffs and Defendant, H. B. Fuller Company, have been resolved.

WHEREFORE, these parties pray that an Order of Dismissal with Prejudice be entered herein as the issues between them are now moot.

This Stipulation for Dismissal is neither intended to be nor is it a Stipulation of Dismissal of any other parties to this litigation.



MARK H. IOLA
Attorney for Plaintiffs



ANDREW S. HARTMAN, Attorney for
Defendant H. B. Fuller Company

ORDER OF DISMISSAL

Now, on this 26 day of March, 1985, the Court being advised that a resolution has been reached between the Plaintiffs and the named Defendant, the Court orders that the captioned case be dismissed with prejudice as to the Defendant, H. B. Fuller Company, only.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

FILED

MAR 26 1985

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

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

Entered

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

FILED

MAR 25 '84

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

ZURUCH INSURANCE COMPANY,)
a New York corporation,)
)
Plaintiff,)
)
vs.)
)
WELTON BECKETT ASSOCIATES,)
Architects,)
)
Defendant.)

Case No. 84-C-84-B

ORDER OF DISMISSAL

On this 25th day of March, 1984, upon written application of the parties for an order of 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 the Complaint with prejudice to any future action, and the Court having been fully advised in the premises finds that said Complaint should be dismissed. It is, therefore,

ORDERED, ADJUDGED and DECREED by the Court that the Complaint and all causes of action of the Plaintiff filed herein against the Defendant be and the same are hereby dismissed with prejudice to any further action.

S/ THOMAS R. BRETT

THOMAS R. BRETT, JUDGE

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

MARIA B. GARZA, Administrator of the)
Estate of Jose Garza, deceased,)
)
Plaintiff,)
)
vs.)
)
CHARLES H. LANCASTER, et al.,)
)
Defendants.)

84-C-27-B

MAR 25 1985

U.S. DISTRICT COURT

STIPULATION OF DISMISSAL

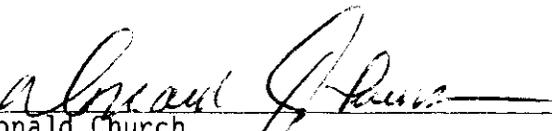
COME NOW the parties which have entered an appearance in the
abouve-styled and numbered cause and stipulate to the dismissal of all
pending actions without prejudice to any future action.

Respectfully Submitted,

FRASIER & FRASIER

By: 
Steven R. Hickman, OBA# 4172
1700 Southwest Blvd., Suite 100
P.O. Box 799
Tulsa, OK 74101
(918) 584-4724

CHURCH AND ROBERTS

By: 
Donald Church
501 Philtower Building
Tulsa, Oklahoma 74103
(918) 583-8156

Entered

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

DORION FLEMING, JR.,
Plaintiff,
vs.
OIL FIELD SYSTEMS,
a corporation,
Defendant.

Case No. 83-C-213-E

FILED

MAR 24 1984

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

ORDER

Upon the joint stipulation of attorneys for Plaintiff and Defendant, and for good cause shown, the Complaint of the Plaintiff against said Defendant is dismissed with prejudice to the filing of a future action.

James D. ...

Entered

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

FILED

MAR 24 1985

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

EMMETT L. MOON,)
)
Plaintiff,)
)
vs.)
)
GUARANTEE INSURANCE CO., and)
UNITED STATES FIDELITY AND)
GUARANTY,)
)
Defendants.)

Case No.: C-85-200-E

ORDER OF DISMISSAL

ON This 12 day of March, 1985, 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 against United States Fidelity and Guaranty only and have requested the Court to dismiss said Complaint with prejudice to any future action against said defendant, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

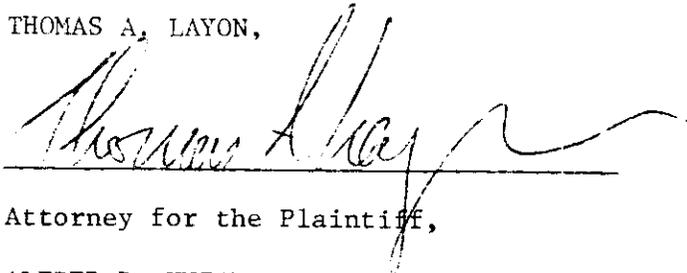
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the Plaintiff filed herein against the defendant, United States Fidelity and Guaranty, be and the same hereby is dismissed with prejudice to any future action. It is further ordered that all plaintiffs rights to proceed against the defendant, Guarantee Insurance Company, are specifically reserved and the cause against said defendant not dismissed.

S/ JAMES O. ELLISON

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

APPROVALS:

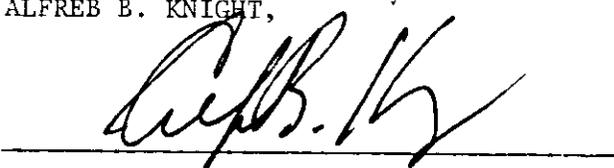
THOMAS A. LAYON,



A handwritten signature in cursive script, appearing to read 'Thomas A. Layon', is written above a horizontal line.

Attorney for the Plaintiff,

ALFRED B. KNIGHT,



A handwritten signature in cursive script, appearing to read 'Alfred B. Knight', is written above a horizontal line.

Attorney for the Defendant United States
Fidelity and Guaranty.

Entered

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

FILED

MAR 22 1985

CHARLES H. CHAMBERS,)
)
 Plaintiff,)
)
 -vs-)
)
 CITY OF PRYOR CREEK, OKLAHOMA,)
 et al.,)
)
 Defendants.)

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

No. 84-C-879-E

ORDER OF DISMISSAL WITHOUT PREJUDICE
AS TO PLAINTIFF'S CLAIMS AGAINST
DEFENDANTS, ROBERT COLBERT, TUBBY WILLIAMS
AND THE CITY OF CLAREMORE, OKLAHOMA

Upon the Application of Plaintiff, Charles H. Chambers,
and for good cause shown, the Court HEREBY ORDERS that the
claims asserted in this action by Plaintiff against Defendants,
Robert Colbert, Tubby Williams and The City of Claremore,
Oklahoma, are hereby dismissed, without prejudice, each party
to bear his or its own costs in connection therewith. IT IS
FURTHER ORDERED that this dismissal without prejudice shall
not affect any other claims pending in this action against any
other party to the action.

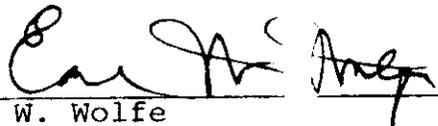
DATED this 22nd day of March, 1985.

S/ JAMES O. ELLISON

~~Jack C. Silver, Clerk~~

UNITED STATES DISTRICT JUDGE

APPROVAL AS TO FORM AND CONTENT:


Earl W. Wolfe
ATTORNEY FOR PLAINTIFF

Richard B. Noulles

Richard B. Noulles
ATTORNEY FOR DEFENDANTS,
ROBERT COLBERT, TUBBY WILLIAMS
and THE CITY OF CLAREMORE,
OKLAHOMA

Entered

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

O'BYRNE ELECTRIC CO.,
a Missouri corporation,

Plaintiff,

vs.

KAMO ELECTRIC COOPERATIVE,
INC., an Oklahoma Electric
Cooperative,

Defendant.

FILED

MAR 22 1985

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

No. 82-C-12-E

ORDER OF DISMISSAL WITH PREJUDICE

The Court, having been advised by counsel that this action has been settled and having previously dismissed the action by reason of settlement without prejudice, now finds, upon advice of counsel, that the matter has been finally settled and that the parties jointly request a dismissal of all claims of the plaintiff against defendant with prejudice.

For good cause shown, IT IS ORDERED that the above styled and numbered action is therefore dismissed with prejudice.

DATED this 22nd day of March, 1985.

S/ JAMES O. ELLISON

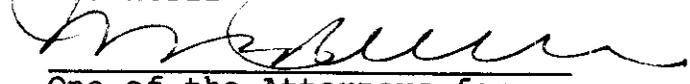
~~JAMES O. ELLISON, CLERK~~

JAMES O. ELLISON, United States
District Judge

APPROVED AS TO FORM:



One of the Attorneys for
Plaintiff



One of the Attorneys for
Defendant

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

FILED

BILLY EUGENE CARDER,)
)
 Plaintiff,)
)
 vs.)
)
 HUNTINGTON NATIONAL BANK OF)
 COLUMBUS, COLUMBUS, OHIO, as)
 TRUSTEE OF LANCASTER COLONY)
 CORPORATION HOURLY EMPLOYEES')
 BENEFIT PLAN AND TRUST,)
)
 Defendant.)

MAR 22 1985

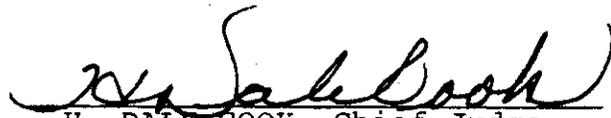
JACK D. SILVER, CLERK
U.S. DISTRICT COURT

No. 83-C-902-C

J U D G M E N T

Pursuant to the Findings of Fact and Conclusions of Law entered simultaneously herein, the Court, having found that plaintiff is entitled to benefits to be paid by defendant pursuant to the Lancaster Colony Corporation Hourly Employees' Benefit Plan and Trust, declares that the subrogation provision of the plan and trust is valid and enforceable in Oklahoma, that the reimbursement agreement which defendant requires plaintiff sign is likewise valid and enforceable, and that plaintiff is hereby required to sign said reimbursement agreement as a valid condition for payment medical benefits provided in defendant plan and trust.

IT IS SO ORDERED this 22nd day of March, 1985.


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

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

MAR 22 1985

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 RENE V. SCHOATS,)
)
 Defendant.)

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

CIVIL ACTION NO. 85-C-120-E

DEFAULT JUDGMENT

This matter comes on for consideration this 22nd day of March, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through James E. Pohl - Special, Assistant United States Attorney, and the Defendant, Rene V. Schoats, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Rene V. Schoats, acknowledged receipt of Summons and Complaint on February 19, 1985. 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, Rene V. Schoats, for the principal sum of \$1,050.00, plus accrued interest of \$141.09 as of January 5, 1985, plus interest on the

principal sum of \$1,050.00 at 3 percent from January 5, 1985,
until judgment, plus interest thereafter at the current legal
rate of 10.0% percent from date of judgment until paid, plus
costs of this action.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

Entered

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA MAR 22 1985

U.S. DISTRICT COURT

DARLENE P. GUILLEN,)
)
 Plaintiff,)
)
 v.)
)
 UNITED STATES OF AMERICA,)
 INTERNAL REVENUE SERVICE,)
 COMMISSIONER OF INTERNAL)
 REVENUE, R. E. BARNES,)
 REVENUE OFFICER, and LOVE)
 ENVELOPES, a corporation,)
)
 Defendants.)

NO. 83-C-987-B

O R D E R

At the conclusion of the evidence on the 30th day of January, 1985, this matter comes before the Court on motion for directed verdict of defendant, Robert E. Barnes. For the reasons set forth below, the Court finds the motion should be sustained.

In passing on the motion for directed verdict, the Court views the evidence in the light most favorable to the party against whom it is being directed, plaintiff, Darlene P. Guillen, now Syers. Hidalgo Properties, Inc. v. Wachovia Mortgage Company, 617 F.2d 196, 198 (10th Cir. 1980); Wilkins v. Hogan, 425 F.2d 1022, 1024 (10th Cir. 1970). The issue before the Court is whether under the evidence presented the plaintiff has established a prima facie case against the defendant, Robert E. Barnes, that Robert E. Barnes' conduct violated Darlene P. Guillen's constitutional rights to due process and equal protection of the law. Plaintiff contends that on November 15,

1983, Robert E. Barnes caused an income tax levy to be issued against her employer, Love Envelope Company, thus denying her \$151.00 of her weekly wages, when Robert E. Barnes allegedly knew or had cause to believe that Darlene P. Guillen had not been properly mailed a statutory 90-day notice of deficiency.

The evidence before the Court has established that Darlene P. Guillen filed her 1980 tax return with a false social security number, and represented that her present home address was 101 North Broadway, No. 312, Shawnee, Oklahoma 74801. This address was therefore placed in the integrated data retrieval system known as IDRS at the Austin, Texas IRS service center, as Darlene P. Guillen's last known address.

The evidence also reflects that Darlene P. Guillen, previous to the completion of her 1980 income tax return, had joined an organization, a recognized tax protester group known as the American Heritage Fellowship, that espoused the basic philosophy that wages received for labor performed are not income for income tax purposes and that United States Federal Reserve Notes are not money for income tax purposes. The evidence establishes that Darlene P. Guillen turned the preparation of her 1980 income tax return over to a member of the American Heritage Fellowship and that she acquiesced in his preparation of the 1980 return on her behalf by sending it to the Internal Revenue Service. Unbeknownst to the IRS, the present home address listed by Darlene P. Guillen on her 1980 income tax return was a local office address of the American Heritage Fellowship.

Darlene P. Guillen's 1981 income tax return, although bearing a correct social security number, was not signed. It contained the statements "WAGES NOT INCOME UNLESS FROM PRIVILEGE" and "FEDERAL RESERVE NOTES ARE NOT CASH", and intentionally underreported her adjusted gross income because of these stated philosophical beliefs. The home address on the 1981 tax return was shown as P.O. Box 959, Broken Arrow, Oklahoma 74012, which is a local office address for the American Heritage Fellowship. The Broken Arrow address on the 1981 return was not placed on the IRS computer because it was a known address by the IRS of a tax protester organization. The IRS had been instructed by the appropriate Oklahoma representative of the Internal Revenue Service not to send taxpayer correspondence to this Broken Arrow address because history had shown the correspondence would not be forwarded to or received by the taxpayer.

As a result of the intentional underreported wage income of the plaintiff for tax years 1980 and 1981, the examination division of the IRS in Austin, Texas began the preparation of an assessment for taxes due. The IRS furnished plaintiff the recomputation of the plaintiff's taxes due, but plaintiff disagreed essentially because of her previously stated philosophical views.

On May 4, 1983 and May 18, 1983, 90-day deficiency notices for the assessments due for the 1980 and 1981 tax years, respectively, were mailed to plaintiff at her last known address, at 101 North Broadway, No. 312, Shawnee, Oklahoma, which address

Darlene P. Guillen had presented to be her present home address on her 1980 tax return.

Plaintiff filed no 1982 income tax return although employed during that year. Therefore, the IRS was not furnished with a more current home address than the address represented in plaintiff's 1980 income tax return.

The plaintiff urges that on March 7, 1983 she sent an unsigned letter to the IRS in Austin, Texas which contained a return address, that being her current home address of 9814 East 37th Street, Tulsa, Oklahoma. That letter contained no specific request to note the change of address or to change whatever address the IRS had previously been using for the plaintiff. Such a request was finally sent by plaintiff, however, months later in November 1983.

The March 7, 1983 letter was directed to the Austin, Texas service center section which dealt with disputed W-4 forms filed by employees with their employers relative to withholding information. The evidence establishes that the W-4 section is specifically directed to not use the taxpayer's address on a W-4 form as a permanent home address due to the transient nature of the public. Such addresses on W-4 forms are often not the employees' current home addresses.

In April 1983 when the plaintiff refused to pay the assessment, her account was referred to a revenue officer in Shawnee, Oklahoma to contact the plaintiff at her address at 101 North Broadway, #312, Shawnee, Oklahoma. The revenue officer

went to this address but no one there knew of the plaintiff or her whereabouts. The evidence establishes that by the time this information was reported to the IRS in Austin, Texas, there was insufficient time to change the "last known address" of plaintiff on the computer. Thus, the 90-day notices were mailed to the plaintiff at the 101 North Broadway, #312, Shawnee, Oklahoma address on May 4, 1983 and May 18, 1983 as aforesaid.

As previously stated by order of this Court, the function of the IRS is to timely mail the 90-day deficiency notice to the plaintiff at the last known address. It is not required that plaintiff actually receive the notice. United States v. Ahrens, 530 F.2d 781 (8th Cir. 1976); Sorentino v. Ross, 425 F.2d 213 (5th Cir. 1970); Delman v. Commissioner of Interval Revenue, 384 F.2d 929 (3rd Cir. 1967); Green v. United States, 437 F.Supp. 334, 336-37 (N.D.Okla. 1977).

The Court concludes under the facts and circumstances herein the 90-day deficiency notices were properly mailed to the plaintiff's last known address. Any confusion herein relative to the plaintiff's last known address resulted from the conduct of the plaintiff herself and not from the conduct of any representative of the Internal Revenue Service. The record is clear the IRS intended for the plaintiff to be mailed a 90-day deficiency notice at the plaintiff's last known address, such notices were mailed, and the plaintiff's constitutional rights have not been violated in this regard.

The record reflects that \$500.00 of the total sum involved in the levy was a penalty for providing false information. The IRS is not required to issue a notice of deficiency for the \$500.00 penalty. The plaintiff urges the law permitting such a lack of notice is unconstitutional. However, case law supports the constitutionality of no deficiency notice as to the payment of tax penalties. Souther v. Mihlbachler, 701 F.2d 131 (10th Cir. 1983); Riley v. Commissioner of Internal Revenue Service, 566 F.Supp. 21 (E.D.Ohio 1983). Due process is afforded the taxpayer in that he or she has the right to sue for a refund.

As for the conduct of Robert E. Barnes, the evidence has established that he was a revenue officer in the collection division in the Tulsa, Oklahoma office, first hearing of this matter on November 1, 1983. The evidence is clear that a revenue officer of the collection division is not associated with the examination division, which is charged with making the tax computation and any assessment, followed by mailing out a 90-day deficiency notice. When the revenue officer in the collection division receives the file, his function is to collect the tax due. The revenue officer starts with the assumption the examination division has done its job of properly making the assessment and of mailing the 90-day deficiency notice. As stated above, the notices of deficiency were properly mailed to the last known address of the plaintiff. Therefore, the levy signed by defendant Robert E. Barnes on November 15, 1983 and issued to the plaintiff's employer was proper.

The Court would also note that, after the receipt of plaintiff's counsel's letter in the latter part of November 1983, which stated the plaintiff had not received a copy of a 90-day deficiency notice, it was the group manager, Homer Walker, not Robert E. Barnes, who made the judgment to persist in the levy issued to the plaintiff's employer.

For the reasons stated above, defendant Barnes' motion for a directed verdict is hereby sustained at the conclusion of all the evidence on the 30th day of January, 1985.

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

THOMAS R. BRET
UNITED STATES DISTRICT JUDGE

Entered

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

MAR 22 1985
U.S. DISTRICT COURT
TULSA, OKLAHOMA

DARLENE P. GUILLEN,
Plaintiff,
v.
UNITED STATES OF AMERICA,
INTERNAL REVENUE SERVICE,
COMMISSIONER OF INTERNAL
REVENUE, R. E. BARNES,
REVENUE OFFICER, and LOVE
ENVELOPES, a corporation,
Defendants.

No. 83-C-987-B

JUDGMENT

This action came on before the Court on defendant's motion for directed verdict, and the issues having been duly heard and a decision having been duly rendered,

IT IS ORDERED AND ADJUDGED, that the plaintiff Darlene P. Guillen take nothing, that the action be dismissed on the merits, and that the defendant R. E. Barnes recover of the plaintiff Darlene P. Guillen his costs of action.

Dated at Tulsa, Oklahoma this 22nd day of March, 1985.



THOMAS R. BRET
UNITED STATES DISTRICT JUDGE

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

F I L E D

MAR 21 1985

BURLINGTON NORTHERN)
RAILROAD COMPANY,)
)
Plaintiff,)
)
vs.)
)
KENT RYALS, Special)
Administrator of the)
Estate of Kimberly Nichols,)
Deceased,)
)
Defendant.)

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

No. 84-C-884-E

ENTRY OF DEFAULT JUDGMENT BY CLERK

Upon the Motion and Affidavit for Default Judgment, filed by plaintiff, Burlington Northern Railroad Company, pursuant to Rule 55(b)(1), Federal Rules of Civil Procedure, default judgment is hereby entered in favor of the plaintiff against the defendant for the relief prayed for in plaintiff's Complaint.

DATED this 21st day of March, 1985.

Jack C. Silver, Clerk

By: J. Sandoeal

UNITED STATES DISTRICT COURT CLERK

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

BRENDA J. COLLINS, et al.,

Plaintiffs,

vs.

EDG ENGINEERING, INC., an
Oklahoma Corporation, et al.,

Defendants.

No. 82-C-1107-C

MAR 21 1983
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL OF CLAIMS
OF PAULA HATLEY

The Court, having been fully advised that counsel for Plaintiff Paula Hatley, and counsel for Defendants have filed a Joint Stipulation of Dismissal of the claims of Paula Hatley, hereby dismisses the claims of Paula Hatley, with prejudice. Each side is to bear their own costs and attorneys fees.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

MAR 21 1985

CLERK OF DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 GEORGE D. BELL, JR., and)
 ROXANNA BELL, husband and wife;)
 BRAZEAL MASONRY, INC.;)
 CASUALTY RECIPROCAL EXCHANGE;)
 AMERICAN STATE BANK; BOARD)
 OF COUNTY COMMISSIONERS, Tulsa)
 County, Oklahoma; and COUNTY)
 TREASURER, Tulsa County,)
 Oklahoma,)
)
 Defendants.)

Civil Action No. 84-C-662-C

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 21st day of March, 1985. The Plaintiff appears by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney; the Defendant, Brazeal Masonry, Inc., appears by its attorney, J. Thomas Mason; the Defendant, Casualty Reciprocal Exchange, appears by its attorney, Bobbie Y. Callahan, of the firm of Ungerman, Conner & Little; and the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, appear by Susan K. Morgan, Assistant District Attorney, Tulsa County, Oklahoma; the Defendant, American State Bank, appears not having previously filed its Disclaimer herein; and the Defendants, George D. Bell, Jr., and Roxanna Bell, appear not, but make default.

The Court being fully advised and having examined the file herein finds that Defendant, George D. Bell, Jr., acknowledged receipt of Summons and Complaint on August 13, 1984; that the Defendant, Roxanna Bell, acknowledged receipt of Summons and Complaint on August 13, 1984; that the Defendant, Brazeal Masonry, Inc., acknowledged receipt of Summons and Complaint on December 22, 1984; that the Defendant, American State Bank, acknowledged receipt of Summons and Complaint on July 27, 1984; and that the Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on July 27, 1984.

It appears that the Defendant, Brazeal Masonry, Inc., filed its Answer and Cross-Complaint on December 27, 1984; that the Defendant, Casualty Reciprocal Exchange has filed its Answer on August 7, 1984; that the Defendant, American State Bank has filed its Disclaimer on August 7, 1984, disclaiming any right, title or interest to the real property which is the subject of this foreclosure action and consenting to the entry of Judgment in this case without further notice to this Defendant; that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have filed their Answers on August 15, 1984; and that the Defendants, George D. Bell, Jr., and Roxanna Bell, have failed to answer and their default has been entered by the Clerk of this Court on October 30, 1984.

The Court further finds that this is a suit based upon a certain promissory note for foreclosure of security agreements covering certain personal property and a real estate mortgage securing said promissory note upon the following described real

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

Lot One (1), Block One (1), THE AMENDED PLAT OF ARCHER HEIGHTS, an addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof; AND,

A tract 22 1/2 feet by 131 feet South of and adjoining Lot One (1), Block One (1), of the AMENDED PLAT of Archer Heights, an addition to the City of Tulsa, more particularly described as: Beginning at a point 520 feet North and 33 feet West of the Southeast corner of Section 23, T 20 N, R 12 E, thence North 22 1/2 feet, thence West 131 feet, thence South 22 1/2 feet, thence East 131 feet, less the East 17 feet of said tract and subject to any restrictions and easements of record.

(The property herein abstracted lies wholly within and constitutes a part of the North 117.5 feet of the East 295 feet of the South 660 feet of the SE/4 SE/4 of Section 23, T 20 N, R 12 E, Tulsa County, Oklahoma.)

On August 27, 1981, the Defendant, George D. Bell, Jr., d/b/a Bell's Barbeque, executed and delivered to the American State Bank his promissory note in the principal amount of \$100,000.00, payable in monthly installments with interest thereon according to its terms. This note was transferred and assigned to Plaintiff on March 14, 1983.

That as security for the payment of the above described note, the Defendants, George D. Bell, Jr., d/b/a Bell's Barbeque, and Roxanna Bell, husband and wife, executed and delivered to the United States of America, acting through the Small Business Administration, by virtue of its assignments from American State Bank, the following described security interest in certain property owned by the Defendant, George D. Bell, Jr., d/b/a

Bell's Barbeque, and the following described mortgage and conveyance of certain real property owned by the defendants, George D. Bell, Jr., and Roxanna Bell, husband and wife:

(a) All machinery, equipment, inventory and fixtures now owned or hereafter acquired by the Defendant, George D. Bell, Jr., d/b/a Bell's Barbeque, including the inventory, accounts receivable, and the proceeds of the sale thereof, as is more particularly described in the security agreements and collateral schedules attached to the Complaint as Exhibits B-D, inclusive.

(b) Those certain mortgages dated February 25, 1981, and August 27, 1981, recorded in Book 4528, Page 1085, and Book 4565, Page 1636, respectively, of the records of Tulsa County, Oklahoma, on February 21, 1981, and August 27, 1981, respectively, executed, acknowledged and delivered by the Defendants, George D. Bell, Jr., and Roxanna Bell, covering the above described real property.

The Court further finds that Defendant, George D. Bell, Jr., d/b/a Bell's Barbeque, made default under the terms of the aforesaid promissory note and mortgages, which default has continued and that by reason thereof the Defendant, George D. Bell, Jr., is indebted to the Plaintiff in the principal sum of \$98,585.79, plus accrued interest of \$14,924.79 as of February 23, 1984, plus interest thereafter at the rate of \$34.23 per day until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing, including a reasonable attorney's fee in the amount of \$9,858.58.

The Court further finds that the Defendant, County Treasurer, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of ad valorem taxes in the amount of \$ 838.30 . Said lien is superior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, Brazeal Masonry, Inc., has a lien on the real property being foreclosed by virtue of a judgment obtained in Case No. CT-81-916, District Court for Tulsa County, Oklahoma, filed July 25, 1983, in the sum of \$3,698.44, plus a reasonable attorney's fee in the sum of \$500.00, plus costs. This judgment was recorded in the County Clerk's Office of Tulsa County, Oklahoma, on July 28, 1983, in Book 4711, Page 110. The lien of the Defendant, Brazeal Masonry, Inc., is inferior and subject to the first lien of the Tulsa County Treasurer and the lien of plaintiff, United States of America.

The Court further finds that the Defendant, Casualty Reciprocal Exchange, has a lien on the subject property by virtue of a judgment obtained in the District Court of Tulsa County, Oklahoma, Case No. CSJ-83-4086, filed on August 25, 1983, and recorded in the Office of the Tulsa County Clerk on August 26, 1983, in Book 4721, Page 549, which judgment is against George D. Bell, d/b/a Dairy Hut, in the principal sum of \$700.61, plus interest at the rate of 15 percent per annum from September 1, 1982, until paid, plus an attorney's fee in the sum of \$250.00, plus costs of court in the amount of \$116.00, less the sum of

\$300.00, which has been paid on said judgment. This lien of Casualty Reciprocal Exchange is subsequent and inferior to the interests and liens of plaintiff and the other defendants set forth above.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against Defendant, George D. Bell, Jr., d/b/a Bell's Barbeque, in the principal amount of \$98,585.79, plus accrued interest of \$14,924.79 as of February 23, 1984, plus interest thereafter at the rate of \$34.23 per day until judgment, plus interest thereafter at the current legal rate of 10.08% percent per annum until paid, plus the costs of this action accrued and accruing, including a reasonable attorney's fee in the sum of \$9,858.58.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, County Treasurer, Tulsa County, Oklahoma, has a first lien on the subject property for ad valorem taxes due and owing in the amount of \$ 838.30 , plus penalty and interest and the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Defendant, Brazeal Masonry, Inc., has a lien on the subject property in the principal sum of \$3,698.44, plus interest at the rate of 6 percent per annum from August 21, 1981, until May 10, 1983, plus interest at the legal rate thereafter until paid, plus costs and a reasonable attorney's fee in the sum of \$500.00. This lien is subject and inferior to the interest of the Defendant, County Treasurer, Tulsa County, Oklahoma, and the interest of Plaintiff.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Defendant, Casualty Reciprocal Exchange, has a lien on the subject property in the principal amount of \$700.61, plus interest at the rate of 15 percent per annum from September 1, 1982, until paid, plus an attorney's fee in the sum of \$250.00, and court costs in the amount of \$116.00, less a total of \$300.00 which has been paid. This lien is subject and inferior to the interest of Plaintiff and the other Defendants set forth above.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, George D. Bell, Jr., d/b/a Bell's Barbeque, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including costs of the sale of said real property;

Second:

In payment of the Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of \$ 838,30 , ad valorem taxes which are presently due and owing on said real property, plus applicable penalties and interest;

Third:

In payment of the judgment rendered herein in favor of the Plaintiff;

Fourth:

In payment of the lien established herein in favor of Defendant, Brazeal Masonry, Inc.;
and

Fifth:

In payment of the lien established herein in favor of Defendant, Casualty Reciprocal Exchange.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that upon the failure of the Defendant, George D. Bell, Jr., d/b/a/ Bell's Barbeque, to satisfy the money judgment of the Plaintiff herein, the Plaintiff shall be entitled to immediate possession and delivery of the above described personal property and an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, demanding him to advertise and sale with appraisement the personal property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action, accrued and accruing, incurred by the Plaintiff, including costs of the sale of said personal property; and

Second:

In payment of the judgment rendered herein in favor of the Plaintiff.

The surplus from such sale, if any, shall be deposited with the Clerk of the Court to await further order of the Court.

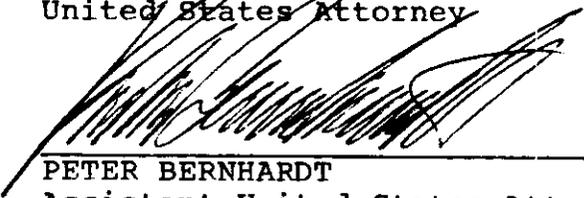
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above described real and personal property, under and by virtue of this judgment and decree, all of the defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and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

(Signed) H. Dale Cook

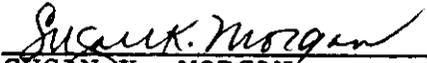
UNITED STATES DISTRICT JUDGE

APPROVED:

LAYN R. PHILLIPS
United States Attorney



PETER BERNHARDT
Assistant United States Attorney



SUSAN K. MORGAN
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma


J. C. L. MASON
Attorney for Defendant,
Brazeal Masonry, Inc.


BOBBY Y. CALLAHAN *B. Jack Smith*
UNGERMAN, CONNER & LITTLE
Attorney for Defendant,
Casualty Reciprocal Exchange

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

1985

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

WILLIAM M. HORNBUCKLE

Plaintiff,

v.

SANDCO, INC., Carolea
Wheeler, and Peter DiNoto

Defendants.

CIVIL ACTION NO. 83-C-307-E

ORDER OF DISMISSAL

The parties having filed a Stipulation of Dismissal, and the Court being fully advised in the premises, IT IS HEREBY ORDERED:

1. The Complaint is dismissed with prejudice.
2. Hornbuckle U.S. Patent No. 3,369,959 (the patent in suit) is invalid because of prior offers for sale made more than one year prior to the effective filing date of the patent in suit.
3. The Defendants have not infringed the patent in suit.
4. The Defendants have not violated any trade secret rights of the Plaintiff.
5. The Plaintiff is enjoined from referring to the Defendants in any of Plaintiff's future advertising and in any communications with customers or prospective customers of the Defendants.
6. All remaining counterclaims of the Defendants are dismissed with prejudice.
7. As a part of the settlement herein, Plaintiff relinquishes to the Defendant the money in the "escrow" account which had been established by the Defendants in response to the claim that SANDCO and/or Carolea Wheeler owed the Plaintiff certain monies on account (the amount prayed for by Plaintiff, plus interest to date, in the action in Atlanta, Georgia, Civil Action No. C-81352).

IT IS SO ORDERED

Date March 20, 1985

United States District Judge

The Court has reviewed the Findings and Recommendations of the Magistrate filed herein on March 5, 1985. In responsive pleading, the plaintiff's objection that the Magistrate lacked jurisdiction is not relevant and is without merit. Under 28 U.S.C. §636, a Magistrate can prepare Findings and Recommendations. This Court determines the merits of the issues raised in the proceeding.

Accordingly, it is the Order of the Court that defendant's motion to dismiss should be and hereby is sustained.

IT IS SO ORDERED this 21st day of March, 1985.


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

Entered

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

FILED

MAR 21 1985

WASH. C. JONES, CLERK
U.S. DISTRICT COURT

ROBERT LYLE NEWTON,)
)
Plaintiff,)
)
vs.)
)
CITY OF TULSA, OKLAHOMA,)
a municipal corporation;)
D. M. McDONNELL and)
D. DELSO,)
)
Defendants.)

84-C-711-B

STIPULATION OF DISMISSAL WITH
PREJUDICE AS TO DEFENDANTS
D. M. MacDONNELL AND D. DELSO

COMES NOW the plaintiff by and through his attorney of record,
Mark Harper, and the defendants D. M. MacDonnell and D. Delso, who
stipulate to the dismissal of the captioned action with prejudice
insofar as it relates to defendants City, D. M. MacDonnell and D.
Delso pursuant to the authorization contained at Rule 41, F.R.C.P.,
§(a)(1)(ii), with prejudice to plaintiff's right to hereafter
reinstate such action as to said defendants, with costs assessed
to plaintiff.

x Mark Harper

Mark Harper
Attorney for Plaintiff
2211 E. 21st Street
Tulsa, OK 74114
(918) 747-1414

David L. Pauling

David L. Pauling
Assistant City Attorney
Attorney for D. M. MacDonnell
and D. Delso
200 Civic Center, Room 316
Tulsa, OK 74103
(918) 592-7717

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 CAREY J. DAVIS,)
)
 Defendant.)

MAR 21 1985

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

CIVIL ACTION NO. 85-C-170-B

ORDER OF DISMISSAL

Now on this 21st day of March, 1985, it appears that the Defendant in the captioned case has not been located within the Northern District of Oklahoma, and therefore attempts to serve Carey J. Davis have been unsuccessful.

IT IS THEREFORE ORDERED that the Complaint against Defendant, Carey J. Davis, be and is dismissed without prejudice.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

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

FILED
MAR 21 1985
JAMES B. SMITH, CLERK
U.S. DISTRICT COURT

BILL YORK,)
)
 Plaintiff,)
)
 vs.)
)
 BOARD OF COUNTY COMMISSIONERS)
 OF THE COUNTY OF TULSA,)
 TULSA METROPOLITAN AREA)
 PLANNING COMMISSION and)
 THE CITY-COUNTY HEALTH)
 DEPARTMENT; and OWASSO PUBLIC)
 WORKS AUTHORITY,)
)
 Defendants.)

No. 84-C-821-C ✓

ORDER

Now before the Court for its consideration is the motion of defendants to dismiss, pursuant to Rule 12(b)(1) F.R.Cv.P. for lack of subject matter jurisdiction, and Rule 12(b)(6) F.R.Cv.P. for failure to state a claim. Plaintiff, a Tulsa County landowner, asserts his federal civil rights have been violated because the defendants, various governmental entities of Tulsa County, have interfered with his plans for the development of a mobile home park on his property.

The amended complaint details the efforts undertaken by the plaintiff to obtain approval of the proposed park. Prior to filing his complaint, plaintiff's property was zoned for residential mobile homes. The Board of County Commissioners has subsequently changed the zoning classification to residential estates.

Plaintiff made application for the filing of his subdivision plat with the Tulsa Metropolitan Area Planning Commission (TMAPC). TMAPC gave preliminary approval of the plat subject to the Tulsa City-County Health Department's (County Health Department) approval of the sewage disposal system. Plaintiff received a permit from the State Health Department for the sewage system, but the County Health Department refused to approve it. Plaintiff alleges that the County Health Department's refusal was based upon neighborhood opposition to a mobile home park, and not upon a health code violation.

The plaintiff asserts that the County Health Department in wrongfully refusing the approval of the sewage system was implementing official policy, under color of law, in violation of plaintiff's civil rights, actionable under 42 U.S.C. §1983. Further, certain of the defendants entered into a conspiracy to prevent the development of the mobile home park, actionable under 42 U.S.C. §1985(3). The plaintiff raises two constitutional claims. First, he argues the defendants' actions are without sufficient basis in law or fact and are arbitrary, capricious, unreasonable and discriminatory in violation of his Fourteenth Amendment rights to equal protection and due process of law. Second, he argues the defendants' conduct is an unlawful taking of his property without just compensation violative of his Fifth Amendment rights.

Jurisdiction is evoked under 28 U.S.C. §1331 and 28 U.S.C. §1343(a)(1). Plaintiff seeks relief in the nature of a permanent injunction, compensatory and punitive damages.

The claims asserted by plaintiff raise questions involving the zoning regulations administered by the TMAPC and the Board of County Commissioners. A decision on the merits would entail the correct construction of local land use law, and the delineation of the proper scope and exercise of local administrative discretion. Understandably, the courts of the State of Oklahoma have extensive familiarity and experience with such matters. This is confirmed by state law which allows for direct appeal of County Commission decisions to the state district courts, 19 O.S. §863.23. By going through the proper appeals process, state adjudication may well avoid the necessity of a decision on the federal constitutional questions, Fralin and Waldron v. Martinville, Virginia, 493 F.2d 481 (4th Cir. 1974). State proceedings may also avoid needless friction in federal-state relations over the administration of purely state affairs, 493 F.2d at 483. Federal courts are reluctant to intercede in the state court's province over local zoning matters. The case of Cloutier v. Town of Epping, 714 F.2d 1184 (1st Cir. 1983) centers on the development of a mobile home park in Epping, New Hampshire. The developers brought action alleging several of the local officials violated their civil rights by revoking a sewage connection permit, denying other permits and engaging in a pattern of harassment aimed at destroying their development plans. After reviewing the merits of the case, the court concluded it had subject matter jurisdiction but granted dismissal for failure to state a claim upon which relief could be granted, 714 F.2d at 1188. One of the reasons offered by the court was,

assuming arguendo, the defendants "engaged in adversary and even arbitrary tactics" in order to stop plaintiff's mobile home development, "the violation of a state statute does not automatically give rise to a violation of rights secured by the Constitution," 714 F.2d at 1189.

Plaintiff's brief states the established rule that abstention by a federal court is the exception and not the rule, (Plaintiff's brief at p.3). It is invoked where deferral to the state "would clearly serve an important countervailing interest," County of Allegheny v. Frank Mashuda Co., 360 U.S. 185, 189 (1959). The case before the Court represents a classic zoning dispute. The proper standard for review of zoning regulations is limited to whether the governing body's actions were arbitrary, capricious, and unreasonable bearing no rational relationship to the state's interest in the protection of the health, safety, morals, or welfare of its citizens. See e.g. Sand Springs v. Colliver, 434 P.2d 186 (Okla. 1967). The merits of plaintiff's claim will be determined by applying his facts to this standard of review. As to the merits of the case, the Court has elected to abstain. It is sufficient for this Court to note all plaintiff's federal claims "necessarily depend upon the construction of state land use law concerning the scope of authority of local planning bodies and Boards of Supervisors, the proper interpretation of state and local land use law and county zoning practices and procedure," Caleb Stowe Assoc. v. County of Albemarle, 724 F.2d 1079, 1080 (4th Cir. 1984).

Abstention is appropriate to avoid deciding a federal constitutional issue where the case may be disposed of by a decision on questions of state law, Railroad Commission v. Pullman Co., 312 U.S. 496 (1941). It is also appropriate to avoid needless state-federal friction caused by federal interference with the administration by the state of its own local affairs, Younger v. Harris, 401 U.S. 37 (1971). The allegations proffered by plaintiff are little different from that of any zoning or land use decision made by local authorities. "If a disappointed developer of land could show an unconstitutional taking of his property every time he lost a zoning case, then every zoning decision made by a local government official could be brought into federal court for review," Kent Island v. Smith, supra at 460-461. Abstention is particularly appropriate in zoning matters, a local government concern, which is outside the general supervisory power of federal courts, Hill v. City of El Paso, 437 F.2d 352 (5th Cir. 1971).

Accordingly, it is the Order of the Court that the motion to dismiss of the defendants is hereby granted.

IT IS SO ORDERED this 21 day of March, 1985.


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

Entered

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA **F I L E D**

ROBERT LYLE NEWTON,)
)
 Plaintiff,)
)
 vs.)
)
 CITY OF TULSA, OKLAHOMA,)
 a municipal corporation;)
 D. M. McDONNELL and)
 D. DELSO,)
)
 Defendants.)

MAR 21 1985

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

84-C-711-B

CONSENT DECREE

The plaintiff, Robert Lyle Newton, has filed complaint herein on August 17, 1984, alleging violation of his civil rights and seeking compensatory damages, punitive damages, and attorney fees. The plaintiff, by his attorney of record Mark Harper, and the defendant, City of Tulsa, a municipal corporation, by its attorney of record, David L. Pauling, Assistant City Attorney, have each consented to the making and the entry of this Consent Decree, without trial and without adjudication of any issue of fact or law arising herein, and the court having considered the matter and being duly advised, orders, adjudges and decrees as follows:

1. This court has jurisdiction of the subject matter of this action and the parties hereto. The complaint properly states claims for relief against the consenting defendant under 42 U.S.C. §1983.
2. The defendant shall pay the plaintiff the sum of \$1,800.00 as reasonable damages, including attorney fee costs.

3. The consenting defendant shall not be responsible to plaintiff's counsel, Mark Harper, or any predecessor attorney employed by plaintiff for the additional payment of any attorney fees pursuant to 42 U.S.C. §1988, but defendant City shall be responsible for court costs incurred by plaintiff as a result of this litigation in the sum of sixty dollars (\$60.00).

4. This Consent Decree shall not constitute an admission of liability or fault on the part of the consenting defendant.

5. This Consent Decree shall include and cover all issues of fact and law raised by the plaintiff, and shall act as a final judgment as to such issues and with regard to all damages sustained by plaintiff.

DATED this 20th day of March, 1985.

S/ THOMAS R. BRETT

Thomas R. Brett
United States District Judge

We, the undersigned, hereby consent to the entry of the foregoing Consent Decree as a final judgment herein.

x Mark Harper
Mark Harper
Attorney for Plaintiff

David L. Pauling
David L. Pauling
Attorney for Defendant
City of Tulsa

Entered

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

MAR 21 1985

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 DIXON L. DYER,)
)
 Defendant.)

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

CIVIL ACTION NO. 84-C-1017-B

DEFAULT JUDGMENT

This matter comes on for consideration this 20th day of March, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Dixon L. Dyer, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Dixon L. Dyer, was served with Summons and Complaint on February 22, 1985. 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, Dixon L. Dyer, for the principal sum of \$2,450.00, plus accrued interest of \$1,455.62 as of December 8, 1984, plus interest on the principal sum of \$2,450.00 at 7 percent from December 8, 1984,

until judgment, plus interest thereafter at the current legal rate of 10.08 percent from date of judgment until paid, plus costs of this action.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

Entered

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 TRACY E. MULFORD,)
)
 Defendant.)

MAR 20 1985

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

CIVIL ACTION NO. 84-C-475-B

ORDER OF DISMISSAL

Now on this 19th day of March, 1985, it appears that the Defendant in the captioned case has not been located within the Northern District of Oklahoma, and therefore attempts to serve him have been unsuccessful.

IT IS THEREFORE ORDERED that the Complaint against Defendant, Tracy E. Mulford, be and is dismissed without prejudice.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

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

MAR 20 1985

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

LaJUAN STEWART,)
)
 Plaintiff,)
)
 v.)
)
 TOWN OF JENNINGS, OKLAHOMA,)
 a municipal corporation,)
 JEFF FOUNTAIN, individually)
 and as Mayor of the Town of)
 Jennings, Oklahoma, LARRY)
 MILLER and WILLIAM MOONEY,)
 individually and as Trustees)
 of the Town of Jennings,)
)
 Defendants.)

No. 84-C-635-BT

J U D G M E N T

This matter came on before the Court on defendants' motion for summary judgment, and the issues having been duly considered and defendants' motion having been granted,

IT IS ORDERED AND ADJUDGED that the plaintiff, LaJuan Stewart, take nothing, that the action be dismissed on the merits, and that the defendants, Town of Jennings, Oklahoma, a municipal corporation, Jeff Fountain, individually and as Mayor of the Town of Jennings, Oklahoma, Larry Miller and William Mooney, individually and as Trustees of the Town of Jennings, recover of the plaintiff, LaJuan Stewart, their costs of action.

DATED at Tulsa, Oklahoma, this 19th day of March, 1985.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

MICHAEL RYAN and JULIE)
RYAN,)
)
Plaintiffs,)
)
v.)
)
JESUS RIOGELON MANGALIMAN,)
)
Defendant.)

pt MAR 20 1985
JACK C. SILVER, CLERK
U.S. DISTRICT COURT

No. 84-C-772-C ✓

O R D E R

The Court has for consideration the Findings and Recommendations of the Magistrate filed March 4, 1985 in which it is recommended that Defendant's Motion to Dismiss for Lack of In Personam Jurisdiction be sustained. 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.

It is therefore Ordered that ~~Defendant's~~ Defendant's Motion to Dismiss for Lack of In Personam Jurisdiction is sustained.

Dated this 20 day of March, 1985.


H. DALE COOK
CHIEF JUDGE

Entered

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

MAR 20 1985
[Signature]

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

ERIC WISDOM, D.D.S.,)
)
 Plaintiff,)
)
 v.)
)
 THE MEMBERS OF THE BOARD OF)
 GOVERNORS OF THE REGISTERED)
 DENTISTS OF OKLAHOMA, in)
 their official capacity,)
)
 Defendants.)

No. 84-C-810-B

J U D G M E N T

In accordance with the Findings of Fact and Conclusions of Law entered this 20th day of March, 1985, Judgment is hereby entered in favor of the defendants, The Members of the Board of Governors of the Registered Dentists of Oklahoma, in their official capacity, and against the plaintiff, Eric Wisdom, D.D.S., with the costs of the action assessed against the plaintiff.

DATED this 20th day of March, 1985.

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

27

FILED

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

MAR 20 1985

LaJUAN STEWART,)
)
 Plaintiff,)
)
 v.)
)
 TOWN OF JENNINGS, OKLAHOMA,)
 a municipal corporation,)
 JEFF FOUNTAIN, individually)
 and as Mayor of the Town of)
 Jennings, Oklahoma, LARRY)
 MILLER and WILLIAM MOONEY,)
 individually and as Trustees)
 of the Town of Jennings,)
)
 Defendants.)

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

No. 84-C-635-BT

O R D E R

This matter comes before the Court on defendants' motion for summary judgment. For the reasons set forth below, the Court concludes defendants' motion should be granted.

Plaintiff, LaJuan Stewart, brought this action under 42 U.S.C. §1983 against Jeff Fountain, Larry Miller, William Mooney, and the Town of Jennings, Oklahoma, for damages arising from the individual defendants' attempts to remove her from her position as elected Town Clerk of the Town of Jennings. Fountain is the Mayor of Jennings and Miller and Mooney are Town Trustees. Plaintiff was Town Clerk at the time the first amended complaint was filed, but resigned the post on December 6, 1984.

As plaintiff's counsel admitted at the February 8, 1985 hearing on the motion, the §1983 claim centers on certain actions taken by the Board of Trustees of the Town of Jennings at its

regularly scheduled monthly board meeting of March 12, 1984. The agenda posted before the meeting contained an item titled "Selection of Town Clerk." At the meeting, the Mayor and Trustees refused to recognize plaintiff as the Town Clerk and appointed a temporary Town Clerk in her stead. The Board passed a motion that plaintiff had vacated her office and was no longer to serve as Town Clerk. In addition, the Board refused to allow plaintiff to read the minutes of the previous meeting.

At subsequent meetings in April, May and June, 1984, plaintiff presented minutes she had prepared by continuing to attend the monthly meetings and taking notes. Plaintiff attempted to carry out all the duties of Town Clerk during this period. The Board allegedly refused to consider or acknowledge the minutes plaintiff had prepared. During the four-month period from March to June, the town continued to pay plaintiff her salary as Town Clerk of \$100.00 per month. At the time this action was filed on July 16, 1984, plaintiff still held the office of Town Clerk. Plaintiff resigned her office on December 6, 1984.

The complaint also contains allegations that defendants conspired to make plaintiff's job so uncomfortable she would be forced to resign. Defendants allegedly conspired to make plaintiff uncomfortable by holding town meetings "in an unheated area and not providing her a chair or table to conduct her duties as Town Clerk, but requiring her to sit on the tailgate of a pickup" and by loading numerous additional duties on the position.

Defendants have moved for summary judgment on the ground that plaintiff has failed to produce evidence that she has been deprived of a protected property interest or denied due process in connection therewith.

The Court concludes plaintiff has failed to show a deprivation of a "property interest." In essence, plaintiff's claim is that she had a property right as Town Clerk to take the minutes of three monthly board meetings and to have her minutes approved. The Supreme Court defined a property interest for due process purposes in Board of Regents v. Roth, 408 U.S. 564 (1972) and Perry v. Sindermann, 408 U.S. 593 (1972).

"A person's interest in a benefit is a 'property' interest for due process purposes if there are such rules or mutually explicit understandings that support his claim of entitlement to the benefit and that he may invoke at a hearing."

Perry, 408 U.S. at 601. Both Roth and Perry refer to property interests as interests in "benefits." Plaintiff is not contending she was denied the benefit of employment or salary. Instead, she urges that the Town Clerk's chores of taking and reporting the minutes of monthly town meetings is a "benefit" of which she was deprived. The Court concludes plaintiff was not deprived of a "benefit." Plaintiff may well have experienced some degree of embarrassment from the Board's actions. However, the chores she was deprived of are more properly characterized as burdens or duties than benefits of the office. Plaintiff received the benefits of the office although during a four-month period the Board refused to recognize that she was to carry out the duties.

In Lawrence v. Acree, 665 F.2d 1319 (D.C.Cir. 1981), a former federal employee brought a civil rights action against his superiors alleging that defendants conspired to prevent him from performing his duties, causing plaintiff "humiliation, contempt, mental anguish, and emotional and physical distress." The Court held that plaintiff's complaint revealed no basis for his claim of deprivation of property without due process of law, stating:

"The only property interest present in this context stemmed from an expectation of continued federal employment absent just cause for adverse action. Yet Lawrence concedes he quit voluntarily. There is thus no nexus between the act complained of and any deprivation of a property interest."

Here, as in Lawrence, plaintiff quit voluntarily. She was not denied continued employment or salary by the Town Board. Plaintiff was never actually removed from the position. She continued to act as Town Clerk and drew the salary for the office. The Court must conclude plaintiff has produced no evidence she was deprived of a protected property interest.

Were plaintiff to have shown she had a claim of entitlement to a benefit -- a property interest protected under the Fourteenth Amendment -- she would have yet another requirement to meet before the Court could award relief. If a property deprivation is de minimis, procedural rights can be dispensed with altogether. Hardiman v. Jefferson County Board of Education, 709 F.2d 635 (11th Cir. 1983); Goss v. Lopez, 419 U.S. 565, 576 (1975). Nonrecognition of a Town Clerk's minutes is de minimis in this Court's view and may be imposed without regard to

the Due Process Clause. Section 1983 is not designed to protect every slight interest a plaintiff might have. To raise such de minimis allegations to constitutional proportions can only result in the trivialization of our constitutional protections.

Defendants' motion for summary judgment is hereby sustained.

DATED this 19th day of March, 1985.

A handwritten signature in cursive script, reading "Thomas R. Brett". The signature is written in dark ink and is positioned above the printed name and title.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

MAR 19 1985

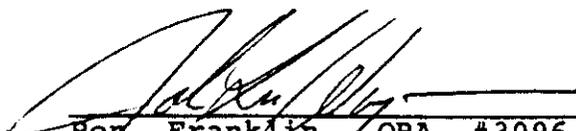
MICHAEL J. WADLEY,)
)
 Plaintiff,)
)
 vs.)
)
 BURLINGTON NORTHERN RAILROAD)
 COMPANY,)
)
 Defendant.)

JACK C. SILVER, CLERK
U.S. DISTRICT COURT
No. 85-C-945-C

STIPULATION FOR DISMISSAL WITH PREJUDICE

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


Robert M. Tramuto
Jones & Granger
5959 West Loop South
Suite 666
Houston, Texas 77210
ATTORNEYS FOR PLAINTIFF


Ben Franklin, OBA #3096, of
Kornfeld Franklin & Phillips
P.O. Box 26400
Oklahoma City, OK 73126
ATTORNEYS FOR DEFENDANT

MAR 21 1985
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

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

IT IS SO ORDERED this 21st day of March, 1985.

(Signed) H. Dale Cook

U. S. DISTRICT JUDGE

FILED

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

ALFRED E. FIELDS and JUDITH A. FIELDS,)
husband and wife,)
)
Plaintiffs,)
)
vs.)
)
PERRY WILLIAMS, et al.,)
)
Defendants.)

Jack C. Silver, Clerk

Case No. 84-C-718-E

ORDER AND JUDGMENT

The above case comes on for hearing on the 18th day of March, 1985. The parties are present through their respective counsel and the Court, having reviewed the evidence and being fully advised in the premises, finds that Plaintiff Alfred E. Fields should be re-instated to his position as Police Chief with the Town of West Siloam Springs. The Court further finds that Plaintiff Judith A. Fields should take nothing in her cause of action. The Court further finds that Plaintiff Alfred E. Fields should have and recover of the Defendants the sum of \$9,600.00 as and for attorney fees and damages for constitutional tort and that he is entitled to no further damages in this action. The Court finds that the Defendants should take nothing in their Counter-claim.

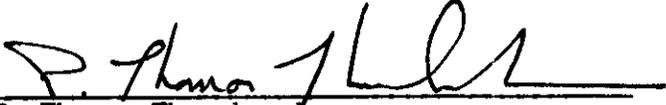
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that Alfred E. Fields be re-instated as the Police Chief with the Town of West Siloam Springs, said re-instatement to be effective February 25, 1985. It is further Ordered, Adjudged and Decreed by the Court that Alfred E. Fields have and recover of the Defendant Town of West Siloam Springs the sum of

\$9,600.00 and that he have and recover nothing against the individual Defendants. It is further Ordered, Adjudged and Decreed by the Court that Plaintiff Judith A. Fields have and recover nothing of the Defendants in this action. It is further Ordered, Adjudged and Decreed by the Court that the Counter-claiming Defendants have and recover nothing from the Plaintiffs in this action.

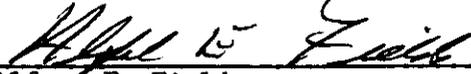
S/ JAMES O. ELLISON

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

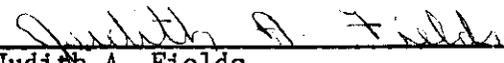
APPROVALS:



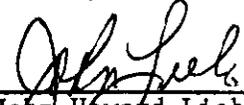
P. Thomas Thornbrugh
Attorney for the Plaintiffs



Alfred E. Fields



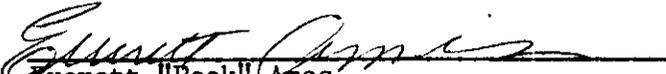
Judith A. Fields



John Howard Lieber
Attorney for the Defendants



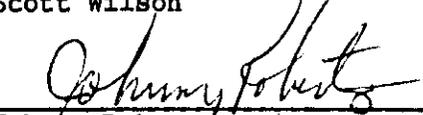
Perry Williams



Everett "Peck" Ames



Scott Wilson



Johnny Roberts

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

U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

MAR 19 1965

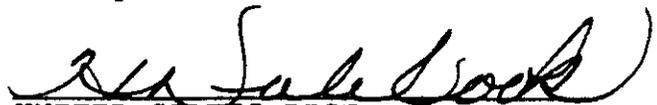
JACK O. SILVER, CLERK
U.S. DISTRICT COURT

JONNA PHILLIPS, mother and)
surviving next of kin of)
JASON LYNN PHILLIPS, Deceased,)
)
Plaintiff,)
)
vs.)
)
DICK L. GLICK, M.D.; C. THOMAS)
THOMPSON, M.D.; SURGICAL)
ASSOCIATES, INC., a)
corporation; ST. FRANCIS)
HOSPITAL, INC., a corporation;)
and LARRY J. D'ANGELO, M.D.,)
)
Defendants.)

No. 83-C-528-C

ORDER

Upon consideration of the Application of plaintiff for dismissal of the above captioned action without prejudice this Court finds that said Application should be and is hereby granted. The above captioned action is dismissed without prejudice to refiling as to all remaining defendants.


UNITED STATES DISTRICT JUDGE

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

FILED

MAR 18 1985

SANDVIK, INC., a New Jersey corporation,
Plaintiff,
v.
FRANK L. BRUGGER COMPANY,
an Oklahoma corporation,
Defendant.

Case No. ⁵⁴ C-439-C

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

JOURNAL ENTRY OF JUDGMENT

NOW on this 18 day of March, 1985, comes on before me the undersigned Judge of the above entitled cause for trial on its merits the above captioned matter the Plaintiff, SANDVIK, INC., appearing by and through its attorneys, WILLIAMS, WHITE & ASSOCIATES, the Defendant FRANK L. BRUGGER COMPANY, appearing through its officer MICHAEL L. BRUGGER and its attorney TOM MORAN and the Defendant J. ANTHONY BRUGGER appearing by and through his attorney DAVID TRACY. The Court having reviewed the pleadings filed herein, hearing the arguments of counsel, examining the evidence and being fully advised in the premises finds as follows:

I

That pursuant to a settlement agreement entered into by and between all the parties, Defendant FRANK L. BRUGGER COMPANY has agreed to allow judgment to be taken against it in favor of SANDVIK, INC. in the sum of Twenty-Four Thousand Dollars (\$24,000.00).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREE by the Court that Plaintiff SANDVIK, INC. be granted judgment against Defendant FRANK L. BRUGGER COMPANY in the sum of \$24,000.00.


RICHARD D. WHITE, JR.,
Attorney for Plaintiff

(Signed) H. Dale Cook
JUDGE OF THE DISTRICT COURT


TOM MORAN, Attorney for FRANK L. BRUGGER CO.


DAVID TRACY, Attorney for J. ANTHONY BRUGGER

FILED

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA MAR 18 1985

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

DORION FLEMING, JR.,)
)
Plaintiff,)
)
vs.)
)
OIL FIELD SYSTEMS, a corporation,)
)
Defendant.)

No. 83-C-213-E

STIPULATION OF DISMISSAL

Pursuant to Rule 41(a) of the F.R.Civ.P., it is hereby stipulated that the above styled action is dismissed with prejudice, each party to bear his own costs.

DATED this 8th day of March, 1985.

HOLLIMAN, LANGHOLZ, RUNNELS
& DORWART

By Judith A. Bruner
Suite 700, Holarud Building
Ten East Third Street
Tulsa, Oklahoma 74103
(918) 584-1471
Attorneys for Plaintiff

HALL, ESTILL, HARDWICK, GABLE
COLLINGSWORTH & NELSON

By [Signature]
4100 Bank of Oklahoma Tower
One Willims Center
Tulsa, Oklahoma 74172
(918) 588-2700
Attorneys for Defendant

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

FILED

MAR 18 1985

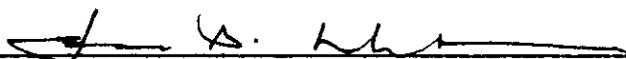
JACK C. SILVER, CLERK
U.S. DISTRICT COURT

KATHY OLIVER, Guardian of the)
person and estate of MYRTLE MARIE)
FOUST, an incompetent person,)
Plaintiff,)
-vs-)
H. V. GRUNDY, O.D.,)
Defendant.)

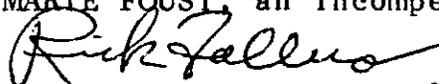
No. 84-C-1000C

MOTION TO DISMISS

COMES now the Plaintiff, KATHY OLIVER, Guardian of the person and estate of MYRTLE MARIE FOUST, an incompetent person, by and through her attorney, Lewis B. Ambler, Bartlesville, Oklahoma, and moves this Honorable Court to dismiss the above referenced cause, with prejudice.



Lewis B. Ambler, Attorney for the Plaintiff, KATHY OLIVER, Guardian of the person and estate of MYRTLE MARIE FOUST, an incompetent person.




ORDER OF DISMISSAL approved by Defendants

On this 14th day of March, 1985, this matter comes on for hearing on the Motion of Lewis B. Ambler, Attorney for the Plaintiff evidence being presented and all premises considered.

IT IS ORDERED, ADJUDGED AND DECREED by the Court that said case be, and the same hereby is, dismissed, with prejudice.



J U D G E

Entered

FILED

MAR 18 1985

JOCK G. SILVER, CLERK
U. S. DISTRICT COURT

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

CANADIAN COMMERCIAL BANK,)
a Canadian chartered Bank,)
)
Plaintiff,)
)
v.)
)
BancTEXAS DALLAS, N.A., et al.)
)
Defendants.)

Case No. 84-C-566-B

ORDER OF DISMISSAL

The Court hereby accepts the mutual dismissals filed herein by the Plaintiff, Canadian Commercial Bank and the Defendants Robert A. Alexander, Jr., and Universal Energy Corporation and hereby dismisses this action with prejudice.

Dated this 18 day of March, 1985.

S/ THOMAS R. BRETT

Honorable Thomas R. Brett
United States District Judge

FILED

MAR 18 1985

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

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	
)	
JAMES A. SAWYER,)	
)	
Defendant.)	CIVIL ACTION NO. 85-C-207-C

AGREED JUDGMENT

This matter comes on for consideration this 18 day of March, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, James A. Sawyer, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, James A. Sawyer, acknowledged receipt of Summons and Complaint. The Defendant has not filed his Answer but in lieu thereof has agreed that he is indebted to the Plaintiff in the amount alleged in the Complaint and that judgment may accordingly be entered against him in the amount of \$296.67, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from August 5, 1983, and \$.68 per month from January 1, 1984, until judgment, plus interest thereafter at the legal rate from the date of judgment until paid, plus the costs of this action.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, James A. Sawyer, in the amount of \$296.67, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from August 5, 1983, and \$.68 per month from January 1, 1984, until judgment, plus interest thereafter at the current legal rate of 10.08 percent from the date of judgment until paid, plus the costs of this action.

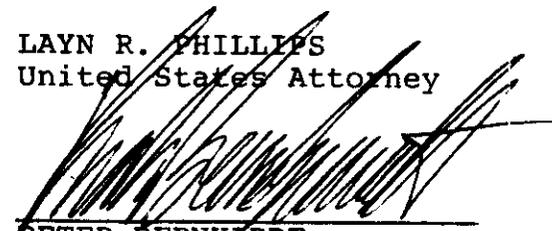
(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney



PETER BERNHARDT
Assistant U.S. Attorney



JAMES A. SAWYER

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

103-18-103
103-18-103
103-18-103

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
MICHAEL E. BRADEN and)
RUBY V. BRADEN; COUNTY)
TREASURER and BOARD OF COUNTY)
COMMISSIONERS, Creek County,)
Oklahoma,)
)
Defendants.)

CIVIL ACTION NO. 84-C-587-B

DEFICIENCY JUDGMENT

Now on this 18th day of March, 1985, there came on for hearing the Motion of the Plaintiff United States of America for leave to enter a Deficiency Judgment herein, said Motion being filed on March 12, 1985, and a copy of said Motion being mailed to Michael E. Braden and Ruby V. Braden, 1026 East Lee Street, Sapulpa, Oklahoma 74066. The Plaintiff, United States of America, acting on behalf of the Administrator of Veterans' Affairs, appeared by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendants, Michael E. Braden and Ruby V. Braden, appeared neither in person nor by counsel.

The Court upon consideration of said Motion finds that the amount of the Judgment rendered herein on September 28, 1984, in favor of Plaintiff United States of America and against

Defendants Michael E. Braden and Ruby V. Braden, with interest and costs to date of sale is \$43,011.31.

The Court further finds that the market value of the real property at the time of sale was \$19,500.00.

The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Judgment of this Court entered September 28, 1984, for the sum of \$25,001.00.

The Court further finds that Plaintiff United States of America is accordingly entitled to a deficiency judgment against the Defendants, Michael E. Braden and Ruby V. Braden as follows:

Principal balance as of December 18, 1984	\$34,410.35
Interest	8,073.31
Late Charges	298.65
Appraisal	29.00
Management Broker Fees	<u>200.00</u>
TOTAL	\$43,011.31
Credit of Sale Proceeds	- <u>25,001.00</u>
DEFICIENCY	\$18,010.31

plus interest on said deficiency judgment at the legal rate of 10.08 percent per annum from date of judgment until paid; said deficiency being the difference between the amount of Judgment rendered herein and the amount credited to Plaintiff United States of America after the Marshal's Sale of the property herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the United States of America have and recover from Defendants Michael

E. Braden and Ruby V. Braden a deficiency judgment in the amount of \$18,010.31, plus interest at the legal rate of 10.08 percent per annum on said deficiency judgment from date of judgment until paid.

S/ THOMAS R. BRETT,
UNITED STATES DISTRICT JUDGE

Entered

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

FILED

MAR 18 1985

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

RAYMOND DARRELL DAVIS,)
)
 Plaintiff,)
)
 v.)
)
 TOWN OF SALINA, OKLAHOMA, a)
 municipal corporation; and)
 HOWARD SANDERS, Chief of Police,)
)
 Defendants.)

NO. 84-C-558-B

ORDER

This matter comes before the Court on defendants' motion for summary judgment. Plaintiff has objected to the motion. For the reasons set forth below, the motion for summary judgment is sustained.

Plaintiff was hired as a police officer for the Town of Salina, Oklahoma on May 26, 1980. He was terminated on February 1, 1984, by the Salina Chief of Police, Howard Sanders. Plaintiff alleges he had a property interest in continued employment with the Town of Salina, and further that he had a liberty interest in his job. He contends the termination deprived him of his property and liberty interests without due process of law, in violation of his Fourteenth Amendment rights and of 42 U.S.C. §1983.

When bringing a §1983 action, a public employee must show that he possesses a property or liberty interest in his employment in order to trigger the due process protections afforded by the Fourteenth Amendment. Board of Regents v. Roth,

408 U.S. 564 (1972). In order to state a claim for the alleged violation of a liberty interest, a plaintiff must show public dissemination of information such that the plaintiff's reputation and integrity are impaired. Bishop v. Wood, 426 U.S. 341, 348 (1976).

Plaintiff's discharge was communicated orally and privately to plaintiff by the Chief of Police. There is no evidence of public dissemination of information which impaired plaintiff's reputation and integrity.¹ Therefore, the Court finds plaintiff did not possess a liberty interest which was affected by the termination.

A property interest in employment can be created by ordinance or city charter. Bishop v. Wood, 426 U.S. 341, 344 (1976); Poolaw v. City of Anadarko, 660 F.2d 459 (10th Cir. 1981). However, the sufficiency of the claim must be decided by reference to state law. Bishop v. Wood, supra, 426 U.S. at 344. We therefore turn to Oklahoma law to determine whether plaintiff had a "legitimate claim of entitlement" to his job rather than a mere "unilateral expectation" of continuing in his position. Board of Regents v. Roth, supra, 408 U.S. at 577.

The Town of Salina, Oklahoma operates under a statutory town board of trustees form of government, as authorized by 11 O.S. §§12-101 et seq. Defendant contends that under the Salina Town

¹ The record shows the Agenda of the Salina Board of Trustees Meeting for February 14, 1984, had the entry, "(CLOSED EXECUTIVE SESSION - RAYMOND DAVID DISCUSSING GROUNDS BY WHICH HE WAS DISMISSED - IN OBJECTION TO - DECISION)". However, this information is not of the nature that it would stigmatize plaintiff or otherwise damage his reputation.

Code, the Chief of Police had the right to terminate plaintiff's employment at any time and for any reason. The Town Code provides in pertinent part:

"Article 5. Police Department

Sec. 1-11. Police department; chief of police and police officers; appointments, etc.

(b) In accordance with O.S. 1978 Supp., Title 11, Sec. 12-111, the chief of police shall have authority to appoint one (1) or more policemen subject to confirmation by the board of trustees. Policemen may be removed either by the chief of police or by the board of trustees. Policemen may be removed either by the chief of police or by the board of trustees at a regular meeting.

(d) The chief of police shall have supervision and control of the police department, subject to the supervision and control of the board of trustees.

However, 11 Okl.St. Ann. §12-114 provides:

"Appointments and promotions in the service of a statutory town board of trustees government shall be made solely on the basis of merit and fitness; and removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. The board by ordinance may establish a merit system and provide for its organization and functioning, and provide for personal administration and regulation of personnel matters. The board of trustees may remove for cause any appointive officer by a majority vote of all its members." (emphasis added)

Plaintiff argues that Section 12-114 controls the dismissal of police officers by a statutory town board of government and supersedes the Salina Town Code provisions on termination of a policeman. Plaintiff contends the phrases "for the good of the

service" and "may remove for cause any appointive officer" gave plaintiff a property interest in continued employment.

In Hall v. O'Keefe, 617 P.2d 196 (Okla. 1980), the Supreme Court of Oklahoma determined that a statutory provision which authorized a city to remove administrative officers and employees "when necessary for the good of the service" or "solely for the good of the service" did not create a property interest in continued employment within the meaning of the state constitutional provision that no person shall be deprived of property without due process. Plaintiff argues Hall is inapplicable in this case since it was based on a construction of the Oklahoma Constitution, while the case at bar is brought under the Fourteenth Amendment to the United States Constitution. Although plaintiff is correct in asserting that Hall is not necessarily controlling, the Due Process Clauses of the Oklahoma and United States Constitutions are virtually identical.² More importantly, Hall v. O'Keefe represents the Oklahoma Supreme Court's interpretation of Oklahoma statutory terminology. As the Court stated in Hall:

"Certainly the legislature could not have then meant a limitation so vague as 'for the good of the service' to confer upon a city employee a property interest requiring due process protections unavailable to him under more explicit guarantees. Rather, it seems that the legislature left the personnel matters of statutory council-manager city governments to the judgment of the city manager, subject

² "No person shall be deprived of life, liberty, or property, without due process of law." Art. 2, §7, Oklahoma Constitution. ". . . nor shall any State deprive any person of life, liberty, or property, without due process of law; ..." Amendment 14, U.S. Constitution.

primarily to control by the council through appropriate ordinances, and prohibiting only these decisions which are clearly arbitrary and capricious."

Though Hall dealt with a phrase included in the authorizing statutes of the statutory council-manager form of city government, the phrase is identical to that found in Title 11 Okl.St. Ann. §12-114. The Court concludes construction of the phrase should be consistent as to both statutes.

Section 12-114 also contains the provision that "[t]he board of trustees may remove for cause any appointive officer by a majority vote of all its members" (emphasis added). Plaintiff contends he was an appointive officer and therefore subject to termination only upon the vote of the board of trustees. The term "appointive officer" is not defined in the Oklahoma Statutes or by case law. However, this Court is of the opinion plaintiff, as a town policeman, was not an "appointive officer" within the intended meaning of Section 12-114.

Town "officers" and town "employees" are separate and distinct groups. Title 11 Okl. St. Ann. §12-101, et seq., the statutory scheme which creates the form of government by which the Town of Salina is organized, makes the distinction in §12-106:

"All powers of a statutory town board of trustees town, including the determination of matters of policy, shall be vested in the board of trustees. Without limitation of the foregoing, the board may:

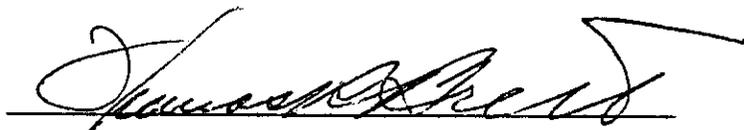
1. Appoint and remove, and confirm appointments of, designated town officers and employees as provided by law or ordinance." (Emphasis added)

Section 12-106 is important to the resolution of the meaning of the phrase "appointive officer" in two respects. First, the statute makes a distinction between officers and employees. Second, it clarifies the Town Board's power with regard to town personnel. It provides the town board may remove town officers and employees, but does not make removal of town personnel exclusively the function of the Town Board except as to "appointive officers." Nowhere within the statutory scheme is the power to remove employees exclusively assigned to the Town Board. Indeed, §12-114 allows a Town Board to "establish a merit system and provide for its organization and functioning, and provide for personnel administration and regulation of personnel matters." Further, §12-111, which governs the duties that may be given a Chief of Police, gives the Town Board the authority to delegate whatever "powers, duties and functions as may be prescribed by . . . ordinance" to the chief of police. The Salina Town Board delegated its inherent power to remove policemen to the chief of police under Article 5, section 1-11(b) of the Salina Town Code, supra, although the Board retained therein concurrent power to remove policemen itself. The Court finds nothing in section 1-11(b) of the Salina Town Code violative of Oklahoma law. A policeman is more properly characterized an "employee" of the town than an "appointive officer."

The facts and law represented to the Court do not support plaintiff's claim of a property interest. Plaintiff himself

admitted he had no expectation or understanding that he could only be removed for just cause. (Plff. Depo. p. 59) Further, policemen in Oklahoma do not have a property interest in continued employment unless state law or city ordinance gives the officer a sufficient expectation in continued employment. Umholtz v. City of Tulsa, 565 P.2d 15, 23 (Okla. 1977); Hall v. O'Keefe, 617 P.2d 196, 200 (1980). Plaintiff has produced nothing indicating that policemen in the Town of Salina may be removed at the pleasure of the Chief of Police or the Town Board. Defendants' motion for summary judgment is hereby sustained.

ENTERED this 18th day of March, 1985.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Entered

FILED

MAR 18 1985

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

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

RAYMOND DARRELL DAVIS,)
)
 Plaintiff,)
)
 v.)
)
 TOWN OF SALINA, OKLAHOMA, a)
 municipal corporation; and)
 HOWARD SANDERS, Chief of Police,)
)
 Defendants.)

No. 84-C-558-B

J U D G M E N T

This action came before the Court on defendants' motion for summary judgment, and the issues having been duly presented and a ruling on the motion having been duly rendered,

IT IS ORDERED AND ADJUDGED that the plaintiff, Raymond Darrell Davis, take nothing, that the action be dismissed on the merits, and that the defendants Town of Salina, Oklahoma and Howard Sanders recover of the plaintiff, Raymond Darrell Davis, their costs of the action.

DATED at Tulsa, Oklahoma this 18th day of March, 1985.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

RAYMOND J. DONOVAN, Secretary of)
Labor, United States Department)
of Labor,)
)
Plaintiff,)
)
v.)
)
UNIT DRILLING AND EXPLORATION)
COMPANY,)
)
Defendant.)

No. 84-C-275-E

ORDER OF DISMISSAL WITH PREJUDICE

Pursuant to the agreement and stipulation of the parties,
this suit is dismissed, in its entirety, with prejudice.

S/ JAMES O. ELLISON

United States District Court
Judge

APPROVED:

DOERNER, STUART, SAUNDERS, DANIEL &
ANDERSON

By


Lynn Paul Mattson
OBA No. 5795
Charles S. Plumb
OBA No. 7195
1000 Atlas Life Building
Tulsa, Oklahoma 74103
(918) 582-1211

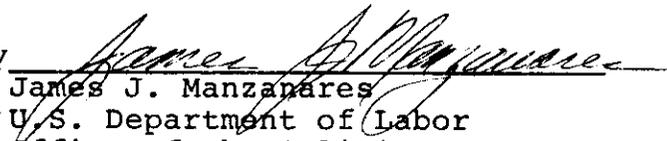
APPROVED:

FRANCIS X. LILLY
Solicitor of Labor

JAMES E. WHITE
Regional Solicitor

JACK F. OSTRANDER
Counsel for Safety and Health

By


James J. Manzanares
U. S. Department of Labor
Office of the Solicitor
555 Griffin Square, Suite 501
Dallas, Texas 75202
(214) 767-4902

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
MAR 18 1985
Jack G. Silver Clerk
U.S. District Court

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

LINDA SUE MAYS,)

Defendant.)

CIVIL ACTION NO. 85-C-123-B

AGREED JUDGMENT

This matter comes on for consideration this 18th day of March, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through James E. Pohl, Special Assistant United States Attorney, and the Defendant, Linda Sue Mays, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Linda Sue Mays, was served with Summons and Complaint. 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 \$863.52, plus accrued interest of \$13.13 as of January 11, 1985, plus interest thereafter at the rate of 3 percent per annum until paid, plus costs of this action.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Linda Sue Mays, in the amount of \$863.52, plus accrued interest of \$13.13 as of January 11, 1985, plus interest thereafter at the rate of 3 percent per annum until paid, plus costs of this action.

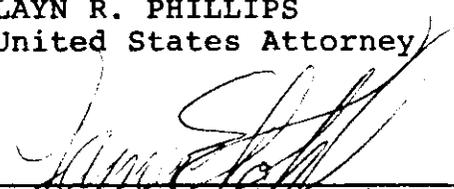
S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

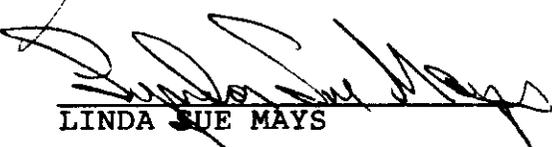
APPROVED:

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney



JAMES E. POHL - Special
Assistant U.S. Attorney



LINDA SUE MAYS

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

CHALLENGER PRODUCTIONS, INC.,
an Oklahoma corporation,

Plaintiff,

vs.

SPORTS VIEW CO.,
an Iowa corporation,

Defendant.

John C. [unclear] Clerk
U.S. District Court

Case No. 84-C-899-E

JOURNAL ENTRY AND JUDGMENT BY DEFAULT

It appears to the Court and the Court finds:

1. That plaintiff has filed its motion for default judgment pursuant to Rule 55 of the Federal Rules of Civil Procedure; it appearing to the Court that the Complaint in this action was filed on November 8, 1984; that Summons and Complaint were duly served on the defendant as required by law; and

2. It further appearing to the Court that the defendant has failed to appear and answer or otherwise plead to the Complaint in this action as required by the Notice and Summons, and the time to answer such Complaint has expired; and

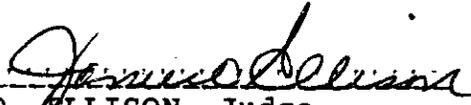
3. It further appearing that default was entered against defendant on the 14 day of March, 1985, and that no proceedings have been taken by the defendant since entry of its default; and

4. The jurisdiction of this matter is founded upon diversity of citizenship and amount.

5. The Court finds that the plaintiff is entitled to recover the damages requested in plaintiff's Complaint herein from the defendant, and

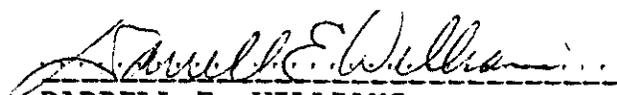
IT IS ORDERED AND ADJUDGED by the Court that plaintiff, Challenger Productions, Inc., recover from the defendant, Sports View Co., the sum of \$10,625.00, ~~plus interest at the rate of six percent (6%) per annum from September 7, 1984, costs in the amount of \$60.00, and a reasonable attorney fee in the amount of \$850.00.~~ *plus costs & any fees.*

DATED this 18th day of March, 1985.


.....
JAMES O. ELLISON, Judge
United States District Court

CERTIFICATE OF MAILING

The undersigned does hereby certify that on the 14th day of March, 1985, a true and correct copy of the above and foregoing Journal Entry and Judgment by Default was mailed, with sufficient postage thereon fully prepaid, addressed to Mr. Patrick M. Thompson, Registered Service Agent for Sports View Co., 701 Broadway, Suite 300, Nashville, Tennessee 37203.


.....
DARRELL E. WILLIAMS

Entered

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

FILED

MAR 15 1985

[Handwritten mark]

JOHN H. ALTSHULER,)
)
 Plaintiff,)
)
 vs.)
)
 LASSETTER PETROLEUM CORP.,)
 DAN CLARK and DENISE CLARK,)
)
 Defendants.)

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

Case No. 84-C-910-E

JUDGMENT

In keeping with the Court's Order sustaining Plaintiff's Motion for Partial Summary Judgment, Judgment is hereby entered in favor of the Plaintiff, John H. Altshuler and against the Defendants, Lassetter Petroleum Corp., Dan Clark and Denise Clark, in the amount of Sixteen Thousand Nine Hundred Fifty Nine Dollars and 20/100 Dollars (\$16,959.20), with prejudgment interest from June 3, 1983 to this date at a rate of 10% per annum and with postjudgment interest at the rate of ~~9.09%~~ ^{8.09%} per annum, attorneys' fees in the amount to be determined by this Court. ~~Plaintiff is further awarded the right to retain title and interest in the security until the judgment has been satisfied in full.~~

Dated this 15th day of March, 1985.

[Signature]
Judge of the District Court

[Signature]
for Judge Ellison

Melinda J. Martin
Sneed, Lang, Adams,
Hamilton, Downie & Barnett
Sixth Floor, 114 East Eighth
Tulsa, Oklahoma 74119

Entered

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

FEB 15 1983

JACK A. SUTHERLAND
U.S. DISTRICT COURT

MICHAEL LEON McCALISTER,)
)
 Plaintiff,)
)
 vs.)
)
 UNITED STATES OF AMERICA,)
)
 Defendant.)

No. 82-CR-19-C
No. 84-C-990-C

O R D E R

Now before the Court for its consideration is the motion of defendant Michael Leon McCalister, pursuant to 28 U.S.C. §2255 to vacate, set aside, or correct sentence by a person in federal custody.

On May 24, 1982, defendant signed a petition to enter plea of guilty and the Court entered an order accepting the plea (Ex.A attached hereto). On July 1, 1982, defendant received a sentence of fifteen years from Judge H. Dale Cook, not from Judge Margaret Lamb, as the defendant alleges. Judge Lamb is a State District Court Judge.

Defendant McCalister now alleges ineffective assistance of counsel in that his court-appointed attorney allegedly told him that he would receive "no more and no less than a ten-year sentence." Then, when defendant was sentenced to fifteen years, his attorney allegedly failed to object to the sentence. Defendant further alleges that the prosecutor and the judge "knew what the plea agreement consist (sic) of. Prosecutor did not hold up to his end of the plea agreement." In his brief, but not in his

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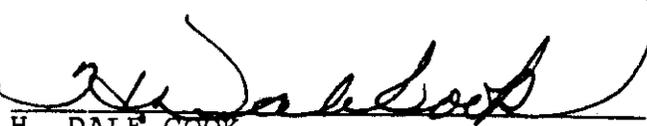
motion, defendant also charges that the sentencing judge failed to find that the defendant would not derive benefit from the Youth Corrections Act.

There is no merit to any of defendant's claims. As to his allegations regarding the plea agreement and ineffective assistance of counsel, his Petition to Enter Plea of Guilty, which he signed under oath before the Court, states in paragraph 14 that his plea agreement was as follows: "The government agreed to proceed only under 18 U.S.C. §2113(a) and not §2113(d)." (Ex.A, p.3). There is no mention of a fixed term of incarceration, except paragraph (11) of the Petition which states, "My lawyer informed me that the plea of 'guilty' could subject me to a maximum punishment which, as provided by law, is 20 years imprisonment or a fine of \$5,000.00 (or both)" (Ex.A, p.2).

As to defendant's charges regarding the Youth Corrections Act, there was no requirement under the law that in regard to a defendant who had passed his 22nd birthday the Court must affirmatively enter a finding of "no benefit." Marshall v. United States, 389 F.Supp. 729 (E.D.Wisc. 1975); Title 18 U.S.C. §5006(d).

Therefore defendant's motion pursuant to Title 28 U.S.C. §2255 should be and hereby is denied.

IT IS SO ORDERED this 15th day of February, 1985.


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

Entered

FILED

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

HENRICK BALLER,)
)
 Plaintiff,)
)
 vs.)
)
 LASSETTER PETROLEUM CORPORATION,)
 DAN L. CLARK and DENISE S. CLARK,)
)
 Defendants.)

Jack G. Strickland
1000

Case No. 84-C-684-E

JUDGMENT

In keeping with the Court's Order sustaining Plaintiff's Motion for Partial Summary Judgment, Judgment is hereby entered in favor of the Plaintiff, Henrick Baller and against the Defendants, Lassetter Petroleum Corporation, Dan L. Clark and Denise S. Clark, in the amount of Twenty Thousand One Hundred Ninety One Dollars (\$20,191.00), with prejudgment interest from February 16, 1984 to this date at a rate of 10% per annum and with postjudgment interest at ^{10.08}~~9.00~~% per annum, the current coupon yield rate. Additionally, the Court awards costs in favor of Plaintiff and against Defendants.

Entered this 15th day of March, 1985.

S/ THOMAS R. BRETT

for James O. Ellison
United States District Judge

Melinda J. Martin OBA5737
Sneed, Lang, Adams,
Hamilton, Downie & Barnett
Sixth Floor, 114 East Eighth
Tulsa, Oklahoma 74119
(918) 583-3145

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

F I L E D

MARY RUSSELL, TINA WOOTEN,
CHARLENE BOWLER, BARBARA
MOORHOUSE, and EVELYN DEWEESE,

Plaintiffs,

vs.

DOVER CORPORATION/
NORRIS DIVISION, and
UNITED STEEL WORKERS OF
AMERICA, AFL-CIO, LOCAL
UNION NO. 4430,

Defendants.

MAR 15 1985

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

No. 84-C-109-B

O R D E R

This matter comes on before the Court on defendant Dover Corporation, Norris Division's ("Dover") motion for partial summary judgment, its request in that motion to assess costs and attorney fees, and Dover's request for hearing on its request for attorney fees. For the reasons stated below, the Court finds Dover's motion should be sustained. Dover's request for attorney fees and costs and its request for hearing are held in abeyance pending final disposition of the entire action.

On June 14, 1984, the Court ordered plaintiffs to move for class certification on or before February 1, 1985. On February 22, 1985, Dover filed a motion for partial summary judgment as against plaintiffs Wooten, Bowler, Moorhouse and DeWeese and on the request for class certification contained in plaintiffs' complaint. Dover contends, first, that plaintiffs forfeited the right to pursue a class action when they failed to move for

certification by the Court-ordered deadline. Second, Dover contends that, since the action cannot proceed as a class action and since plaintiffs Wooten, Bowler, Moorhouse, and DeWeese have failed to file a charge of discrimination with the Equal Employment Opportunity Commission, the claims of those four named plaintiffs must be dismissed.

Plaintiffs have filed no response to Dover's motion for partial summary judgment. On March 5, 1985, plaintiffs made no appearance at a status conference on the matter scheduled by the Court. Rule 14(a) of the Local Rules provides that a party shall respond to any motion within ten (10) days after it is filed. Failure to respond within the ten day period constitutes a confession of the matters asserted in the motion.

Because plaintiffs failed to file a motion for class certification within the time ordered by this Court, it is hereby

ORDERED that plaintiffs' request for class certification be denied.

Further, because Dover's motion for partial summary judgment has been confessed by plaintiffs, it is hereby

ORDERED that the claims of plaintiffs Tina Wooten, Charlene Bowler, Barbara Moorhouse and Evelyn DeWeese are hereby dismissed, with prejudice. Dover's request for attorney fees and its request for a hearing shall be held in abeyance until final disposition of the claims of plaintiff Russell against defendant Dover.

ENTERED this 15th day of March, 1985.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Entered

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

FILED

MAR 15 1985

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

ELZORA L. WALKER,)
)
 Plaintiff,)
)
 vs.)
)
 ARMCO, INC., a foreign)
 corporation, UNITED STEEL)
 WORKERS OF AMERICA, AFL-CIO,)
 a collective bargaining labor)
 association; EDGAR L. BALL;)
 CARL OLDHAM; and WILLIAM E.)
 IHRIG,)
)
 Defendants.)

CASE NO. 84-C-462-B

ORDER OF DISMISSAL

THIS matter comes on before the undersigned Judge of the United States District Court for the Northern District of Oklahoma on the Stipulation of Dismissal; the Court finds that the Plaintiff's claim against the Defendants United Steel Workers of America, AFL-CIO, Edgar L. Ball, Carl Oldham and William E. Ihrig, is hereby dismissed without prejudice.

DATED this 15 day of March, 1985.

S/ THOMAS R. BRETT

U. S. DISTRICT COURT JUDGE

Entered

FILED

MAR 15 1985

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

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 GLORIA J. GUINN,)
)
 Defendant.)

CIVIL ACTION NO. 85-C-195-B

ORDER OF DISMISSAL

Now on this 15 day of March, 1985, it appears that the Defendant in the captioned case has not been located within the Northern District of Oklahoma, and therefore attempts to serve Gloria J. Guinn have been unsuccessful.

IT IS THEREFORE ORDERED that the Complaint against Defendant, Gloria J. Guinn, be and is dismissed without prejudice.

WILLIAM D. BREN
UNITED STATES DISTRICT JUDGE

Entered
FILED

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

MIDWESTERN PIPELINE PRODUCTS)
COMPANY, an Oklahoma)
corporation,)
)
Plaintiff,)
)
vs.)
)
MAYES BROTHERS, INC., a)
Texas corporation, et al.,)
)
Defendants.)

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

No. 84-C-633-E ✓

O R D E R

NOW on this 12th day of March, 1985 comes on for hearing the above styled case and the Court, being fully advised in the premises finds as follows:

On October 30, 1984 the Court ordered Plaintiff to obtain service within sixty (60) days or request additional time.

The file does not reflect service has been made and no motion has been filed seeking extension of time.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this case be and is hereby dismissed pursuant to Rule 41(b), Fed.R.Civ.P.

for James O. Ellison
JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Entered

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

BRADLEY K. STANTON, et al.,

Plaintiffs,

vs.

AMERICAN MUTUAL LIABILITY
INSURANCE COMPANY, et al.,

Defendants.

No. 84-C-268-E

FILED

MAR 1 1985

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

ADMINISTRATIVE CLOSING ORDER

The parties having requested certification of certain issues of law to the Oklahoma State Supreme Court and these proceedings being stayed thereby, it is hereby ordered that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

If, within thirty (30) days of a final determination by the Oklahoma Supreme Court on the legal issues involved herein the parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

It is so ORDERED this 15th day of March, 1985.

for *James O. Ellison*
JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Entered

FILED

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

MAR 14 1985

HARRY E. MCPHAIL, Jr.,)
)
 Plaintiff,)
)
 v.)
)
 OLE GUNNAR SELVAAG and)
 OLAV SELVAAG,)
)
 Defendants.)

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

No. 84-C-352-C

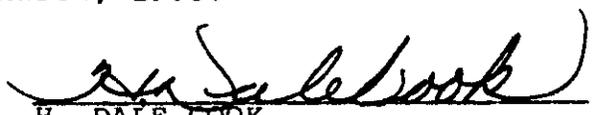
ORDER

The Court has for consideration the Findings and Recommendations of the Magistrate filed March 1, 1985 in which recommendations are made on the Motion of Defendants Ole Gunnar Selvaag and Olav Selvaag to Reconsider the Denial of their Motion to Dismiss for Lack of In Personam Jurisdiction. 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.

It is therefore Ordered that the Motion of Defendant Olav ~~Gunnar~~ Selvaag to Dismiss for Lack of In Personam Jurisdiction is sustained. It is further Ordered that the Motion of Ole^{GUNNAR} Selvaag to Dismiss for Lack of In Personam Jurisdiction is denied.

Dated this 14th day of March, 1985.


H. DALE COOK
CHIEF JUDGE

Entered

MAR 16 1985

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

JOLANE L. SARTIN,
Plaintiff,

vs.

NO. 84 C 1028 E

HENRY E. BOOTS and LINDA K.
BOOTS, husband and wife; OKLAHOMA
STATE BANK AND TRUST COMPANY,
V.L. BUCHANAN, CANEY VALLEY
NATIONAL BANK, and DAN SCOTT,
Defendants.

STIPULATIONS OF DISMISSAL

Comes Now the Plaintiff above named and hereby dismisses
the above entitled cause without prejudice to a future action.
Pursuant to Rule 41 (i) (ii).

APPROVED:

John K. Harlin
John K. Harlin

Deirdre O. Dexter
Deirdre O. Dexter

David O. Harris
DAVID O. HARRIS
100 Center Plaza, Suite C
Tulsa, Oklahoma 74119
582-5207
Attorney for Plaintiff

CERTIFICATE OF MAILING

I hereby certify that on the 13th day of March, 1985, I mailed
two correct copies of this above Dismissal Without Prejudice to:
Deirdre O. Winters, Jurorship for Defendants, Deirdre O. Dexter, Caney
Valley National Bank, 2400 First National Tower, Tulsa, OK. 74103;
and John K. Harlin, Jr., Attorney for Defendants, V.L. Buchanan and
Oklahoma State Bank and Trust Company, 2622 E. 21st Suite 11, Tulsa,
OK. 74114 with proper postage thereon fully prepaid.

David O. Harris

Entered

FILED

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

MAR 17 1985

EL-KAFRAWI TAREK,)
)
 Plaintiff,)
)
 vs.)
)
 KETTLE RESTAURANT, INC.,)
)
 Defendant.)

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

No. 84-C-993 E

ORDER

This matter having come on before me on Motion of the Plaintiff to Amend and Motion of the Defendant to Dismiss on this 8th day of March, 1985, the Plaintiff appearing not, and the Defendant appearing by and through its counsel, Hall, Estill, et al. by J. Patrick Cremin, and this Court having been advised in the facts and the law in the beliefs of the parties filed herein.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff's Motion to Amend is hereby denied and Defendant's Motion to Dismiss is hereby granted.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff's cause of action is thereby dismissed.

JE

James O. Ellison
United States District Judge

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

CARL C. ICAHN, ICAHN CAPITAL)
CORPORATION, LONGVIEW INVESTORS)
LIMITED PARTNERSHIP, UNICORN)
ASSOCIATES CORPORATION, and)
ICAHN GROUP, INC., individually)
and derivatively on behalf of)
Phillips Petroleum Company,)

Plaintiffs,)

v.)

GEORGE B. BEITZEL, MICHAEL M.)
CHETKOVICH, JAMES B. EDWARDS,)
ROBERT F. FROEHLKE, E. DOUGLAS)
KENNA, MELVIN R. LAIRD, CAROL)
C. LAISE, DAVID B. MEEKER, W.)
CLARKE WESCOE, DOLORES D. WHARTON)
and FRANCIS M. WHEAT,)

Defendants.)

No. 85-C-157-C

F I L E D

MAR 14 1985

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

O R D E R

This matter comes before the Court on the parties' Motion to Dismiss Without Prejudice. The Court finds:

1. That Plaintiffs and Phillips Petroleum Company have agreed, pursuant to their Settlement Agreement dated March 3, 1985, that this action should be dismissed without prejudice; and,

2. That notice to shareholders of Phillips Petroleum Company of the dismissal of this action is unnecessary, since the dismissal will not prejudice the rights of any Phillips shareholder in the derivative claims asserted herein.

IT IS THEREFORE ORDERED that this action be, and the same is hereby, dismissed without prejudice, and that notice to shareholders of Phillips Petroleum Company of the dismissal of this action need not be given.

s/n. DALE COOK

UNITED STATES DISTRICT JUDGE

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

PHILLIPS PETROLEUM COMPANY,)
)
 Plaintiff,)
)
 v.)
)
 CARL C. ICAHN and ICAHN CAPITAL)
 CORPORATION,)
)
 Defendants.)
)
 CARL C. ICAHN, ICAHN CAPITAL)
 CORPORATION, LONGVIEW INVESTORS)
 LIMITED PARTNERSHIP, UNICORN)
 ASSOCIATES CORPORATION,)
 individually and derivatively)
 on behalf of Phillips Petroleum)
 Company,)
)
 Counterclaim-Plaintiffs,)
)
 v.)
)
 PHILLIPS PETROLEUM COMPANY,)
 WILLIAM C. DOUCE, C. J. SILAS,)
 R. G. WALLACE, C.M. KITTRELL,)
 GLENN A. COX, and MESA PARTNERS,)
)
 Counterclaim-Defendants.)

No. 85-C-108-C

FILED

MAR 14 1985

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

O R D E R

This matter comes before the Court on the parties' Motion to Dismiss Without Prejudice. The Court finds:

1. That Phillips Petroleum Company and Defendants/Counterclaim-Plaintiffs have agreed, pursuant to their Settlement Agreement dated March 3, 1985, that this action should be dismissed without prejudice;
2. That notice to shareholders of Phillips Petroleum Company of the dismissal of this action is unnecessary, since

the dismissal will not prejudice the rights of any Phillips shareholders in the derivative claims asserted herein.

IT IS THEREFORE ORDERED that this action be, and the same is hereby, dismissed without prejudice, and that notice to shareholders of Phillips Petroleum Company of the dismissal of this action need not be given.

s/H. DAN COOK

UNITED STATES DISTRICT JUDGE

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

HOLD OIL CORP., a Florida
corporation,

Plaintiff,

vs.

ARKANSAS LOUISIANA GAS COMPANY,
a Delaware corporation,

Defendant.

No. 84-C-419-E

ORDER

NOW, on this 14 day of March, 1985,
the Joint Application for Order of Dismissal with Prejudice came
on before this Court for hearing. The Court finds that the
parties have settled the issues in dispute and that the case
should be dismissed with prejudice.

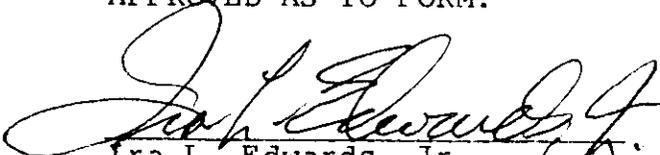
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the
plaintiff's claims against the defendant are hereby dismissed
with prejudice.

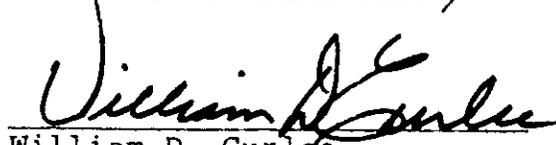
H. DALE COOK

Judge of the District Court

for W. G. ELSON

APPROVED AS TO FORM:


Ira L. Edwards, Jr.
ATTORNEY FOR PLAINTIFF


William D. Curlee
ATTORNEY FOR DEFENDANT

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

FILED
MAR 12 1985
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA
OKLAHOMA CITY

ICAHN GROUP INC.,
A Delaware Corporation,

Plaintiff,

v.

C. RAYMOND PATTON, JR.,
Administrator of the
Oklahoma Department of
Securities, and PHILLIPS
PETROLEUM COMPANY,
a Delaware Corporation,

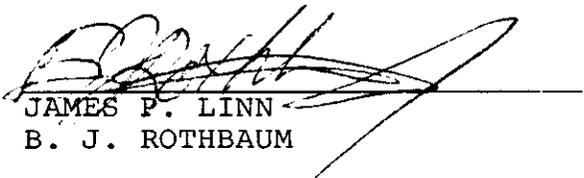
Defendants.

CASE NO. 85-C-136-C

STIPULATION OF DISMISSAL

It is hereby stipulated that the above-entitled action may be dismissed without prejudice, pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, each party to bear his own costs and attorney's fees, except as provided in the Settlement Agreement between Plaintiff and Defendant Phillips Petroleum Company dated March 3, 1985.

DATED this 11th day of March, 1985.


JAMES P. LINN
B. J. ROTHBAUM

LINN & HELMS
400 Fidelity Plaza
Oklahoma City, Oklahoma 73102
(405) 239-6781

COUNSEL FOR PLAINTIFF
ICAHN GROUP INC.


HARRY A. WOODS, JR.
JOHN J. GRIFFIN, JR.
CANDACE M. WILLIAMS

CROWE & DUNLEVY
1800 Mid-America Tower
20 North Broadway
Oklahoma City, Oklahoma 73102
(405) 235-7700

ATTORNEYS FOR DEFENDANT
PHILLIPS PETROLEUM COMPANY

SO ORDERED:

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

DATED March 14, 1985.

Entered

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

DAVID KNIGHT and KATHY KNIGHT,)
)
 Plaintiffs,)
)
 vs.)
)
 SEARS, ROEBUCK COMPANY,)
 THE SINGER COMPANY,)
 DISSTON, INC., and)
 WOLFCRAFT CORPORATION,)
)
 Defendants,)
)
 SEARS, ROEBUCK COMPANY,)
 THE SINGER COMPANY,)
)
 Third Party)
 Plaintiffs,)
)
 vs.)
)
 DISSTON, INC.,)
)
 Third Party)
 Defendant.)

FILED

MAR 12 1985

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

No. 83-C-1002-C

ORDER

This action comes before the Court on the stipulation of the parties to dismiss this action against defendant The Singer Company only.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this action be dismissed, with prejudice, as to defendant The Singer Company only.

DONE this March 12, 1985.

s/H. DALE COOK

U. S. DISTRICT JUDGE
Northern District of Oklahoma

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

ROBERT L. BRASE, CHIEF BOYD,)
ROBERT P. SOBER, DAVID E.)
BROACH, and BOB WORKMAN,)
General Partners of BSW)
ARCHITECTS, a Partnership,)
)
Plaintiffs.)

vs.)

JAMES H. COOLEY, JR., ALFRED H.)
COWLEY, JR., and GARY LIGHT,)
General Partners of CCL &)
ASSOCIATES, a Partnership,)
)
Defendants.)

No. 84-C-423-C

FILED

MAR 12 1985

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

ORDER OF DISMISSALS WITH PREJUDICE

This matter comes on for consideration this 12th day of March, 1985 upon the Stipulation for Dismissals With Prejudice and the Court, being fully advised in the premises, and finding that a settlement agreement has been reached and has been executed, finds that the complaint of the plaintiffs, Robert L. Brase, Chief Boyd, Robert P. Sober, David E. Broach, and Bob Workman, General Partners of BSW Architects, a Partnership, should be and is hereby dismissed with prejudice and that the counterclaim of the defendants, James H. Cooley, Jr., Alfred H. Cowley, Jr., and Gary Light, General Partners of CCL & Associates, a Partnership, should be and is hereby dismissed with prejudice.

BE IT THEREFORE ORDERED, ADJUDGED AND DECREED that the complaint of the plaintiffs and the counterclaim of the defendants, both, be and are hereby ordered dismissed with prejudice to the future filing of any action herein.

151 H. Dale Cook
UNITED STATES DISTRICT JUDGE

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

FILED
MAR 12 1985

CLERK
U.S. DISTRICT COURT

RONALD R. STOTLER and CLETA)
JEAN STOTLER, husband and wife,)

Plaintiffs,)

vs.)

FARMERS INSURANCE COMPANY, a)
foreign insurance corporation,)

Defendant.)

NO. 84-C-987-C

DISMISSAL WITHOUT PREJUDICE

NOW on this 7 day of March, 1985, for
good cause shown, the plaintiffs' Motion to Dismiss this
matter without prejudice to the refiling of the same is
sustained.

s/H. DALE COOK

U. S. DISTRICT COURT JUDGE

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

CARL C. ICAHN and ICAHN)
CAPITAL CORP.,)
)
Plaintiffs,)
)
v.)
)
T. L. CUBBAGE, GEORGE SNEED,)
SIDNEY GROSS, HAROLD KAPLAN)
and NANCY ANN BARRETT KAPLAN,)
)
Defendants.)

Case No. 85-C-145 C

FILED

FEB 11 1985

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

STIPULATION OF DISMISSAL WITH PREJUDICE

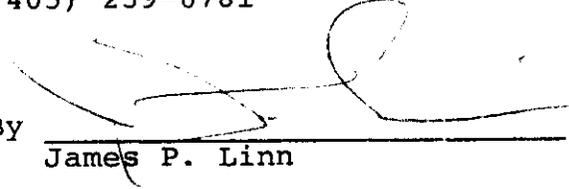
COME NOW the Plaintiffs, joined by all Defendants,
and stipulate that this matter has been resolved between the
parties, and it is hereby stipulated that this case is dis-
missed with prejudice to the bringing of any further cause of
action.

PAUL, WEISS, RIFKIND, WHARTON
& GARRISON
919 Third Avenue
New York, NY 10022

JONES, GIVENS, GOTCHER, DOYLE
& BOGAN, INC.
201 W. 5th Street, Suite 400
Tulsa, OK 74103
(918) 581-8200

LINN & HELMS
400 Fidelity Plaza
Oklahoma City, OK 73102
(405) 239-6781

GARRISON, BROWN & CARLSON
530 SE Delaware
P. O. Box 1217
Bartlesville, OK 74005
(918) 336-2520

By 
James P. Linn

By 
Denzil D. Garrison

ATTORNEYS FOR PLAINTIFFS

ATTORNEYS FOR DEFENDANTS

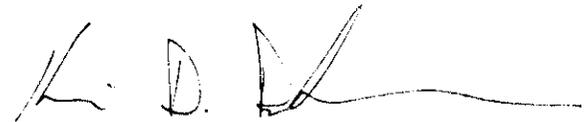
CERTIFICATE OF MAILING

I, Kevin D. Buchanan, hereby certify that a true and correct copy of the above and foregoing instrument was mailed this 7th day of March, 1985, to the following, with proper postage prepaid thereon, to-wit:

PAUL, WEISS, RIFKIND, WHARTON
& GARRISON
919 Third Avenue
New York, NY 10022

JONES, GIVENS, GOTCHER, DOYLE
& BOGAN, INC.
201 W. 5th Street, Suite 400
Tulsa, OK 74103

LINN & HELMS
400 Fidelity Plaza
Oklahoma City, OK 73102

A handwritten signature in black ink, appearing to read 'K. D. Buchanan', written over a horizontal line.

KEVIN D. BUCHANAN

Entered

FILED

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

MAR 11 1985

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

STEPHEN BAKER,

Plaintiff,

vs.

ROBERT S. ALLEN, M.D.,

Defendant.

}
}
}
}
}

No. 83-C-561-E

JUDGMENT

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

IT IS ORDERED AND ADJUDGED that the Plaintiff Stephen Baker take nothing from the Defendant Robert S. Allen, that the action be dismissed on the merits, and that the Defendant Robert S. Allen recover of the Plaintiff Stephen Baker his costs of action.

DATED at Tulsa, Oklahoma this 11th day of March, 1985.

James O. Ellison

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Entered

FILED

MAR 11 1985

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

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

GARY HENRY CHEVROLET, INC.,)
)
Plaintiff,)
)
vs.)
)
FIREMAN'S FUND INSURANCE COMPANY,)
)
Defendant.)

85-19-E

ORDER OF DISMISSAL

ON This 9th day of March, 1985, 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.

3/11/85

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

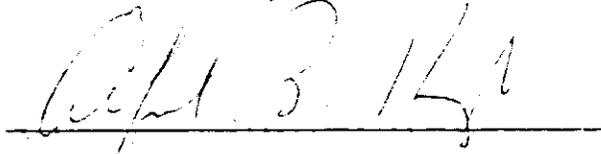
APPROVAL:

JAY C. BAKER,

A handwritten signature in cursive script, appearing to read "Jay C. Baker", written over a horizontal line.

Attorney for the Plaintiff,

ALFRED B. KNIGHT,

A handwritten signature in cursive script, appearing to read "Alfred B. Knight", written over a horizontal line.

Attorney for the Defendant.

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

FILED

MAR 11 1985

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

ROGER SWISHER,)
)
 Plaintiff,)
)
 vs.)
)
 LASSETTER PETROLEUM CORP.,)
 DAN CLARK and DENISE CLARK,)
)
 Defendants.)

No. 84-C-765-C ✓

O R D E R

Now before the Court for its consideration is the motion of plaintiff Roger Swisher for Summary Judgment, filed on February 14, 1985. The Court has no record of a response to this motion from defendants. Rule 14(a) of the Local Rules of the United States District Court for the Northern District of Oklahoma provides as follows:

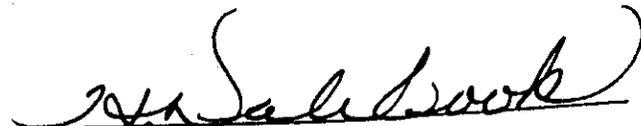
(a) Briefs. Each motion, application and objection filed shall set out the specific point or points upon which the motion is brought and shall be accompanied by a concise brief. Memoranda in opposition to such motion and objection shall be filed within ten (10) days after the filing of the motion or 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.

Therefore, in that defendants Lassetter Petroleum Corp., Dan Clark and Denise Clark have failed to comply with Local Rule 14(a) and no responsive pleading has been filed to date herein,

the Court concludes that defendants have waived any objection to said motion and have confessed the matters contained therein.

Accordingly, it is the Order of the Court that the motion of plaintiff Roger Swisher for Summary Judgment against all defendants, jointly and severally, on all of plaintiff's claims should be and hereby is sustained.

IT IS SO ORDERED this 7th day of March, 1985.


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

Entered

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 KIM A. DENTON,)
)
 Defendant.)

MAK 11 1985;
Jack C. Silver, Clerk
U. S. DISTRICT COURT

CIVIL ACTION NO. 85-C-78-E

AGREED JUDGMENT

This matter comes on for consideration this 8th day
of March, 1985, the Plaintiff appearing by Layn R.
Phillips, United States Attorney for the Northern District of
Oklahoma, through James E. Pohl - Special, Assistant United
States Attorney, and the Defendant, Kim A. Denton, appearing pro
se.

The Court, being fully advised and having examined the
file herein, finds that Defendant, Kim A. Denton, acknowledged
receipt of Summons and Complaint on February 19, 1985. The
Defendant has not filed his Answer but in lieu thereof has agreed
that he is indebted to the Plaintiff in the amount of \$1,650.39,
plus the accrued interest of \$1,055.17 as of January 2, 1985,
plus interest at 7 percent per annum from January 2, 1985, until
judgment, plus interest thereafter at the legal rate from the
date of judgment until paid, plus costs of this action.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that
the Plaintiff have and recover Judgment against the Defendant,
Kim A. Denton, for the principal sum of \$1,650.39, plus the

accrued interest of \$1,055.17 as of January 2, 1985, plus interest at 7 percent per annum from January 2, 1985, until judgment, plus interest thereafter at the current legal rate of 9.17 percent from the date of judgment until paid, plus the costs of this action.

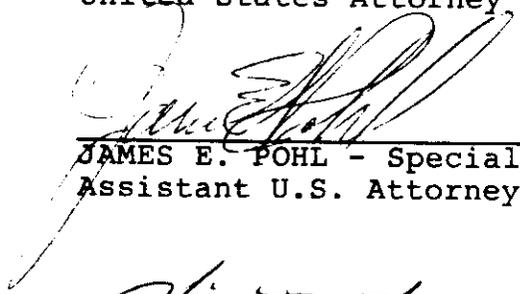
S/ JAMES O. FLISON

UNITED STATES DISTRICT JUDGE

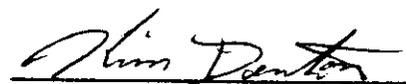
APPROVED:

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney



JAMES E. POHL - Special
Assistant U.S. Attorney



KIM A. DENTON

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

MAR 11 1935

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

SOUTHWESTERN BELL TELEPHONE)
COMPANY, a Missouri)
corporation,)
)
Plaintiff,)
v.)
)
ARKANSAS VALLEY PETROLEUM)
INCORPORATED, an Oklahoma)
Corporation, RAPID LUBE & OIL)
OF TULSA, INC. a Corporation;)
RAPID LUBE & OIL OF ST. LOUIS,)
INC., a Corporation; RAPID LUBE)
& OIL, INC., a Corporation; and)
RAPID LUBE OF AMERICA, INC., a)
corporation.)
)
Defendants.)

No. 84-C-564-C

STIPULATION OF DISMISSAL WITHOUT PREJUDICE

Come now all parties who have appeared in this
action and, by stipulation, dismiss from this action
without prejudice the following named defendants: Rapid
Lube & Oil of Tulsa, Inc., Rapid Lube & Oil of St.
Louis, Inc., Rapid Lube & Oil, Inc. and Rapid Lube of
America, Inc.

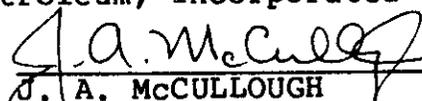
This stipulation is submitted pursuant to Rule 41
(a) (1) of the Federal Rules of Civil Procedure.



CHARLES J. SCHARNBERG
OBA #7941
800 North Harvey, Room 310
Oklahoma City, Oklahoma 73102
Telephone: 405/236-6756

ATTORNEY FOR SOUTHWESTERN BELL
TELEPHONE COMPANY

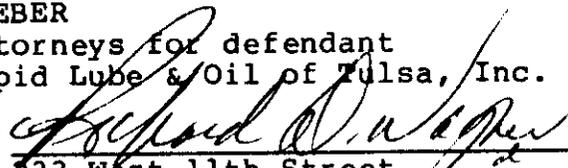
RHODES, HIERONYMOUS, JONES, TUCKER &
GABLE
Attorneys for defendant Arkansas Valley
Petroleum, Incorporated

BY 

J. A. McCULLOUGH
2800 Fourth National Bank Building
Tulsa, Oklahoma 74119

KNIGHT, WAGNER, STUART, WILKERSON &
LIEBER

Attorneys for defendant
Rapid Lube & Oil of Tulsa, Inc.

BY 

233 West 11th Street
Tulsa, Oklahoma 74119

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

FILED

APR 1 1985

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

T. L. CUBBAGE, GEORGE SNEED,)
SIDNEY GROSS, HAROLD KAPLAN)
and NANCY ANN BARRETT KAPLAN,)

Plaintiffs,)

v.)

CARL C. ICAHN and ICAHN)
CAPITAL CORPORATION,)

Defendants.)

Case No. 85-C-148-C

(Removed from the District
Court of Washington County,
State of Oklahoma, Case
No. C-85-90)

STIPULATION OF DISMISSAL WITH PREJUDICE

COME NOW the Plaintiffs, joined by all Defendants,
and stipulate that this matter has been resolved between the
parties, and it is hereby stipulated that this case is dis-
missed with prejudice to the bringing of any further cause of
action.

PAUL, WEISS, RIFKIND, WHARTON
& GARRISON
919 Third Avenue
New York, NY 10022

JONES, GIVENS, GOTCHER, DOYLE
& BOGAN, INC.
201 W. 5th Street, Suite 400
Tulsa, OK 74103
(918) 581-8200

GARRISON, BROWN & CARLSON
530 SE Delaware
P. O. Box 1217
Bartlesville, OK 74005
(918) 336-2520

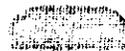
LINN & HELMS
400 Fidelity Plaza
Oklahoma City, OK 73102
(405) 239-6781

By Denzil D. Garrison
Denzil D. Garrison

By James P. Linn
James P. Linn

ATTORNEYS FOR PLAINTIFFS

ATTORNEYS FOR DEFENDANTS



FILED

MAR 11 1985

UNITED STATES DISTRICT COURT

for the

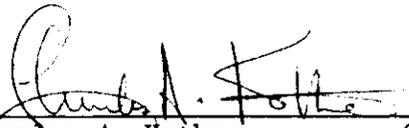
JACK C. SILVER, CLERK
U.S. DISTRICT COURT

NORTHERN DISTRICT OF OKLAHOMA

KENT PEARSON)	
)	
Plaintiff)	
)	
vs)	Civil No. <u>85-C-142 C</u>
)	
TEXACO, INC.)	
)	
Defendant)	<u>DEMAND FOR JURY TRIAL</u>

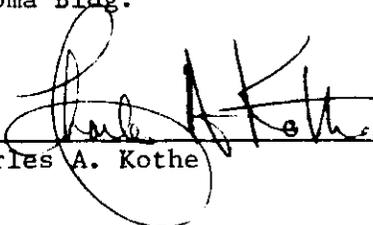
DISMISSAL WITHOUT PREJUDICE

Comes now KENT PEARSON, Plaintiff, herein, and dismisses Plaintiff's cause without prejudice to bringing a new action and with costs assessed to Plaintiff.


 Charles A. Kothe OBA#5104
 Attorney for Kent Pearson, Plaintiff
 4180 Oak Road
 Tulsa, Oklahoma 74105
 918/742-1164

I hereby certify that a true and correct copy of the above and foregoing was mailed to the following attorney of record, with sufficient postage thereon, on this 11th day of March, 1985.

Mr. J. Patrick Cremin
Hall, Estill, Hardwick, Gable,
Collinsworth & Nelson
41st Floor, Bank of Oklahoma Bldg.
Tulsa, Oklahoma 74103


 Charles A. Kothe

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

FILED

MAR 8 1985 H.C.

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

UTICA NATIONAL BANK & TRUST)
COMPANY, a national banking)
association,)
)
Plaintiff,)
)
v.)
)
DELAWARE ENERGY SHARES, INC.,)
a Delaware corporation;)
LONNIE M. DUNN, JR., an individual;)
and JOHN W. OHANIAN, JR., an)
individual,)
)
Defendants.)

No. 84-C-717-B ✓

O R D E R

This matter comes before the Court on the motion for new trial filed by defendants Lonnie M. Dunn, Jr., and John W. Ohanian, Jr. Plaintiff has objected to the motion. For the reasons set forth below, the motion for new trial is overruled.

This is an action to enforce personal guaranties executed by the individual defendants to secure a promissory note given by Delaware Energy Shares, Inc., for a loan from plaintiff Utica National Bank & Trust Co. The case was tried to the Court on December 27, 1984 and on January 21, 1985, the Court entered judgment against defendant Lonnie M. Dunn, Jr., in the principal sum of \$2,125,000.00, plus interest, and against defendant John W. Ohanian, Jr., in the principal sum of \$2,795,734.03, plus interest.

Defendants assert two grounds in support of their motion for new trial: 1) that the Court failed to consider the entitlement of

district court sustained defendants' motion for summary judgment, holding that since an amount in excess of the \$46,250 guaranty had been paid on the note, the guaranty agreements had been performed and were of no further force and effect. The appellate court reversed. In so ruling, the court commented:

"The central question to be resolved is whether defendants' \$46,250 guaranty was intended to assure full payment of the \$70,000 note, or only the first 66 percent of it."

Id. at 590. The court further noted the controlling law in Oklahoma is that, absent an express agreement controlling the application of payments on a note, the first payments will be considered as satisfying the nonguaranteed portion of the loan by operation of law. Id. [citing Dunlap v. Stannard, 19 Okl. 232, 91 P. 845 (1907)]. Looking to the terms of the guaranty, the court commented:

"Quite clearly and unambiguously defendants requested the bank to make the \$70,000 loan to SCMC, Ltd. and agreed to 'guarantee the full payment' of the obligation at maturity 'to the extent of' \$46,250.' . . . There is nothing in the bank's broad guaranty form signed by the defendants that suggests the guaranty liability is limited other than in amount."

The fact situation in this case is similar. The agreement signed by Dunn guarantees "full and punctual payment" of the entire loan up to a limit of \$2,125,000.00. The agreement contains no other limitations on Dunn's liability. Therefore, the Court rejects defendants' argument that Dunn's liability should be reduced on a basis proportionate to the amount already paid on the loan.

DENIAL OF MOTION FOR CONTINUANCE

Defendants' second argument is that the Court should have sustained defendants' motion for continuance, leave to set up counter-

claim, join additional parties and consolidate proceedings. In this regard, a review of the history of this case is helpful.

On October 2, 1984, default judgment was entered against the defendants for failure to file a timely answer. The Court, on motion of the defendants, set the default aside, the parties waived their right to a jury trial, and the case was set for trial to the Court on December 27, 1984. A pretrial order defining the issues to be tried was filed December 18, 1984. The defendants first formally filed their request for a continuance and to amend to add counter-claims and third party claims, on the first day of trial, December 27, 1984. The Court determined that the request was untimely under F.R.Civ.P. 15. The Court still believes the motion was untimely. Further, there is some evidence that the defendants were aware of the alleged evidence of fraud by plaintiff for a period of years before trial began, and made no effort to assert their claims until the day of trial.

The motion for new trial is overruled.

ENTERED this 8th day of March, 1985.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

MAR 28 1985

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

AMERICAN GAS AND OIL INVESTORS,)
 LTD., a New York limited)
 partnership,)
)
 Plaintiffs,)
)
 v.)
)
 B-C OIL AND GAS CO., an)
 Oklahoma general partnership;)
 WILLARD F. BUNKER, et al)
)
 Defendants.)

No. 83-C-1038E

NOTICE OF DISMISSAL

American Gas and Oil Investors, Ltd., Plaintiff in the above styled case, hereby dismisses Willard F. Bunker from this action.

No order of the Court is required as this defendant has not yet answered or filed a motion for summary judgment.



Kenneth E. Brune
Bruce M. Daniel

Attorney for Plaintiff, American Gas and Oil Investors, Ltd.

Ten East Third Street
700 Holarud Building
Tulsa, Oklahoma 74103

OF COUNSEL:

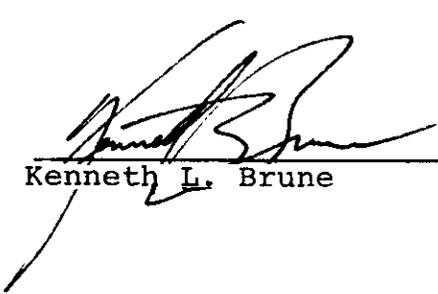
HOLLIMAN, LANGHOLZ, RUNNELS
& DORWART
Ten East Third Street
700 Holarud Building
Tulsa, Oklahoma 74103
(918) 584-1471

CERTIFICATE OF MAILING

I, Kenneth L. Brune, hereby certify that on the ~~1st~~^{8th} day of March, 1985, I placed in the United States mails at Tulsa, Oklahoma, a true and correct copy of the above and foregoing "Notice of Dismissal" with correct postage fully prepaid thereon, addressed to the following:

James R. Waldo
MOCK, SCHWABE, WALDO,
ELDER, REEVES & BRYANT
Third Floor, 100 Park Avenue
Oklahoma City, Oklahoma 73102

Jack L. Kinzie
ANDREWS, DAVIS, LEGG, BIXLER
MILSTEN & MURRAH
500 West Main
Oklahoma City, Oklahoma 73102



Kenneth L. Brune

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

FILED

MAR 8 1985

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

PIPELINE INDUSTRY BENEFIT FUND,)
)
 Plaintiff,)
)
 vs.)
)
 MARLENE (FARRIS) SUEHL)
 ESTATE OF MURF HENRY FARRIS,)
)
 Defendants.)

CASE NO. 84-C-721-B

ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

NOW, this action coming before this Court for hearing on the Motion for Summary Judgment filed by defendant, MARLENE (FARRIS) SUEHL ("SUEHL"), on February 15, 1985, pursuant to Rule 56 of the Federal Rules of Civil Procedure, Rule 14(b) of the Rules of the United States District Court for the Northern District of Oklahoma and prior orders of this Court entered on January 10, 1985, and February 14, 1985; and, this Court considering the following materials also filed herein by SUEHL on February 15, 1985, in support of her Motion for Summary Judgment: (1) the Affidavit of Grant Sample and (2) Brief in Support of Motion for Summary Judgment, including the Affidavit of SUEHL attached thereto as Exhibit "A" and duly authenticated and certified copy of the Iowa divorce decree effecting the divorce between SUEHL and her deceased former husband, Murf Henry Farris, attached thereto as Exhibit "B"; and, defendant, ESTATE OF MURF HENRY FARRIS ("ESTATE") having been provided requisite notice of said Motion for Summary Judgment by mailings of copies of said orders, of said Motion for Summary Judgment and of said materials to its counsel of record, P.B. Dover, Jr.; and, ESTATE having failed to controvert or otherwise to respond to said Motion for Summary Judgment; and, plaintiff, PIPELINE INDUSTRY BENEFIT FUND ("FUND"), as stakeholder in this interpleader action having filed herein Plaintiff's

Response to Motion for Summary Judgment on February 26, 1985, stating that it has no objection to said Motion for Summary Judgment being granted so long as it is absolved or discharged of any further liability to either defendant with respect to the subject death benefit here in controversy upon its payments of said death benefit in accordance with this Court's judgment herein; and, SUEHL appearing by her local resident co-counsel, David M. (Mike) Thornton, Jr. of Thornton, Wagner & Thornton; and, ESTATE or its counsel of record, P.B. Dover, Jr., failing to appear; and, FUND appearing by its counsel of record, Joe M. Fears; and, this Court giving due consideration to the matters on file and the statements and arguments of counsel of record for SUEHL and FUND;

NOW, THEREFORE, THIS COURT HEREBY FINDS:

(1) that ESTATE has had due and proper notice of said Motion for Summary Judgment and of this hearing and yet has failed to controvert or otherwise respond to said Motion and, therefore, that under said Rule 14(b) the material facts herein as set out in said Brief in Support of Motion for Summary Judgment are deemed admitted;

(2) that all pleadings and other materials on file herein disclose that there is no genuine issue as to any material fact;

(3) that the statement of undisputed material facts set forth by SUEHL in her Brief in Support of Motion for Summary Judgment is true and correct and is accepted by this Court; and,

(4) without limitation upon the foregoing, that Murf Henry Farris, Deceased, duly designated SUEHL as the sole beneficiary entitled to said death benefit, that this designation of SUEHL was neither cancelled nor in any manner impaired by said divorce decree nor amended or revoked prior to the death of Murf Henry Farris and that under applicable law SUEHL is the sole party entitled to the payment of said death benefit.

NOW, THEREFORE, by reason of the above findings and applicable law,
IT HEREBY IS ORDERED, ADJUDGED and DECREED as follows:

(1) that SUEHL be and hereby is determined to be the sole party entitled to the payment of said death benefit in the amount of \$10,000.00 plus any interest payable thereon from the date of the death of said Murf Henry Farris to the date of payment of said death benefit under the terms of said death benefit and/or applicable law; and,

(2) that FUND be and hereby is ordered to pay said death benefit in the amount of \$10,000.00 plus said interest to SUEHL immediately upon its receipt of a copy of this order-judgment by personal delivery to or mailing to SUEHL'S local resident co-counsel; and,

(3) that FUND be and hereby is to be completely and finally absolved and discharged of any liability with respect to said death benefit upon its payment of said death benefit and said interest to SUEHL as directed by this order-judgment; and,

(4) pursuant to 29 U.S.C. Section 1132(g) and Rule 54(d) of the Rules of Federal Procedure that SUEHL and FUND be and hereby are awarded judgment against ESTATE for their attorneys fees and costs expended herein.

Dated: March 8, 1985.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:


David M. (Mike) Thornton, Jr.
Attorney for Defendant,
Marlene (Farris) Suehl.


Joe M. Fears
Attorney for Plaintiff,
Pipeline Industry Benefit Fund.

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

PIPELINE INDUSTRY BENEFIT FUND,)
)
) Plaintiff,)
)
) vs.)
)
) MARLENE (FARRIS) SUEHL,)
) ESTATE OF MURF HENRY FARRIS,)
)
) Defendants.)

No. 84-C-721-B

FILED

MAR - 8 1985

**JACK O. SILVER, Clerk
U. S. DISTRICT COURT**

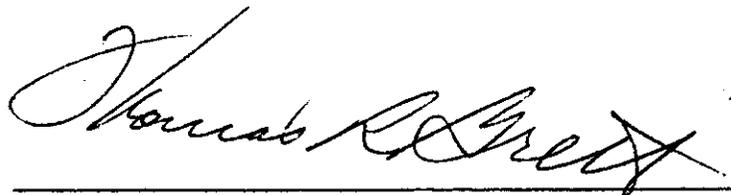
JUDGMENT

This action came on before the Court on motion for summary judgment. The issues having been duly heard and a decision having been duly rendered,

IT IS ORDERED AND ADJUDGED that the defendant Marlene Suehl ("Suehl") be and hereby is determined to be the sole party entitled to the payment of the death benefit in the amount of \$10,000.00 plus any interest payable thereon from the date of the death of Murf Henry Farris to the date of payment of the death benefit under the terms of the death benefit and/or applicable law; and that plaintiff, Pipeline Industry Benefit Fund, pay the death benefit in the amount of \$10,000.00 plus said interest to Suehl immediately upon its receipt of a copy of this judgment by personal delivery to or mailing to Suehl's local resident co-counsel; and that plaintiff is completely and finally absolved and discharged of any liability with respect to said death benefit upon its payment of said death benefit and said interest to Suehl as directed by this judgment; and that Suehl and plaintiff recover of the defendant Estate of Murf Henry Farris their attorney's fees and costs of action, as

allowed by 29 U.S.C. § 1132(g) and Rule 54(d) of the Federal Rules of Civil Procedure.

Dated at Tulsa, Oklahoma, this 8th day of March, 1985.

A handwritten signature in cursive script, reading "Thomas R. Brett". The signature is written in dark ink and is positioned above a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

MAR -7 1985

NO

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

FRED and LEOMA HAMIL,)
)
 Plaintiffs,)
)
 vs.)
)
 HENRY T. WITTENBURG, D.O., DAVID)
 MORRIS, d/b/a THE PROFESSIONAL)
 PHARMACY, and ROBERT L. RUTHERFORD,)
 d/b/a SALINA DRUG,)
)
 Defendants)

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

Case No. 84-C-428-B /

ORDER OF DISMISSAL

ON THIS 7th day of March, 1985, upon the
written application of certain parties for a Dismissal without Prejudice
of the complaint and all causes of action against David Morris d/b/a The
Professional Pharmacy and Robert L. Rutherford d/b/a Salina Drug, the
Court having examined said application, finds that said parties have
entered into a compromise settlement covering all claims involved in the
complaint against said defendants and have requested the Court to dis-
miss said complaint, without prejudice, as to said defendants, and the
Court being fully advised in the premises, finds that said complaint
should be dismissed as to said defendants pursuant to the application.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the
complaint and all causes of action of the plaintiffs filed herein
against the Defendants, David Morris d/b/a The Professional Pharmacy and
Robert L. Rutherford, d/b/a Salina Drug, are hereby dismissed with-
out prejudice.


JUDGE THOMAS BRETT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

MAR -7 1985

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 LARRY A. HYAMS,)
)
 Defendant.)

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

CIVIL ACTION NO. 84-C-496-B

NOTICE OF DISMISSAL

COMES NOW the United States of America by
Layn R. Phillips, United States Attorney for the Northern
District of Oklahoma, Plaintiff herein, through Nancy Nesbitt
Blevins, 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 7th day of March, 1985.

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney



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

CERTIFICATE OF SERVICE

This is to certify that on the 7th day of March, 1985, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to: Larry A. Hyams, P.O. Box 393, Langley, Oklahoma 74350.

Nancy Melitt Blwins
Assistant United States Attorney

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

FILED

MAR -7 1985

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

BOBBY EDWIN CASE AND EVA)
CASE,)
)
Plaintiffs,)
)
vs.)
)
FIBERBOARD CORPORATION,)
et al.,)
)
Defendants.)

No. 84-C-2-E

ORDER

This matter is before the Court on the motions of all Defendants for summary judgment. This Court had previously stayed consideration of said motions until completion of discovery.

This matter came on for hearing at the pre-trial conference on the 27th day of February, 1985. At that time Plaintiffs represented to this Court that they had been unable, through discovery, to specifically connect any of the Defendants' products to the Plaintiff Bobby Case, due to the nature of his work as a sheet metal worker, and the lack of identifying marks on the products to which he had been exposed. Plaintiff however urges this Court to deny Defendants' motions for summary judgment, and to fashion a new theory of liability in the State of Oklahoma. Plaintiffs propose that this Court adopt a theory of "collective liability", under which Plaintiff would be required to prove by a preponderance of the evidence that each Defendant manufactured a defective product unreasonably dangerous to the user or consumer, that the disease forming the basis of

this lawsuit was caused by exposure to asbestos insulation products, and that the asbestos insulation products of each Defendant are a contributing producing cause of this injury. Plaintiff would also be required to prove by a preponderance of the evidence the extent of the damages suffered. At this point Defendants against whom Plaintiff had prevailed would be allowed to prove by a preponderance of the evidence that they did not manufacture, market or distribute any of the asbestos insulation products to which Plaintiff was exposed. Each such Defendant failing to prevail on that issue would be held jointly and severally liable for all of Plaintiffs' damages.

In support of their position, Plaintiffs argue that certain Oklahoma cases involving concert of action and alternative liability theories provide a precedent upon which this Court may fashion a collective liability theory. Upon perusal of these cases, however, the Court finds that they provide for joint and several liability, even in the absence of parallel conduct, or concert of action, when separate acts of several defendants are proven to have combined to produce a single injury. See Harper-Turner Oil Co. v. Bridge, 311 P.2d 947 (Okla. 1957); Hood v. Hagler, 606 P.2d 548 (Okla. 1979); Cities Service Oil Co. v. Merritt, 332 P.2d 677 (Okla. 1958). Although Defendants may be held both jointly and severally liable for the entire injury to Plaintiff, even though it may be impossible to determine which Defendant or Defendants caused which portion of the injury, it is still essential that Plaintiff connect each of the joint tortfeasers with the injury in order to prevail. The burden of proof

of establishing an apportionment of damages does not shift to Defendants until it is proven that the Defendants' acts or omissions combined to produce a single indivisible injury.

In this instance, there is no evidence that any of the Defendants' acts or omissions contributed to or combined to produce a single injury. While each Defendant is a manufacturer of asbestos products, Plaintiffs have confessed that they cannot prove a connection between each Defendant and Plaintiff Bobbie Case.

Under Kirkland v. General Motors Corp., 521 P.2d 1353 (Okla. 1974), a Plaintiff must prove that the product was the cause of the injury; that a defect existed in the product at the time it left the manufacturer's possession and control; and that the defect made the article unreasonably dangerous to him. Although the action is not grounded in negligence or breach of implied warranty, responsibility for the defect must still be traced to the proper Defendant. Kirkland, 521 P.2d at 1365. Thus, under the current state of the law in Oklahoma, a Plaintiff must still prove a connection between a Defendant's product and his injury in order to prevail.

Under Erie Railroad Co. v. Tompkins. 304 U.S. 64 (1938) this Court must confine itself to the rulings of the highest court of the state, and is severely restricted in its ability to modify or adopt existing state law. This Court does not find any precedent in the decisions of the Supreme Court of the State of Oklahoma

for allowing Plaintiffs to prevail against these Defendants without meeting their burden of establishing a connection between the Defendants' products and the injury, and therefore must decline, under Erie, to apply any theory of "collective liability" which would allow Plaintiff to prevail without establishing at a minimum that the separate acts or omissions of the Defendants had combined to produce an injury.

In light of the existing state of the law of manufacturer's products liability in Oklahoma, this Court finds that Plaintiffs are unable to establish a link of causation between any of these Defendants' products and the alleged injuries, and therefore must grant the motions of Defendants for summary judgment.

IT IS THEREFORE ORDERED AND ADJUDGED that the motions of all Defendants for summary judgment be and the same are hereby granted.

ORDERED this 6th day of March, 1985.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Entered

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

F I L E D

MAR 7 1985

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

MEMBERLOAN II PLAN, INC.,)
)
Plaintiff,)
)
vs.)
)
DONALD BOUTOT,)
)
Defendant.)

No. 84-C-949-B

DEFAULT JUDGMENT

This matter comes before the Court on application of the plaintiff, Memberloan II Plan, Inc., for entry of default judgment pursuant to Rule 55 of the Federal Rules of Civil Procedure; it appearing to the Court that the Complaint in this action was filed on November 29, 1984, that Summons and Complaint were duly served on the defendant Donald Boutot as required by law, it further appearing to the Court that defendant has wholly failed to enter its appearance in the action or otherwise plead, and has defaulted, and it further appearing that the Court Clerk certified entry of default on March 1, 1985, and that no proceedings have been taken by defendant since entry of his default;

The Court, having reviewed the pleadings, exhibits and affidavits on file find:

1. That the defendant is in default.
2. That plaintiff is entitled to default judgment in its favor, for the relief prayed for.
3. That defendant Donald Boutot is indebted to plaintiff in the principal sum of \$24,207.69, with interest thereon at the

P

rate of 8% per annum from June 26, 1984.

3. That plaintiff is entitled to an attorney fee award pursuant to Colorado Revised Statutes § 5-3-404.

THEREFORE, IT IS ORDERED AND ADJUDGED BY THE COURT, that the plaintiff, Memberloan II Plan, Inc., recover of defendant, Donald Boutot, judgment in the sum of \$24,207.69, with interest of eight percent (8%) per annum on said sum from the 26th day of June, 1984, until said judgment is satisfied, in accordance with Colorado Revised Statutes § 5-12-102, and all costs expended in the action.

IT IS FURTHER ORDERED AND ADJUDGED, that plaintiff, Memberloan II Plan, Inc., recover of defendant, Donald Boutot, judgment for reasonable attorney fees in accordance with Colorado Revised Statutes § 5-3-404, the amount to be determined based upon evidence to be presented to the Court in a hearing on attorney fees hereby set for Tuesday, April 4, 1985 at 4:00 p.m.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

LEONARD E. MOSLEY, on behalf)
of himself and other persons)
similarly situated,)
)
Plaintiffs,)
)
vs.)
)
RICHARD L. HOWARD, et al.,)
)
Defendants.)

No. 84-C-947-E

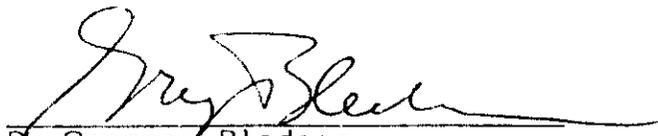
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

MAR - 6 1985

1985

NOTICE OF VOLUNTARY DISMISSAL

Plaintiff Mosley, by and through his attorney, does hereby dismiss without prejudice his claims against the defendants brought under the Fair Housing Act of 1968, 42 U.S.C. §§ 3601, et seq. This dismissal does not apply to the claims of plaintiff and the class he seeks to represent brought pursuant to the Civil Rights Act of 1866, 42 U.S.C. §§ 1981 and 1982.

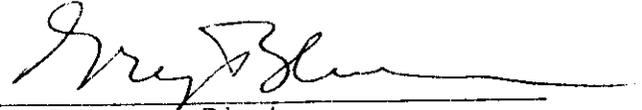


D. Gregory Bledsoe
1515 South Denver
Tulsa, Oklahoma 74119
(918) 599-8118

Attorney for Plaintiff Mosley

CERTIFICATE OF MAILING

I hereby certify that on the 6th day of March, 1985, I mailed a true and correct copy of the above and foregoing notice, with proper postage thereon fully prepaid, to: Mr. Ernest A. Bedford, Post Office Box 2353, Tulsa, Oklahoma 74101.



D. Gregory Bledsoe

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

MAR -8 1975

CLERK
U.S. DIST. COURT

ICAHN GROUP, INC. :

Plaintiff :

v. :

No. 85-C-144-C

HANP BAKER, et al . :

Defendants :

ORDER OF
DISMISSAL WITHOUT PREJUDICE

Upon the motion of Icahn Group, Inc., Plaintiff herein, the above styled and numbered action is hereby dismissed without prejudice to the refiling thereof.

s/H. DALE COOK

H. Dale Cook,
Chief Judge
United District Court
Northern District of Oklahoma

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

KENNETH A. MORRISON,)
)
 Plaintiff,)
)
 vs.)
)
 AARONS' A-1 TRANSMISSION)
 SERVICE, INC., a foreign)
 corporation, and DAVID A.)
 GOODMAN, individually,)
)
 Defendants.)

No. 83-C-563-E

FILED

MAR 5 1985

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

JUDGMENT

This action came on for trial, and the issues having been duly tried and the jury having duly rendered its verdict on the 25th day of February, 1985,

IT IS ORDERED AND ADJUDGED:

1. That Plaintiff, KENNETH A. MORRISON, recover of the Defendant, AARONS' A-1 TRANSMISSION SERVICE, INC., a foreign corporation, the sum of Two Hundred Seventy-five Thousand and no/100 Dollars (\$275,000.00), with pre-judgment interest at the rate of fifteen percent (15%) from the date of filing, July 1, 1983, with legal interest until paid, and his costs of the action.

2. That Plaintiff, KENNETH A. MORRISON, recover of the Defendant, AARONS' A-1 TRANSMISSION SERVICE, INC., a foreign corporation, the sum of Twelve Thousand Five Hundred and no/100 Dollars (\$12,500.00) for punitive damages.

DATED this 4th day of March, 1985.

S/ JAMES C. ELLISON

CLERK OF COURT US DJ

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

MAR -4 1985

CLERK OF DISTRICT COURT

EARL SUTTON,

Appellant,

vs.

ROBERT FRANDEN, Trustee
for Ancor Exploration Company,
Et Al, Debtor,

Appellee.

No. 84-C-38C

ORDER

This matter comes on for hearing on appeal from the United States Bankruptcy Court. This Court, after hearing all the evidence and being fully advised, finds that the Bankruptcy Court's order was not sufficiently supported by the evidence and this action is remanded to the Bankruptcy Court for further hearing.


United States District Judge

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

F I L E D

MAR 4 1985

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

DOWNING PROPANE & OIL, INC.,)
an Oklahoma corporation,)
BENTON OIL COMPANY, a Texas)
corporation, and BROCK OIL)
COMPANY, INC., a Delaware)
corporation,)

Plaintiffs,)

vs.)

CARL C. ICAHN and ICAHN)
CAPITAL CORPORATION,)

Defendants.)

No. 85-C-149-C

(Removed from the District
Court in and for Mayes
County, State of Oklahoma
Case No. C-85-77)

ORDER GRANTING REMAND

This cause having come on for hearing on February 19, 1985 on the motion of plaintiffs to remand to the District Court in and for Mayes County, State of Oklahoma, and the Court having considered the briefs in support of and in opposition to the motion, and having heard the argument of counsel, and being fully advised, and it appearing to the Court that this case was improvidently removed to this Court and that it should be remanded herewith.

It is accordingly ordered that the Plaintiffs' Motion for Remand be and the same hereby is granted, and that this cause is remanded to the District Court in and for

Mayes County, State of Oklahoma; and that a certified copy of this Order be mailed to the Clerk of this Court to the Clerk of the District Court in and for Mayes County, Oklahoma.

Dated this 1 day of March, 1985.

s/H. DALE COOK

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

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

FILED

GENERAL FINANCE INCORPORATED,)
d/b/a Cloud Ceramics,)
)
Plaintiff,)
)
v.)
)
IDEAL BRICK COMPANY,)
)
Defendant.)

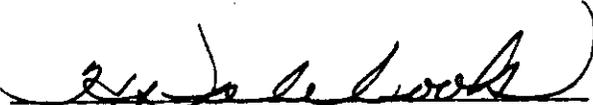
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Jack C. Silver, Clerk
U.S. DISTRICT COURT

Case No. 85-C-104C

ORDER FOR DISMISSAL WITH PREJUDICE

The above and foregoing cause is dismissed with prejudice to refiling.


H. Dale Cook
United States District Judge

RICHARD M. HEALY
OBA #4030
501 N.W. Expressway, Suite 310
Oklahoma City, OK 73118
(405) 840-0474
Attorney for Plaintiff

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

MAR -6 1985

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

BILLY DEAN BURNS,
REG. NO. 04107-062,

Plaintiff,

vs.

UNITED STATES PAROLE
COMMISSION, FEDERAL BUREAU
OF PRISONS,

Defendant.

No. 78-CR-128-07-C

84-C-798-C

O R D E R

Now before the Court for its consideration is the motion of plaintiff Billy Dean Burns, Reg. No. 04107-062, by and through his attorney, for order of discharge from sentence and his application for temporary restraining order and order to show cause why discharge should not be granted, both filed herein on September 20, 1984. Defendants United States Parole Commission and Federal Bureau of Prisons, by and through the United States Attorney for the Northern District of Oklahoma, having responded, the matter is now ready for determination.

Plaintiff Burns was convicted of conspiracy to distribute a controlled substance and sentenced to a five (5) year prison term on April 23, 1979. He went to FCI, Texarkana, Texas to serve his sentence. The defendant United States Parole Commission refused to grant Burns parole, but plaintiff was released from prison on

September 19, 1984, by virtue of accumulated good time allowance pursuant to 18 U.S.C. §4161.

At the time of release, Burns was given a certificate of mandatory release, which places him under the parole supervision of the United States Probation office in Tulsa, under the ultimate jurisdiction of the U. S. Parole Commission. While the parties disagree as to whether plaintiff signed the certificate or not, such factual dispute is irrelevant. The conditions attached to a mandatory release are not effected by the releasee's signing or failing to sign the document. Robinson v. Willingham, 369 F.2d 688 (10th Cir. 1966).

The first condition of the certificate required plaintiff to report to the Chief Probation Officer of this district by September 22, 1984, with which Burns did not comply. The Government considers him a fugitive, and the U. S. Probation Office for this district requested the U. S. Parole Commission to issue a warrant on October 5, 1984.

Burns complains that the certificate unconstitutionally allows defendants to treat plaintiff as a parolee, rather than as a released prisoner who has served his entire sentence, and argues that 18 U.S.C. §4164 is an ex post facto infringement on his rights. He prays for a certificate of "discharge" from the sentence imposed and an order to have the defendants cease and desist from interfering with plaintiff's rights. He also asks for a temporary restraining order to prevent defendants from subjecting him to parole conditions. In sum, Burns' position is that, because he was released from prison early by virtue of good

time accumulations, the defendants have no authority to subject him to parole supervision, including the possibility of revocation and reincarceration. To interpret 18 U.S.C. §4164 so as to subject him to parole conditions would be, Burns argues, ex post facto punishment in the form of increasing his sentence.

The Court will dismiss the motion and application for several reasons. First, the Court does not have jurisdiction over this motion and application. Habeas Corpus is the proper and preferred remedy by which to challenge the constitutionality over one's person by the Government. Harris v. U. S. Board of Parole, 429 F.Supp. 199 (E.D.Okla. 1977).

Second, it has long been a practice to decline to review appeals by fugitives, and the Court sees no reason to likewise continue to consider this matter while Burns is a fugitive. See Molinaro v. New Jersey, 396 U.S. 365 (1970); Lopez v. Malley, 552 F.2d 682 (10th Cir. 1977).

Third, plaintiff's arguments lack merit. Section 4164 "good time" release does not reduce the period of the original sentence, but determines how much of the sentence will be served within prison walls. McKinney v. Taylor, 358 F.2d 689 (10th Cir. 1966). "Good time" release period is subject to forfeiture for certain conduct before the full term has expired. Plaintiff is clearly subject to the rules and regulations of the Parole Board.

Burns' constitutional argument must also fail. Section 4164 does not inflict ex post facto extended punishment. It merely determines the method by which the original sentence will be served. Its constitutionality has been consistently upheld.

Singleton v. Looney, 218 F.2d 526 (10th Cir. 1955); Burgos v. U. S. Board of Parole, 360 F.Supp. 316 (N.D.Ill. 1973).

For all the foregoing reasons, plaintiff's motion for order of discharge from sentence and application for temporary order and order to show cause should be and hereby are dismissed.

IT IS SO ORDERED this 1 day of March, 1985.



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

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

MAR -1 1985

JACK S. SILVER, CLERK
U.S. DISTRICT COURT

WILLIAM LUCAS, JIM HOUSE,)
JOHN THOMASON, HOWARD McCULLY,)
)
) Plaintiffs,)
)
v.)
)
DOVER CORPORATION,)
NORRIS DIVISION,)
)
) Defendant.)

No. 83-C-1059-B

J U D G M E N T

In keeping with the verdict of the jury returned this date, Judgment is hereby entered in favor of each plaintiff and against the defendant Dover Corporation, Norris Division, as follows:

William Lucas	\$80,635.00
Jim House	\$68,224.00
John Thomason	\$55,392.00
Howard McCully	\$72,813.00

Further, in view of the jury's finding of willfulness, judgment is hereby entered in favor of the plaintiffs for twice the amount of said sums above listed and interest to run thereon at the rate of 9.17% per annum from this date.

Further, costs and attorneys fees will be assessed against the defendant if a timely motion therefor is filed in keeping with the local rules.

DATED this 1st day of March, 1985.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

DONNA ROBERTS and AL ROBERTS, husband)
and wife, AMY ROBERTS, by and through)
her mother and next friend, DONNA)
ROBERTS and EARRON ROBERTS, by and)
through his father and next friend,)
AL ROBERTS,)

Plaintiffs,)

vs.)

No. 83-C-717-C)

COLLINS FOODS INTERNATIONAL, INC.,)
formerly a California corporation, now)
a Delaware corporation; SIZZLER)
RESTAURANTS INTERNATIONAL, INC., a)
California corporation and wholly owned)
subsidiary of COLLINS FOODS INTERNA-)
TIONAL, INC.; and ADRIAN W. WHITED, an)
individual,)

Defendants.)

FILED
IN OPEN COURT

MAR 1 - 1985

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

ORDER

Now on this 1 day of March, 1985, this matter comes
on for hearing before me at the joint request of the parties
hereto, and the Court finds:

- ~~1. Defendants' Motion to Dismiss the Claims of Amy Roberts
and Earron Roberts is sustained and the action by
Plaintiffs Amy Roberts and Earron Roberts is dismissed
with prejudice to the filing of another.~~
2. The Settlement Agreement should be accepted and the
action by Plaintiffs Donna Roberts^{Amy Roberts, Earron Roberts} and Al Roberts is
dismissed with prejudice to the filing of another.


JUDGE OF THE U.S. DISTRICT COURT

FILED

MAR 1 1985

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

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

BOISE CASCADE CORPORATION,
Plaintiff,

vs.

BUDGET HOMES, a partnership
comprised of SAMMY BATES and
RON BROEFFLE; SAMMY BATES,
individual guarantor; RON
BROEFFLE, individual
guarantor; and BENNY D. NEAL,
Defendants.

No. 84-C-555-E

FINAL JUDGMENT AS TO
DEFENDANTS BUDGET HOMES AND SAMMY BATES

THIS ACTION was considered by the Court on the 28TH day of February, 1985, on Application of the plaintiff for the entry of default judgment pursuant to Rule 55 of the Federal Rules of Civil Procedure; it appearing to the Court that the Complaint in this action was filed on the 14TH day of June, 1984, that Summons and Complaint were duly served on the defendants Budget Homes and Sammy Bates as required by law, it further appearing to the Court that defendants have wholly failed to enter thier appearances in the action or otherwise plead, and have defaulted, and it further appearing that the default was entered against the defendants Budget Homes and Sammy Bates on the 1st day of February, 1985, by the Court Clerk, and that no proceedings have been taken by said defendants since entry of their default.

The Court, having reviewed the pleadings, exhibits and affidavits on file find:

1. That said defendants are in default.
2. That plaintiff is entitled to default judgment in its favor, for the relief prayed for.
3. That defendants Budget Homes and Sammy Bates are indebted to plaintiff in the principal sum of \$16,622.92, with interest thereon at the rate of 18% per annum from July 20, 1983 until judgment and 9.17% thereafter until paid.
4. That plaintiff is the prevailing party and thereby entitled to an attorney fee award pursuant to Title 12, Oklahoma Statutes, Section 936.
5. That the Court finds, based upon affidavits on file in the action, a reasonable attorney fee for plaintiff is \$ 540⁰⁰.

IT IS ORDERED AND ADJUDGED BY THE COURT, that the plaintiff, Boise Cascade Corporation, recover of defendants, Budget Homes and Sammy Bates, judgment in the sum of \$16,622.92, with interest of 9.17% per annum on said sum from the 28th day of February, 1985 until said judgment is satisfied, plus costs.

IT IS FURTHER AND ADJUDGED BY THE COURT, that plaintiff, Boise Cascade Corporation, recover of defendants, Budget Homes and Sammy Bates, judgment for reasonable attorney fees in accordance with Title 12, Oklahoma Statutes, Section 936, determined by the Court to be the sum of \$ 540⁰⁰.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Entered

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

MAR -1 1985
CLERK
U.S. DISTRICT COURT

FORD MOTOR CREDIT COMPANY, a foreign)
corporation,)
)
Plaintiff,)

vs.)

DESMOND WARREN JORDAN, on his behalf and)
as Representative Underwriter of Those)
Underwriters Subscribing to Policy No.)
AS144/5467,)
)
Defendant and)
Third-Party Plaintiff,)

No. 83-C-993-E

vs.)

WINSLOW & ASSOCIATES, INC., an)
Oklahoma corporation,)
)
Third-Party Defendant)
and Third-Party)
Plaintiff,)

vs.)

GRAHAM ROGERS, INC.,)
)
Additional Third-Party)
Defendant,)

vs.)

KEVIN R. SHANK,)
)
Additional Third-Party)
Defendant.)

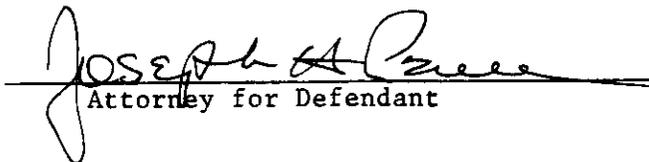
of
STIPULATION FOR DISMISSAL WITH PREJUDICE

COMES NOW the plaintiff and its attorney, Kenneth L. Wire, and would show the Court that this matter has been compromised and settled and therefore dismisses its cause of action against Desmond Warren Jordan on his behalf and as Representative Underwriter of Those Underwriters Subscribing to Policy No.

AS144/5467. This Dismissal is with prejudice to the right of the plaintiff to bring further actions in regard to its claim for insurance proceeds specifically relating to a 1979 Ford cab over 9000 truck, serial number X917VEG93111. The settlement sum being \$23,250 for all claims including attorney fees and costs in this matter.



Attorney for Plaintiff



Attorney for Defendant