

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

NOV 10 1986

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 MICHAEL V. KNAULS,)
)
 Defendant.)

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

CIVIL ACTION NO. 86-C-360-E

ORDER OF DISMISSAL

Now on this 10th day of November, 1986, 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, Michael V. Knauls, be and is dismissed without prejudice.

James Allen
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

NOV 10 1986

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES R. CRAMBERG,

Defendant.

CIVIL ACTION NO. 86-C-239-E

ORDER OF DISMISSAL

Now on this 10th day of November, 1986, 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, James R. Cramberg, be and is dismissed without prejudice.


UNITED STATES DISTRICT JUDGE

Entered

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

FILED

NOV 10 1986

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

TOMMY REDMON,)
)
Petitioner,)
)
vs.)
)
WILLIAM YEAGER, et al.,)
)
Respondents.)

No. 86-C-839-C

ORDER

Now before the Court for its consideration are the objections to the Findings and Recommendations of the Magistrate filed on September 23, 1986. The objections were filed by petitioner Tommy Redmon on October 3, 1986, and reasserted in his motion for reconsideration and reinstatement of case filed October 16, 1986.

The Magistrate entered a recommendation to the Court that the writ of habeas corpus be dismissed since petitioner had not exhausted his state remedies.

Petitioner responds that this case presents special circumstances, so the doctrine of exhaustion of remedies should not apply. Specifically, petitioner claims he "was not allowed to testify nor present evidence and/or witnesses" before sentence was pronounced. (See, petitioner's response, p.1) Petitioner further asserts that the alleged victim now contends the crime of

J

Lewd Molestation never occurred. As a result, petitioner seeks immediate release from incarceration.

The Supreme Court in Preiser v. Rodriguez, 411 U.S. 475 (1972), discussed the principle of exhaustion of state remedies. The Court stated that if a remedy under the Civil Rights Act is available, a plaintiff need not first seek redress in a state forum. However, if habeas corpus is the exclusive federal remedy, the plaintiff must first exhaust state remedies, if a state remedy is available. The policy reasons underlying the doctrine, the Court noted, are to give the "state court systems an opportunity to correct its own constitutional errors." Id. at 490. The Court further stated that in a situation where

a state prisoner is challenging the very fact or duration of his physical imprisonment, and the relief he seeks is a determination that he is entitled to immediate release or a speedier release from that imprisonment, his sole federal remedy is a writ of habeas corpus.

Rodriguez at 500. In this case petitioner is seeking immediate release from incarceration as his remedy. Therefore, petitioner's sole federal remedy is a writ of habeas corpus, to which the doctrine of exhaustion of state remedies applies.

As the Magistrate noted, petitioner has not attempted to file a direct appeal or utilized the Oklahoma Post-Conviction Relief Act. 22 O.S. § 1080.

Therefore, after careful independent consideration of the record and the issues, the Court concludes that the Findings and Recommendations of the Magistrate should be and hereby are

affirmed and adopted as the Findings and Conclusions of this Court.

IT IS THEREFORE ORDERED that the application for writ of habeas corpus is dismissed thereby rendering the motion for reconsideration moot.

IT IS SO ORDERED this 7th day of November, 1986.


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

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

FILED

NOV 10 1986

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

JAY NEIL WALTON, a minor child,)
by and through his father and)
next friend, DAVID N. WALTON,)
and DAVID N. WALTON, individually,)

Plaintiffs,)

v.)

No. 85-C-997-B

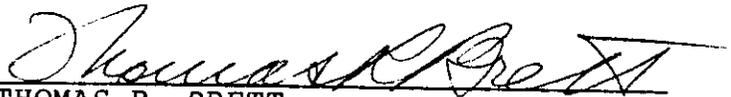
EVANTECH, INC., and ATC REALTY)
EIGHT, INC.,)

Defendants.)

J U D G M E N T

In accordance with the Court's Order of October 17, 1986, sustaining defendants' motion for summary judgment, Judgment is hereby entered in favor of the defendant, Evantech, Inc., and ATC Realty, Inc., and against the plaintiffs, Jay Neil Walton and David N. Walton, with costs of the action assessed against the plaintiffs. The parties are to pay their own respective attorneys' fees.

DATED this 11th day of November, 1986.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

NOV 10 1986

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 RONNIE J. SMITTICK,)
)
 Defendant.)

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

CIVIL ACTION NO. 86-C-189-E

ORDER OF DISMISSAL

Now on this 10th day of November, 1986, 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, Ronnie J. Smittick, be and is dismissed without prejudice.


UNITED STATES DISTRICT JUDGE

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

FILED

NOV 10 1986

MICHAEL C. WASHINGTON,)
)
Plaintiff,)
)
v.)
)
JOHN J. MAKOWSKI,)
)
Defendant.)

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

86-C-822-B

ORDER

Plaintiff brings this action pursuant to 42 U.S.C. §1983 claiming that defendant, the warden of Connor Correctional Facility at the time in question, deprived him of his property without due process of law. Plaintiff alleges that on or about August 26, 1985, he was transferred from Connor Correctional to the Oklahoma State Penitentiary. He was transported without his personal property. One month later plaintiff had received a portion of his personal property but several items had not been returned. He claims that defendant violated prison policy by failing to insure that an inventory of his property be taken at the time of his transfer. Plaintiff believes that he should have been given a hearing prior to his property being taken away and asserts that defendant's conduct in this matter violated his procedural due process rights under the Fourteenth Amendment to the United States Constitution.

Title 42 U.S.C. §1983 provides in part that:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State of Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the

Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

Plaintiff claims that defendant Makowski, acting under color of state law, deprived him of due process in violation of his rights under the Fourteenth Amendment. The Fourteenth Amendment Due Process Clause provides: "[N]or shall any state deprive any person of life, liberty or property without due process of law." The United States Supreme Court has recently considered the reach of §1983 as it pertains to the relationship between prison officials and prisoners. In Parratt v. Taylor, 451 U.S. 527, 101 S.Ct. 1908 (1981), the Court found that §1983 did not contain any state-of-mind requirement and therefore the loss of a prisoner's property, even though caused by the negligence of prison officials, could constitute a deprivation under §1983. 451 U.S. at 536-537.

In a recent pair of cases the Court held that the Fourteenth Amendment Due Process Clause is not implicated by a negligent act of a prison official which causes unintended injury to life, liberty or property interest of a prisoner. Daniels v. Williams, ___ U.S. ___, ___ S.Ct. ___, 88 L.Ed.2d 662 (1986); Davidson v. Cannon, ___ U.S. ___, ___ S.Ct. ___, 88 L.Ed.2d 667 (1986). The Court overruled Parratt to the extent that it held that mere negligence by a state official could result in a deprivation under the Fourteenth Amendment. 88 L.Ed.2d at 668.

The petitioner in Daniels was injured when he slipped on a pillow which the prison custodians left lying on the prison stairs. In Davidson a prisoner was assaulted by a fellow inmate

after he had sent a note to prison officials advising them that he had been threatened by the other inmate. The official who received the note did not consider it too serious and passed it along to another official who, in turn, forgot about it. The prison officials took no action to protect the prisoner from the threatened assault.

In denying relief under §1983, the Court reasoned that the Due Process Clause "was intended to secure the individual from the arbitrary exercise of the powers of government." 88 L.Ed.2d at 668 (citations omitted). The Fourteenth Amendment was not designed or intended to be a substitute or alternative remedy for injuries protected by tort claim statutes. Id. at 669. The Court found that the prison officials' lack of due care in Daniels and Davidson did "not approach the sort of abusive governmental conduct that the Due Process Clause was designed to prevent." 88 L.Ed.2d at 682.

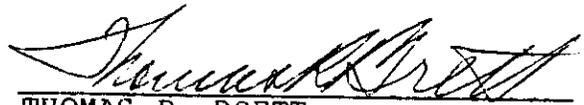
In the case at bar plaintiff's complaint does not allege any direct involvement of Warden Makowski in the loss of his property. At best, plaintiff's complaint states a cause of action for negligence in failing to insure that plaintiff's property was transported to him from Conner to McAlester. Plaintiff filed a grievance with the prison officials in regard to his missing property. Attached to his complaint as Exhibit A is the warden's response to plaintiff's complaints. It indicates that at the time of plaintiff's transfer his property was inventoried in plaintiff's presence by an Officer Toth. Because plaintiff refused to sign the inventory form his property was not

shipped with him when he was transported to the State Penitentiary at McAlester. The warden advised plaintiff that his property was being shipped on September 10, 1985.

The court finds Daniels, supra, and Davidson, supra, controlling in this matter. Because the negligent loss of property does not violate the Due Process Clause, plaintiff has failed to state a claim upon which relief may be granted under §1983.

It is therefore Ordered that defendant's motion to dismiss be and is hereby granted. In light of this ruling plaintiff's motion for appointment of counsel is hereby denied.

It is so Ordered this 11th day of November, 1986.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

NOV 10 1986

JOSHUA WASHBURN, an infant,)
by his next friend, GARY)
WASHBURN,)
)
Plaintiff,)
)
v.)
)
HOWARD BROWN and LOUISE BROWN,)
)
Defendants.)

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

No. 86-C-726-B

O R D E R

This matter comes before the Court on the defendants' motion to dismiss for lack of jurisdiction and for improper venue, filed September 25, 1986. The plaintiff has not responded to the defendants' motion. The Court after reviewing the defendants' motion and affidavit in support finds as follows:

This is a diversity case based between a Wisconsin plaintiff and Missouri defendants. The plaintiff alleges defendants were negligent in causing injuries to a minor child resulting from a fall from a hayloft. The plaintiff is presently a resident of Wisconsin and was a resident of Oklahoma at the time of the accident. The defendant's motion to dismiss on the grounds of improper venue is well founded. The Court finds that under 28 U.S.C. §1391 venue in a diversity case is only proper where the plaintiffs reside, the defendants reside or the claim arose. The residency of the plaintiff for venue purposes is examined at the time of the filing of the suit and not at the time of the accident. See Lipp v. Janson, 198 F.Supp. 195 (D.C. Pa. 1961).

As the plaintiff has not responded to the defendant's motion to dismiss, the defendant's uncontroverted affidavit alleging plaintiff's Wisconsin residency must be accepted as true. See Ohio-Midland Light & Power Co. v. Ohio Brass Co., 221 F.Supp. 405 (D.C.Ohio 1962). Because of the plaintiff's Wisconsin residency, the Missouri residency of the defendant and the fact that the claim arose in Missouri, the Court concludes venue in this district is improper. 28 U.S.C. §1406(a) provides:

"(a) The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought."

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

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

Because venue is improper in this district and appears to lie in the United States District Court for the Western District of Missouri, the Court in its considerable discretion finds that the matter should be so transferred pursuant to 28 U.S.C. §1406(a) and defendant's motion to dismiss denied.

IT IS SO ORDERED this 11th day of November, 1986.

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

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

NOV 10 1986

CHARLES THOMAS, father and)
next friend of minor, BRIAN)
THOMAS,)
)
Plaintiff,)
)
v.)
)
KEITH LUKE,)
)
Defendant.)

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

No. 86-C-686-B

O R D E R

This matter comes before the Court on defendant Keith Luke's motion to dismiss the action or to transfer. The defendant alleges in his motion that he is not subject to personal jurisdiction in Oklahoma and further that the venue of this action is improper in the Northern District of Oklahoma. In the alternative, the defendant asks the Court to transfer the case to the Northern District of Texas pursuant to 28 U.S.C. §1404(a). After reviewing the briefs and responses of the parties, the Court finds as follows:

This case involves a suit to recover on personal injuries sustained in England. The defendant is a Texas resident and the plaintiff resides in Arizona.

The Court's examination of the briefs and affidavit filed in support shows that venue is improper in the Northern District of Oklahoma. 28 U.S.C. §1391 provides that in a diversity action proper venue requires that an action "be brought only in the judicial district where all plaintiffs or all defendants reside or in which the claim arose."

The plaintiff states in his complaint that he is a resident of Arizona and the claim arose in Surrey, England. The plaintiff's complaint contends that the defendant is an individual resident of Tulsa, Oklahoma. However, that fact is controverted by the defendant's affidavit wherein he states that at the commencement of the action and all times since he has been a resident of Dallas, Texas. The plaintiff in his response to the defendant's motion to dismiss does not question the defendant's residency or re-assert the defendant's Oklahoma residency. It has been held that in cases involving natural persons, it is their residence at the time the action is commenced, not when the claim arose, that is decisive of venue. See Parham v. Edwards, 346 F.Supp. 968 (D.C.Ga. 1972). In light of the defendant's affidavit of residency and the failure of the plaintiff to show otherwise, the Court finds that venue in the Northern District of Oklahoma is improper pursuant to 28 U.S.C. §1391.

Upon a finding that the venue is improper the Court can order dismissal or transfer in the interest of justice. It appears that venue in the Northern District of Texas would be appropriate in this case as the defendant is a resident of Dallas, Texas, and would be subject to service there. While the defendant has urged the application of 28 U.S.C. §1404 in his alternative motion to transfer, the Court finds that statute inapplicable. Section 1404 presupposes proper venue in the initial forum and allows transfer in the interest of convenience.

By contrast, 28 U.S.C. §1406(a) allows the Court to transfer a case when venue is improper instead of ordering dismissal, where justice dictates. The interaction of the sections was interpreted by Liaw Su Teng v. Skaarup Shipping Corp., 743 F.2d 1140 (5th Cir. 1984) as follows:

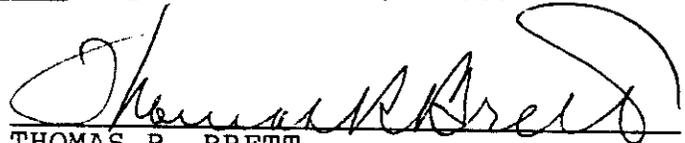
"Sections 1404(a) and 1406(a) are both short, apparently clear, and seemingly mutually exclusive. Section 1404(a) permits transfer of a civil action to any other district in which it could have been brought, and refers to a civil action in which venue is properly laid in the district where the case was filed. Section 1406(a) pertains to transfer of a case laying venue in the 'wrong district.' ..."

The Court finds that the interest of justice would be served by a transfer to the Northern District of Texas where the defendant resides and venue is proper and service on the defendant can be obtained. In ordering the transfer the Court is mindful of the general purpose of §1406(a) in removing the obstacles that would impede the expeditious and orderly adjudication of the case on its merits. See Illinois v. Harper & Rowe Publishers, Inc., 308 F.Supp. 1207 (D.C.Ill. 1969).

The defendant in his motion to dismiss also raises the lack of personal jurisdiction in this action. In light of its ruling on the transfer of this action for improper venue the Court need not address this issue. Regardless, it has been held that a court may order transfer under §1406(a) even when jurisdiction is lacking over the person of the defendant. See Goldlawr, Inc. v. Heiman, 369 U.S. 463 (1962).

Because venue is improper in this district and appears to lie in the United States District Court for the Northern District of Texas, the court in its considerable discretion finds the matter should be transferred pursuant to 28 U.S.C. §1406(a) and the defendant's motion to dismiss be denied.

IT IS SO ORDERED this 11th day of November, 1986.

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

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

LYLE W. TURNER, JR.

Plaintiff(s),

vs.

UNITED STATES OF AMERICA

Defendant(s).

No. 85-C-640-C

FILED

NOV 10 1986

JUDGMENT DISMISSING ACTION
BY REASON OF SETTLEMENT

Jack C. Silver
U.S. DISTRICT COURT

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

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown that settlement has not been completed and further litigation is necessary.

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

Dated this 7 day of November, 19 86.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

Entered

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

JAY CORBETT WHITECROW, JR.,)
)
Plaintiff,)
)
vs.)
)
CLAREMORE INDIAN HOSPITAL)
BOARD OF DIRECTORS)
CORPORATION, an Oklahoma)
corporation; and)
DR. CHARLES ROMICK,)
)
Defendants.)

No. 86-C-430-C ✓

FILED
NOV 10 1986

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

ORDER

Now before the Court for its consideration is the Response of the United States to the Findings and Recommendations of the Magistrate filed on September 10, 1986.

In his Findings and Recommendations, the Magistrate recommended that the United States be substituted as a party defendant being that the defendant, Dr. Charles Romick, was a public health service employee of the United States government, at the time in question. With the United States as the proper party defendant, the Magistrate found that plaintiff's action should have been brought under the Federal Tort Claims Act, 28 U.S.C. §2671 et seq. The magistrate thereafter recommended the action be dismissed on the ground that the statute of limitation under the Federal Tort Claims Act had run. As further grounds for

dismissal, the Magistrate found that the case was originally brought in state court and removed to this Court. The Magistrate recommended dismissal since the United States, as a proper defendant, could not have been made a defendant in the state court action and therefore upon removal, a federal district court could not properly acquire jurisdiction.

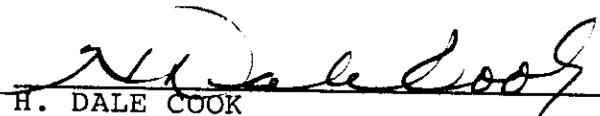
The United States, in its response, agrees with the Findings and Recommendations of the Magistrate, except the finding that the statute of limitations has run. The United States further urges this Court to find that subject matter jurisdiction is lacking as the plaintiff failed to exhaust the administrative remedies before filing suit.

After careful independent consideration of the record and issues the Court finds as follows. First, the United States was properly substituted as a party defendant. Second, subject matter jurisdiction is lacking since the action was originally filed in the wrong forum, and this Court cannot thereafter obtain jurisdiction upon removal. See, Minnesota v. United States, 305 U.S. 382 (1939). Therefore, the motion to dismiss was properly granted. Finally, the statute of limitations had not run on the plaintiff's claim when the petition was filed in state court. The statute of limitations under the Federal Tort Claims Act is two years. 28 U.S.C. §2410(b). The alleged negligence occurred April 1, 1984, and suit was filed in Rogers County District Court on March 26⁵, 1986, within the two-year period. The Court need

not reach the issue of exhaustion of administrative remedies since the case is subject to dismissal for the reasons set forth above.

It is therefore Ordered that defendant's motions to substitute party defendant and to dismiss are hereby granted.

IT IS SO ORDERED this 7 day of April, 1986.


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

Entered

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

FILED

NOV 10 1986

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

VIDEO COMMUNICATIONS, INC.

Plaintiff(s),

vs.

No. 85-C-299-C

FRED KUEHNERT, et al

Defendant(s).

JUDGMENT DISMISSING ACTION
BY REASON OF SETTLEMENT

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

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown that settlement has not been completed and further litigation is necessary.

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

Dated this 7 day of November, 1986.

s/H. DALE COOK
UNITED STATES DISTRICT JUDGE

Entered

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

FILED

NOV 10 1986

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

JIM W. JOHNSON

Plaintiff(s),

vs.

WILLIAM R. TATHAM, JR., et al

Defendant(s).

No. 84-C-963-C

JUDGMENT DISMISSING ACTION
BY REASON OF SETTLEMENT

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

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown that settlement has not been completed and further litigation is necessary.

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

Dated this _____ day of _____, 1986.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

FILED

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

NOV 10 1986

CLERK
DISTRICT COURT

AMERICAN INTERINSURANCE)
EXCHANGE,)
)
Plaintiff,)
)
vs.)
)
JOHN G. CLARY, et al.,)
)
Defendants.)

No. 86-C-148-B

JUDGMENT

This matter comes on for consideration before the undersigned Judge of the District Court upon the application of Plaintiff for entry of a default judgment against Defendants Sandra L. Setzer and the Estate of Roger E. Setzer. It appearing that Defendants Sandra L. Setzer and the Estate of Roger E. Setzer have been duly served with Summons and Complaint, that they have failed to answer, plead or otherwise appear in this matter and the time for answer, pleading or appearance having passed, Plaintiff is entitled to judgment by default against them. It is therefore

ORDERED, ADJUDGED AND DECREED that Plaintiff have judgment against Defendants Sandra L. Setzer and the Estate of Roger E. Setzer, that Plaintiff owes Defendants Sandra L. Setzer and the Estate of Roger E. Setzer no obligations under its policy no. 122-112-282 and that Defendants Sandra L. Setzer and the Estate of Roger E. Setzer may not collect

any damages which are or may be determined to be due and
owing them from John Clary, from Plaintiff.

Dated this 11th day of ~~August~~ *November*, 1986.

S/ THOMAS R. BRETT

JUDGE OF THE DISTRICT COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

FILED

NOV 10 1985

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

FRONTIER CONSTRUCTION)
CORPORATION, a corporation)
)
Plaintiff,)
)
vs.)
)
GERALD L. MURPHY and)
JOHN ELSNER, d/b/a UNIVERSAL)
RECREATION LIMITED, a)
Partnership)
)
Defendants.)

No. 86-C-203 E

CONSENT MEMORANDUM

Comes now, plaintiff, Frontier Construction Corporation, and voluntarily dismisses its complaint against GERALD L. MURPHY, without prejudice and at plaintiff's costs in return for voluntary entry of appearance of David P. Page, Attorney at Law, as attorney of record for defendants Universal Recreation, Ltd., a partnership, and Big Splash, Inc., a corporation.

The parties hereto attest that the jurisdictional requirements of 28 U.S.C. Sec. 1332 are not disturbed by this memorandum.

LAW OFFICES OF THEODORE F. SCHWARTZ

BY: Dennis J. Dolan
THEODORE F. SCHWARTZ #17995
DENNIS J. DOLAN # 35135
Attorneys for Plaintiff
11 South Meramec, Suite 1100
Clayton, Missouri 63105
(314) 863-4654

8

LAW OFFICES OF BOONE, SMITH, DAVIS
& HURST

BY: 

DAVID P. PAGE
Attorney for Defendant
500 Oneok Plaza
100 West Fifth Street
Tulsa, Oklahoma 74103
(918) 587-0000

CERTIFICATE OF SERVICE

Copy of the foregoing was served by United States Mail, postage prepaid, upon Mr. David P. Page, Attorney for Defendant Gerald L. Murphy, 500 Oneok Plaza, 100 West 5th St., Tulsa, Oklahoma 74103, this 4th day of November, 1986.



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

FILED

NOV -7 1986

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

SHORT, HARRIS, TURNER & DANIEL,)
an Oklahoma General Partnership,)
composed of Richrd L. Harris,)
Frank E. Turner, and Sam P. Daniel,)
III,)

Plaintiff,)

v.)

No. 85-C-960-BT

UNDERWOOD GROUP, INC., a)
California corporation;)
STANLEY SCHULMAN, an)
individual; RICHARD)
ABDELCAOTOR, a/k/a RICHARD)
ABDUL, an individual, and)
HAROLD A. ABELES, an individual,)

Defendants.)

J U D G M E N T

The Court having found the Defendants, Stanley Schulman, an individual, and the Underwood Group, Inc., a California corporation, in default, judgment is hereby entered against said defendants in pursuance of the prayer of said Amended Complaint.

Wherefore, by virtue of the law and by reason of the premises aforesaid, IT IS ORDERED, ADJUDGED AND DECREED that said Plaintiff does have and recover from said Defendants the sum of Twelve Thousand Eight Hundred and No/100 Dollars (\$12,800.00), with interest imputed thereon at the rate of 6% per annum (15 Okl.St. §266) from the 11th day of June, 1985 until judgment and post-judgment interest at the rate of 5.75% per annum (28 U.S.C. §1961), together with said Plaintiff's attorney's fees, costs and disbursements incurred in

this action, and that the Plaintiff has execution therefor.

DATED this 7 day of November, 1986.

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

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

NOV - 7 1986

Dyco Petroleum Corporation)

Plaintiff(s),)

vs.)

Kirby Exploration Company of Texas,)
a Texas corporation, d/b/a Kirby)
Exploration Company)

Defendant(s).)

Jack C. Silver)
U.S. DISTRICT CO.)

No. 85-C-40-E

JUDGMENT DISMISSING ACTION
BY REASON OF SETTLEMENT

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

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown that settlement has not been completed and further litigation is necessary.

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

Dated this 6th day of November, 1986.

James L. ...
UNITED STATES DISTRICT JUDGE

JD

FILED

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

NOV 03 1986

FILED

DOROTHY A. EVANS, CLERK
U. S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OKLAHOMA

NOV 17 1986

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

WAYNE DARRELL ZANG,
Appellant,

vs.

MICHAEL H. FREEMAN, Trustee,
Appellee.

Case No. 82-00962
Ch 7
Adv. No. 85-C-1110(B)

DISMISSAL WITH PREJUDICE

COMES NOW the Plaintiff/Appellant, Wayne Darrell Zang,
and dismisses with prejudice his appeal herein.

Dated this 29th day of October, 1986.

VonDrehle & Associates
Attorneys for Appellant

Mary E. VonDrehle

Mary E. VonDrehle
C. A. Rhoads
2431 East 51st Street
Suite 701
Tulsa, Oklahoma 74105
918/742-7811

CERTIFICATE OF MAILING

I hereby certify that on this 29th day of October,
1986, a true and correct copy of the above and foregoing
Dismissal with Prejudice was deposited in the U. S. Mail with
sufficient postage affixed thereon and addressed to:

Mr. Michael H. Freeman
1612 S. Cincinnati
Tulsa, Oklahoma 74119

Mary E. VonDrehle

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

UNIT RIG & EQUIPMENT CO.,
an Oklahoma corporation,

Plaintiff,

v.

WISEDA, LTD.,
an Oklahoma corporation,

Defendant.

)
)
) Case No. CIV-86-C-496-B
)
)
)
)
)
)
)

FILED
NOV - 7 1986
JACK C. SILVER, CLERK
U.S. DISTRICT COURT

ORDER

Upon the joint application of the parties, it is hereby ordered that this case shall be and is administratively closed pending re-examination of the patent in suit by the United States Patent and Trademark Office. The case may be reopened by either party within sixty (60) days following the completion of such reexamination proceedings or upon motion at an earlier date if necessary.

Dated this 7th day of November, 1986.

s/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ROGER LEE DAVIS I, a single)
 person; WILLIAM R. SATTERFIELD)
 dba 524 EAST 49th PLACE, N.,)
 INVESTMENT COMPANY; COUNTY)
 TREASURER, Tulsa County,)
 Oklahoma; BOARD OF COUNTY)
 COMMISSIONERS, Tulsa County,)
 Oklahoma,)
)
 Defendants.)

FILED

NOV - 19 1986

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

CIVIL ACTION NO. 85-C-1059-E

O R D E R

Upon the Motion of the United States of America acting on behalf of the Administrator of Veterans Affairs by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Phil Pinnell, Assistant United States Attorney, to which there are no objections it is hereby ORDERED that this action shall be dismissed without prejudice.

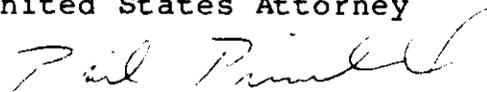
Dated this 10th day of November, 1986.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

LAYN R. PHILLIPS
United States Attorney



PHIL PINNELL
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

FILED

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

NOV -7 1986

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

SHORT, HARRIS, TURNER &)
DANIEL, an Oklahoma General)
Partnership, composed of)
Richard L. Harris, Frank E.)
Turner, and Sam P. Daniel,)
III,)

Plaintiff.)

vs.)

Case No. 85-C-960-BT

UNDERWOOD GROUP, INC., a)
California corporation;)
STANLEY SCHULMAN, an)
individual; RICHARD)
ABDELCAATOR, a/k/a RICHARD)
ABDUL, an individual, and)
HAROLD A. ABELES, an)
individual,)

Defendants.)

ORDER FOR DEFAULT JUDGMENT

In this action, the Defendants, Stanley Schulman, an individual, and the Underwood Group, Inc., a California corporation, having been served with Summons and Amended Complaint, and having failed to plead or otherwise defend, the legal time for pleading or otherwise defending having expired, and the default of said Defendants, Stanley Schulman and the Underwood Group, Inc., in the premises having been duly entered according to law; upon the application of said Plaintiff, judgment is hereby entered against said Defendants in pursuance of the prayer of said Amended Complaint.

Wherefore, by virtue of the law and by reason of the

premises aforesaid, IT IS ORDERED, ADJUDGED AND DECREED that said Plaintiff does have and recover from said Defendants the sum of Twelve Thousand Eight Hundred and No/100 Dollars (\$12,800.00), with interest imputed thereon at the rate of 6% per annum (15 Okl.St. §266) from the 11th day of June, 1985 until judgment and post-judgment interest at the rate of 5.75% per annum (28 U.S.C. §1961), together with said Plaintiff's attorney's fees, costs and disbursements incurred in this action, and that the Plaintiff has execution therefor.

DATED this 7th day of November, 1986.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

NOV - 6 1986

JACK G. SILVER GLENK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
ADOLPH CRISP,)
)
Defendant.)

CIVIL ACTION NO. 86-C-816-E

NOTICE OF DISMISSAL

COMES NOW the Plaintiff, United States of America, by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, 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 6th day of November, 1986.

UNITED STATES OF AMERICA

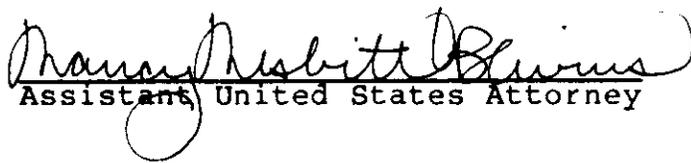
LAYN R. PHILLIPS
United States Attorney



NANCY NESBITT BLEVINS
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

CERTIFICATE OF SERVICE

This is to certify that on the 6th day of November, 1986, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to: Adolph Crisp, 2246 North Denver Place, Tulsa, Oklahoma 74106.


Assistant United States Attorney

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

FILED

NOV -6 1986

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

Rich Specialities, Inc., d/b/a
C & R Guitars

Plaintiff(s),

vs.

Rome Badge Co., Ltd, & Does I-X,
inclusive

Defendant(s).

No. 84-C-931-E

JUDGMENT DISMISSING ACTION
BY REASON OF SETTLEMENT

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

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown that settlement has not been completed and further litigation is necessary.

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

Dated this 6th day of November, 19 86.


UNITED STATES DISTRICT JUDGE

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

MAX A. HEIDENREICH,)	
)	
Plaintiff)	
)	
v.)	
)	
UNITED STATES OF AMERICA,)	Civil No. 85-C-1036-C
)	
Defendant)	
)	
v.)	
)	
TED C. BODLEY)	
and TED C. BODLEY, JR.,)	
)	
Additional Defendants)	
on Counterclaim)	

FINAL JUDGMENT

This action came on for trial before the Court and jury, Honorable H. Dale Cook, District Judge, presiding and the issues having been duly tried and the jury having duly rendered its special verdict and upon said verdict:

It is ORDERED and ADJUDGED that plaintiff, Max A. Heidenreich, recover from the defendant, United States of America, the sum of \$1,200.00, plus statutory additions and interest as allowed by law;

It is ORDERED and ADJUDGED that defendant, United States of America, take nothing on its counterclaim against plaintiff, Max A. Heidenreich and additional defendant, Ted C. Bodley, Jr.

It is ORDERED and ADJUDGED that defendant, United States of America, recover from the additional defendant, Ted C. Bodley, the sum of \$24,518.77, plus statutory additions and interest as allowed by law from March 18, 1985.

It is ORDERED and ADJUDGED that the plaintiff, Max A. Heidenreich and additional defendant, Ted C. Bodley, Jr., recover from the defendant, United States of America, their costs of action.

It is further ORDERED and ADJUDGED that the defendant, United States of America, recover from additional defendant, Ted C. Bodley, its costs of this action.

ENTERED this 5 day of Nov, 1986.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

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

GLORIA GARDNER, Administratrix and)
Personal Representative of the Estate)
of Darnell Gardner, Deceased;)
MONIQUE RIVERA, Administratrix and)
Personal Representative of the Estate)
of Refugio Rivera, Deceased; and)
JEAN M. SIMPSON, Administratrix and)
Personal Representative of the Estate)
of James E. Simpson, Deceased)

Plaintiffs,)

vs.)

No. 85-C-849-~~PC~~)

T.K. INTERNATIONAL, INC., an)
Oklahoma corporation; and NORDAM)
CORPORATION, a Delaware corporation)

Defendants.)

ORDER

NOW on this 5 day of Nov, 1986, comes on to be heard the Stipulation of the parties that the above captioned action may be dismissed with prejudice. The Court, being well advised in the premises, finds that the settlement is in the best interest of the parties, that the Probate Court of Dorchester County, State of South Carolina, has apportioned the settlement proceeds pursuant to Title 12 Oklahoma Statutes Section 1053, approved the attorneys' fees, costs, and expenses, and ordered payment of the settlement proceeds

in accordance therewith, and the stipulation of the parties should be accepted and this action is dismissed with prejudice to the filing of another.

s/H. DALE COOK

JUDGE OF THE UNITED STATES DISTRICT
COURT

CLR:gaw

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

FILED

NOV -6 1986

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

W. B. BYRD,

Plaintiff(s),

vs.

No. 84-C-683-E

JACK V. BLAKE, Tower Favricators, Inc. }
JVB Corporation, Okla Corp., Tower }
Erectors, Inc., & Blake Building Co., }
an Okla. General partnership & Orlene }
Defendant(s). }

JUDGMENT DISMISSING ACTION
BY REASON OF SETTLEMENT

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

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown that settlement has not been completed and further litigation is necessary.

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

Dated this 6th day of November, 1986.


UNITED STATES DISTRICT JUDGE

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

NOV -6 1986

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

WAYNE ADAMS

Plaintiff(s),

vs.

U.S.A.

Defendant(s).

No. 84-C-429-E

JUDGMENT DISMISSING ACTION
BY REASON OF SETTLEMENT

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

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown that settlement has not been completed and further litigation is necessary.

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

Dated this 6th day of November, 1986.


UNITED STATES DISTRICT JUDGE

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

FILED

NOV -6 1986

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

Econotherm Energy Systems
Corporation, a Minnesota
corporation,

Plaintiff,

v.

N. H. Yates & Company, Inc.,
a Maryland corporation; and
Donald W. Yates d/b/a N. H.
Yates & Company, Inc.,

Defendant.

Case No. 86-C-747 C

NOTICE OF
DISMISSAL OF DONALD W. YATES
d/b/a N. H. YATES & COMPANY, INC.

Pursuant to Rule 41 of the Federal Rules of Civil Procedure
the Plaintiff, Econotherm Energy Systems Corporation, hereby
dismisses without prejudice Donald W. Yates d/b/a N. H. Yates &
Company, Inc.


Kenneth L. Brune
Mary B. Lewis
700 Sinclair Building
Six East Fifth Street
Tulsa, Oklahoma 74103
(918) 584-0506

OF COUNSEL:

BRUNE, PEZOLD, RICHEY & LEWIS
700 Sinclair Building
Six East Fifth Street
Tulsa, Oklahoma 74103
(918) 584-0506

CERTIFICATE OF MAILING

I, Mary B. Lewis, hereby certify that on this 6th day of November, 1986, I placed in the U.S. mails at Tulsa, Oklahoma, a true and correct copy of the foregoing document with correct postage fully prepaid thereon addressed to the following:

PRAY, WALKER, JACKMAN,
WILLIAMSON & MARLAR
Oneok Plaza, 9th Floor
Tulsa, Oklahoma 74103

Mary B. Lewis
Mary B. Lewis

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

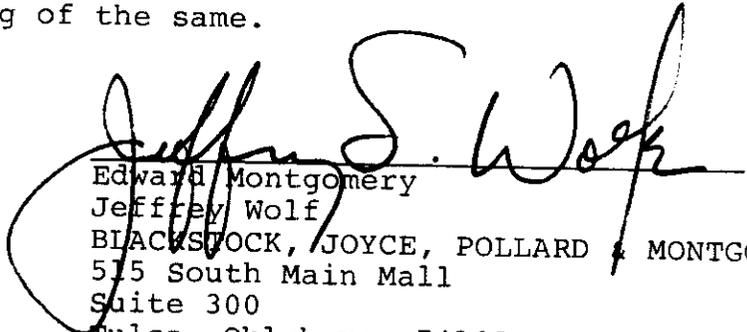
1987-6 1986

WACK O. SILVER, CLERK
DISTRICT COURT

BEVERLY SUTTON,)	
)	
Plaintiff,)	
)	
vs.)	No. 86-C-325-C
)	
METROPOLITAN LIFE INSURANCE)	
COMPANY, and PAUL BURKE &)	
ASSOCIATES, INC.,)	
)	
Defendants.)	

JOINT STIPULATION OF DISMISSAL

COMES NOW the plaintiff, Beverly Sutton, and hereby dismisses all her claims herein against the defendants with prejudice to the re-filing of the same.


 Edward Montgomery
 Jeffrey Wolf
 BLACKSTOCK, JOYCE, POLLARD & MONTGOMERY
 515 South Main Mall
 Suite 300
 Tulsa, Oklahoma 74103

ATTORNEYS FOR PLAINTIFF

APPROVED:


 Theodore Q. Eliot
 GABLE & GOTWALS, INC.
 2000 Fourth National Bank
 Tulsa, Oklahoma 74119
 ATTORNEYS FOR METROPOLITAN LIFE
 INSURANCE COMPANY

Bill V. Wilkinson

Bill V. Wilkinson
Chapel, Wilkinson, Riggs, Abney & Henson
502 West Sixth Street
Tulsa, Oklahoma 74101
ATTORNEYS FOR PAUL BURKE & ASSOCIATES, INC.

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

FILED
IN OFFICE

NOV 6 1986

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

SANTA FE-ANDOVER OIL COMPANY,
a Wyoming corporation,
Plaintiff,
vs.
DELHI GAS PIPELINE CORPORATION,
a Delaware corporation,
Defendant.
and
C. F. BRAUN & CO., et al.,
Plaintiffs,
vs.
DELHI GAS PIPELINE CORPORATION,
a Delaware corporation,
Defendant.

Case No. 84-C-868-E

Case No. 85-C-38-E
(Consolidated)

ORDER OF DISMISSAL

Upon stipulation of the parties, it is hereby ordered, adjudged and decreed that the counterclaims of Defendant Delhi Gas Pipeline Corporation denominated "Second Counterclaim" and "Third Counterclaim" in Defendant's Amended Answer filed herein on October 16, 1985, be and they hereby are dismissed with prejudice.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

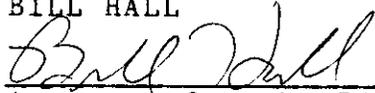
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the Plaintiff, Kandi K. Summy, a minor child, by and through her Mother and next friend, Linda Summy against the Defendant, Tampax, Incorporated, by and the same hereby are dismissed with prejudice to any future action.

s/H. DALE COOK

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

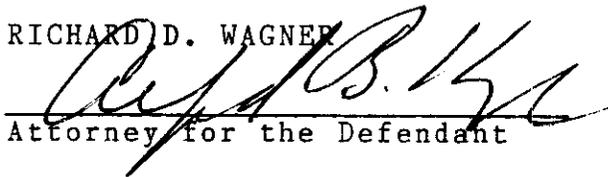
APPROVALS:

BILL HALL



Attorney for the Plaintiff

RICHARD D. WAGNER



Attorney for the Defendant

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

DWIGHT JOHNSON,)
)
 Plaintiff,)
)
 vs.) Case No. 85-C-1019E
)
 HABANA INNS OF TULSA INC.,)
 d/b/a HILTON INN and THE)
 CIRCLE HOTEL CLUB, INC., d/b/a)
 WINNERS CIRCLE and HILTON)
 HOTELS INTERNATIONAL,)
)
 Defendants.)

ORDER OF DISMISSAL WITH PREJUDICE

This matter coming on for hearing before the Court on this 5th day of ~~September~~ ^{November}, 1986, upon the application of the Plaintiff for Order Of Dismissal With Prejudice in this cause, Plaintiff appearing by counsel, John Sharp, and the Defendants appearing by counsel, Dale F. McDaniel, and the Court being advised in the premises and having examined the application of the Plaintiff herein, finds that all issues of law and fact heretofore existing between the parties have been settled, compromised, released, and extinguished, for valuable consideration flowing from Plaintiff to Defendant and from Defendant to Plaintiff, and further finds that there remains no issue of law or fact to be determined in this cause. The Court further finds that Plaintiff desires to dismiss his cause to future actions for the reasons stated, and that his application should be granted.

BE IT, THEREFORE, ORDERED, ADJUDGED, AND DECREED BY THE COURT that all issues of law and fact heretofore existing between

the Plaintiff and Defendants have been settled, compromised, released, and extinguished for valuable consideration, and that there remains no issue to be determined in this cause between the parties.

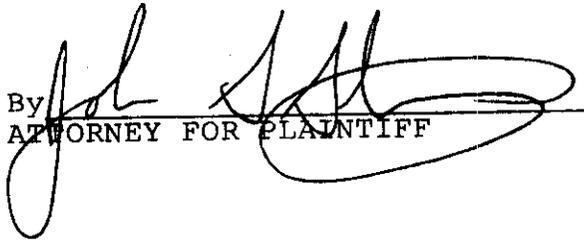
BE IT FURTHER ORDERED, ADJUDGED, AND DECREED BY THE COURT that Plaintiff's cause and any causes arising therefrom, being the same, are hereby dismissed with prejudice to all future actions thereon.

J. S. SHARP

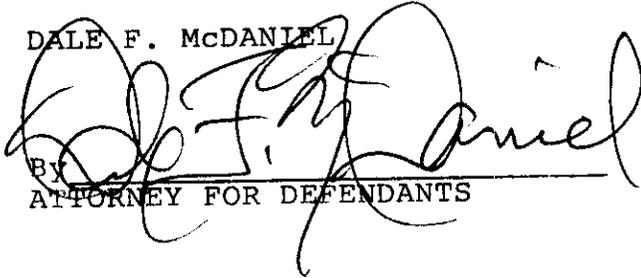
JUDGE

APPROVED:

JOHN S. SHARP

By 
ATTORNEY FOR PLAINTIFF

DALE F. MCDANIEL

By 
ATTORNEY FOR DEFENDANTS

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

FILED

NOV -5 1986

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

UTICA NATIONAL BANK & TRUST CO.,
a national banking association,

Plaintiff,

vs.

CALVIN RANSOM, et al.,

Defendants.

No. 85-C-537-C ✓

STIPULATION OF DISMISSAL

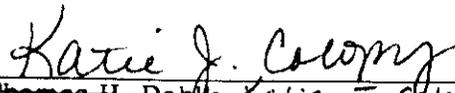
PURSUANT to the provisions of Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties hereto agree that Plaintiff's claims against ~~Ann P. Partridge~~ asserted herein are hereby dismissed with prejudice, each party to bear its/her own costs incurred herein.

This dismissal shall have no effect on any other claims made against any other Defendant herein.

DATED this 31st day of ^{Nov.} ~~October~~, 1986.


Charles V. Wheeler
GABLE & GOTWALS
2000 Fourth National Bank Building
Tulsa, Oklahoma 74119
(918) 582-9201

ATTORNEYS FOR PLAINTIFF
UTICA NATIONAL BANK & TRUST CO.


~~Thomas H. Dahlk~~ Katie J. Colopy
FITZGERALD, BROWN, LEAHY, STROM,
SCHORR & BARMETTLER
1000 Woodmen Tower
Omaha, Nebraska 68102

ATTORNEYS FOR DEFENDANT
ANN P. PARTRIDGE

EXHIBIT "B"

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

REUBEN LEE THOMAS,)
)
 Plaintiff,)
)
 v.)
)
 G. F. FALTISKO, TULSA POLICE)
 DEPT.; C. TRAPPER; T. STENDEL;)
 AL STOREY WRECKER; TULSA)
 COUNTY-CITY JAIL,)
)
 Defendants.)

86-C-427-C

FILED

NOV-5 1986

Jack C. ...
U.S. DISTRICT CO

ORDER

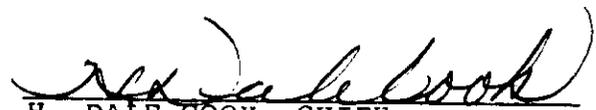
The Court has for consideration the Findings and Recommendation of the Magistrate filed October 10, 1986, in which the Magistrate recommended that defendants Faltisko and Tapper's motions to strike and defendants Storey Wrecker and Tapper's motions to dismiss be granted. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Findings and Recommendation of the Magistrate should be and hereby are affirmed.

It is therefore Ordered that the motions to strike plaintiff's Eighth Amendment allegations filed by defendants Faltisko and Tapper are granted.

It is further Ordered that the motions to dismiss filed by defendants Storey Wrecker and Tapper are granted.

Dated this 4 day of ^{NOV.} ~~October~~, 1986.


H. DALE COOK, CHIEF
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 DANNY WILLIAM VINEY and DEBRA)
 LYNN VINEY: JOHN DOE, Tenant;)
 COUNTY TREASURER, Tulsa County,)
 Oklahoma; and BOARD OF COUNTY)
 COMMISSIONERS, Tulsa County,)
 Oklahoma,)
)
 Defendants.) CIVIL ACTION NO. 86-C-355-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 5 day of November, 1986. The Plaintiff appears by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Phil Pinnell, Assistant United States Attorney; the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, appear by Susan K. Morgan, Assistant District Attorney, Tulsa County, Oklahoma; and the Defendants, Danny William Viney, Debra Lynn Viney, and John Doe, Tenant, appear not, but make default.

The Court being fully advised and having examined the file herein finds that the Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on April 11, 1986; that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on April 14, 1986; and that the Defendant, John Doe, Tenant, was served with Summons and Complaint on May 6, 1986.

The Court further finds that the Defendants, Danny William Viney and Debra Lynn Viney, were served by publishing notice of this action in the Tulsa Daily Business Journal & Legal Record, a newspaper of general circulation in Tulsa County, Oklahoma, once a week for six consecutive weeks beginning August 15 and continuing to September 19, 1986, as more fully appears from the verified Proof of Publication duly filed herein; and that this action is one in which service by publication is authorized by 12 O.S. §2004(C)(3)(c). Since counsel for the Plaintiff does not know and with due diligence cannot ascertain the whereabouts of the Defendants, Danny William Viney and Debra Lynn Viney, service cannot be made upon said Defendants within the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, or upon said Defendants without the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, as more fully appears from the evidentiary affidavit of a bonded abstracter with respect to the last known addresses of the Defendants, Danny William Viney and Debra Lynn Viney. The Court conducted an inquiry into the sufficiency of the service by publication to comply with due process of law and based upon the evidence together with affidavit and documentary evidence finds that the Plaintiff, United States of America, acting on behalf of the Administrator of Veterans Affairs, and its attorneys, Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Phil Pinnell, Assistant United States Attorney, have fully exercised due diligence in ascertaining the true names and identities of the parties served

by publication, with respect to their present or last known places of residence and/or mailing addresses.

The Court accordingly approves and confirms that the service by publication is sufficient to confer jurisdiction upon this Court to enter the relief sought by the Plaintiff, both as to the subject matter and the Defendants served by publication.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers herein on April 25, 1986, disclaiming any right, title, or interest in the subject real property; and that the Defendants, Danny William Viney, Debra Lynn Viney, and John Doe, Tenant, have failed to answer and their default has therefore been entered by the Clerk of this Court October 23, 1986.

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

The South Half (S/2) of Lot Five (5), Block Twenty-three (23), MARTIN SECOND ADDITION to Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

The Court further finds that on August 12, 1983, the Defendants, Danny William Viney and Debra Lynn Viney, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, their mortgage note in the amount of \$36,000.00, payable in monthly installments, with interest thereon at the rate of 11.5 percent per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Danny William Viney and Debra Lynn Viney, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated August 12, 1983, covering the above-described property. Said mortgage was recorded on August 16, 1983, in Book 4717, Page 1837, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Danny William Viney and Debra Lynn Viney, made default under the terms of the aforesaid mortgage note and mortgage by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, Danny William Viney and Debra Lynn Viney, are indebted to the Plaintiff in the sum of \$35,671.17, plus interest at the rate of 11.5 percent per annum from July 1, 1985 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, claim no right, title, or interest in the subject real property.

The Court further finds that the Defendant, John Doe, Tenant, is in default and has no right, title, or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants,

Danny William Viney and Debra Lynn Viney, in the sum of \$35,671.17, plus interest at the rate of 11.5 percent per annum from July 1, 1985 until judgment, plus interest thereafter at the current legal rate of 5.75 percent per annum until paid, plus the costs of this action accrued and accruing.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, and John Doe, Tenant, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Danny William Viney and Debra Lynn Viney, 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 appraisal 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 the costs of sale of said real property;

Second:

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

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 from and after the sale of the above-described real 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 property or any part thereof.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED:

LAYN R. PHILLIPS
United States Attorney


PHIL PINNELL
Assistant United States Attorney


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

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

FILED
NOV -5 1986

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

UTICA NATIONAL BANK & TRUST CO.,)
a national banking association,)
)
Plaintiff,)
)
vs.)
)
CALVIN RANSOM, et al.,)
)
Defendants.)

No. 85-C-537-C ✓

STIPULATION OF DISMISSAL

PURSUANT to the provisions of Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties hereto agree that Plaintiff's claims against Earle E. Partridge asserted herein are hereby dismissed with prejudice, each party to bear its/his own costs incurred herein.

This dismissal shall have no effect on any other claims made against any other Defendant herein.

DATED this 3rd day of ^{Nov.}~~October~~, 1986.

Charles V. Wheeler

Charles V. Wheeler
GABLE & GOTWALS
2000 Fourth National Bank Building
Tulsa, Oklahoma 74119
(918) 582-9201

ATTORNEYS FOR PLAINTIFF
UTICA NATIONAL BANK & TRUST CO.

Katie J. Colomy

Thomas H. Dabik Katie J. Colomy
FITZGERALD, BROWN, LEAHY, STROM,
SCHORR & BARMETTLER
1000 Woodmen Tower
Omaha, Nebraska 68102

ATTORNEYS FOR DEFENDANT
EARLE E. PARTRIDGE

COPY

FILED

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

JAMES C. LUMAN,
Petitioner,
v.
UNITED STATES OF AMERICA,
Respondent.

Jack C. Cook, Chief
U.S. District Court

86-C-322-C
78-CR-111-01-C

ORDER

The Court has for consideration the Findings and Recommendation of the Magistrate filed October 15, 1986, in which the Magistrate recommended that petitioner's motion to vacate, set aside or correct sentence be denied. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Findings and Recommendation of the Magistrate should be and hereby are affirmed.

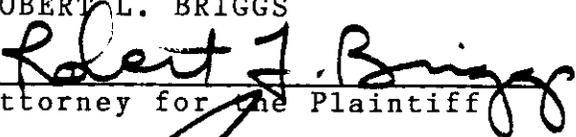
It is therefore Ordered that petitioner's motion to vacate, set aside or correct sentence is denied.

Dated this 7 day of November, 1986.

H. Dale Cook, Chief
UNITED STATES DISTRICT JUDGE

APPROVALS:

ROBERT L. BRIGGS


Attorney for the Plaintiff

RICHARD DAN WAGNER


Attorney for the Defendant

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

FILED

OCT -5 1986

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

Econotherm Energy Systems)
Corporation, a Minnesota)
corporation,)

Plaintiff,)

v.)

Case No. 86-C-746 B

N. H. Yates & Company, Inc.,)
a Maryland corporation; and)
Donald W. Yates d/b/a N. H.)
Yates & Company, Inc.,)

Defendant.)

Notice of DISMISSAL OF DONALD W. YATES
d/b/a N. H. YATES & COMPANY, INC.

Pursuant to Rule 41 of the Federal Rules of Civil Procedure the Plaintiff, Econotherm Energy Systems Corporation, hereby dismisses without prejudice Donald W. Yates d/b/a N. H. Yates & Company, Inc.

Mary B. Lewis
Kenneth L. Brune
Mary B. Lewis
700 Sinclair Building
Six East Fifth Street
Tulsa, Oklahoma 74103
(918) 584-0506

OF COUNSEL:

BRUNE, PEZOLD, RICHEY & LEWIS
700 Sinclair Building
Six East Fifth Street
Tulsa, Oklahoma 74103
(918) 584-0506

CERTIFICATE OF MAILING

I, Mary B. Lewis, hereby certify that on this 5TH day of November, 1986, I placed in the U.S. mails at Tulsa, Oklahoma, a true and correct copy of the foregoing document with correct postage fully prepaid thereon addressed to the following:

PRAY, WALKER, JACKMAN,
WILLIAMSON & MARLAR
Oneok Plaza, 9th Floor
Tulsa, Oklahoma 74103

Mary B. Lewis
Mary B. Lewis

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

THE BUFFALO BILLS, INC.,
a New York corporation,

Plaintiff,

v.

DARRELL IRVIN,

Defendant.

Case No. 86-C-738-C

JUDGMENT BY DEFAULT

Pursuant to the Motion For Entry Of Default Judgment filed by Plaintiff, The Buffalo Bills, Inc., and the Affidavit filed in support thereof, it being made to appear that Defendant, Darrell Irvin, has failed to plead or otherwise defend and that Defendant is indebted to Plaintiff for the sum certain of Thirty-Eight Thousand Three Hundred Eighteen and 55/100 Dollars (\$38,318.55), JUDGMENT BY DEFAULT is hereby entered against Defendant for that amount pursuant to Rule 55(b) of the Federal Rules of Civil Procedure.

Dated this 4 day of November, 1986.

J. DALE COOK

UNITED STATES DISTRICT COURT JUDGE

APPROVED:


Sally E. Scott (OBA #8030)
Gary S. Chilton (OBA #1662)
ANDREWS DAVIS LEGG BIXLER
MILSTEN & MURRAH
500 West Main
Oklahoma City, Oklahoma 73102
Telephone: (405) 272-9241

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE ~~THE~~ **NOV - 5 1986**
NORTHERN DISTRICT OF OKLAHOMA

JAMES C. LUMAN,)
)
 Petitioner,)
)
 v.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)

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

86-C-322-C
78-CR-111-01-C

ORDER

The Court has for consideration the Findings and Recommendation of the Magistrate filed October 15, 1986, in which the Magistrate recommended that petitioner's motion to vacate, set aside or correct sentence be denied. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Findings and Recommendation of the Magistrate should be and hereby are affirmed.

It is therefore Ordered that petitioner's motion to vacate, set aside or correct sentence is denied.

Dated this 7 day of ^{November} ~~October~~, 1986.


H. DALE COOK, CHIEF
UNITED STATES DISTRICT JUDGE

S/ JAMES O. ELLISON

U.S. DISTRICT JUDGE
NORTHERN DISTRICT OF OKLAHOMA

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the foregoing was deposited in the U.S. Mail this _____ day of October, 1986, addressed to Mr. Ray H. Wilburn, 2512-E East 71st Street, Tulsa, Oklahoma 74136, with proper postage thereon fully prepaid.

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

BARRY J. CRITES, TYRA K.)
CRITES,)
)
Petitioners,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Respondent.)

No. 86-C-719-B

FILED
NOV 1 1986

O R D E R

Jack C. ...
U.S. DISTRICT COURT

This matter comes before the Court on the Respondent's Motion to Dismiss and to Enforce Summons. For the reasons set forth below, the Motion is sustained.

Petitioners seek to quash a summons issued by the Internal Revenue Service seeking information from the International Brotherhood of Electrical Workers 584 Federal Credit Union concerning the Petitioners' checking and savings accounts. The summons requested bank statements and loan agreements for the years 1981, 1982, 1983, 1984 and 1985. Petitioners challenge the summons on the grounds that they have not been afforded a formal hearing to determine if the court has in personam jurisdiction over them.

After review of the pleadings and Affidavit submitted in this matter the Court concludes that the Petitioners' Motion to Quash is without merit. The Internal Revenue Service has authority to issue summons pursuant to 26 U.S.C. §7602. The record shows that I.R.S. has complied with the requirements for a summons herein. Therefore, it is ordered that the Petitioners' Motion to Quash is hereby denied. Accordingly, the International Brotherhood of Electrical Workers 584 Federal Credit Union and Cheryl Kline, Accounting Supervisor, shall comply with such

Summons and shall produce the documents demanded therein within ten (10) days of the date of this Order, or at such earlier time as may be agreed upon by counsel.

IT IS SO ORDERED, this 5th day of November, 1986.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

NOV 11 1986
10:15
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CASHFLOW DESIGN, INC.,)
)
Plaintiff,)
)
vs.) Civil Action No. 84-C-929-B
)
MENTCO CORPORATION,)
)
Defendant.)

ORDER DISMISSING ACTION WITH PREJUDICE

Plaintiff Cashflow Design, Inc., Defendant Mentco Corporation and Defendant Evergreen Leasing, Inc., having filed their Stipulation for Dismissal with Prejudice in the above-entitled action, and due consideration having been given thereto,

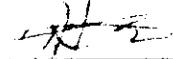
NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the within action be, and the same hereby is, dismissed with prejudice.

SO ORDERED this 5 day of November, 1986.


Judge Thomas R. Brett

APPROVALS:

HOWARD S. MILLER



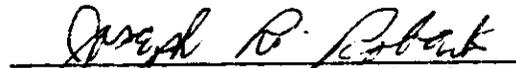
Attorney for the Plaintiff

RICHARD DAN WAGNER



Attorney for the Defendant
Square D Company

JOE ROBERTS



Attorney for the Defendant
Arkansas Freightways, Inc.

and the Plaintiffs recover their \$18,000.00 investment^{1/} under the investment contract; 3) that the Plaintiffs recover pre-judgment interest at the statutory rate of 10 percent per year from August 9, 1983, until the date of judgment, and post-judgment interest thereafter at the rate of 5.75 percent per year, plus costs and a reasonable attorney's fee if timely applied for pursuant to Rule 6 of the Local Rules of the United States District Court for the Northern District of Oklahoma.

IT IS FURTHER ORDERED that Judgment be entered in favor of the Third Party Defendant, Dale Cook, and against the Third Party Plaintiff, Nick Miranda, in the amount of Sixty Thousand Dollars (\$60,000.00) compensatory damages and Ninety Thousand Dollars (\$90,000.00) punitive damages, pursuant to the jury's verdict of August 4, 1986, plus interest thereon from the date of judgment at 5.75 percent per year, plus costs and a reasonable attorney fee if timely applied for.

DATED, this 4th day of Nov., 1986.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

¹ In order to prevent Plaintiffs, Michael and Patricia Eagan, from a double recovery, the total of their compensatory damages under the jury's verdict and rescission is limited to \$18,000.00. Thus, Plaintiffs' total recovery is \$18,000.00 compensatory damages and \$11,427.65 punitive damages.

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

MICHAEL J. EAGAN and)
PATRICIA EAGAN,)
)
Plaintiffs,)
)
vs.)
)
THE COLONIAL BANK, a Missouri)
State Banking Corporation,)
and NICK MIRANDA, an)
individual,)
)
Defendants.)
_____)
NICK MIRANDA,)
)
Third Party Plaintiff,)
)
vs.)
)
DALE A. COOK,)
)
Third Party Defendant.)
_____)

Case No. 85-C-691-B
Consolidated No. 85-C-539-B ✓

FILED

1986

Jack C. Silver
U.S. DISTRICT COURT

nm

O R D E R

This matter comes before the Court on Defendant's Motion for New Trial or, in the alternative, Judgment in favor of Defendant.

This is an action for fraud, conversion and securities violations. The case was tried to a jury in August 1986. On August 4, 1986, the jury found in favor of the Eagans on their claims for fraudulent inducement to enter an investment contract, fraud, and breach of contract/breach of fiduciary duty. The jury awarded the Eagans actual damages of \$6,572.35. The jury further found that the defendant's actions with respect to the Eagans' claims for fraudulent inducement and fraud were evidenced by fraud, oppression, actual or presumed malice, and evil intent or

wanton disregard of Plaintiffs' rights meriting imposition of punitive damages. The jury awarded the Eagans punitive damages of \$11,427.65. The jury also found in favor of Plaintiff Dale Cook on his claims for conversion and breach of contract/breach of fiduciary duty and awarded Cook \$60,000.00 actual damages and \$90,000.00 punitive damages. Defendant now seeks a new trial or, in the alternative, entry of judgment in his favor. For the reasons set forth below, the Court denies these motions.

Defendant contends that the damages awarded Plaintiff Cook are excessive. The Court is unpersuaded by this contention. The evidence indicated that some \$60,000 had been invested with Miranda for the purpose of furthering Plaintiff Cook's career as a professional fighter. The evidence further established that this money was not used by Defendant Miranda for this purpose but was converted by Miranda to his own personal use. Thus, the award of \$60,000 actual damages is clearly supported by the evidence.

The award of punitive damages in Oklahoma is wholly within the discretion of the jury. 23 O.S. §9. The purpose of punitive damages is to set an example and to punish the defendant for the general benefit of society. Garland Coal & Mining Co v. Few, 267 F.2d 785, 790 (10th Cir. 1957); Thiry v. Armstrong World Industries, 661 P.2d 515, 517 (Okla. 1983). While punitive damages need bear no relation to the actual damages awarded, they must bear some relation to the injuries inflicted. Spaeth v. Union Oil Co. of California, 762 F.2d 865, 866 (10th Cir. 1985).

In addition to the conduct of the defendant, the jury may consider the wealth of the defendant and the risk created by his conduct in calculating punitive damages. Id. Under the circumstances herein, considering all of the relevant factors, the Court cannot conclude that the \$90,000 punitive damages awarded by the jury was excessive. For these reasons, the motion for new trial on the grounds that the actual and punitive damages awarded to Plaintiff Cook were excessive is denied.

Defendant next contends that the Court erred in its instruction regarding fraudulent inducement and its instruction regarding actual fraud.

Defendant next contends that the Court's instruction concerning actual fraud was erroneous and prejudicial. The instruction read:

ACTUAL FRAUD -- TITLE 15, SECTION 58
OF THE OKLAHOMA STATUTES

Plaintiffs, Michael and Patricia Eagan, have alleged that defendant Nick Miranda was guilty of actual fraud in selling them the security at issue herein. Title 15, Section 58, of the Oklahoma Statutes provides that actual fraud may be committed by a party with the intent to deceive another party by any of the following acts:

1. The suggestion, as fact, of that which is not true, by one who does not believe it to be true;
2. The positive assertion in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true;
3. The suppression of that which is true by one having knowledge or belief of the fact;

4. A promise made without any intention of performing it; or
5. Any other act fitted to deceive.

In order to prove a claim under this statutory section, the plaintiffs must prove by clear and convincing evidence:

1. That the defendant committed one of the foregoing acts or any other act fitted to deceive;
2. That the act was done with the intention that the plaintiffs would rely upon such act to their injury; and
3. That the plaintiffs suffered damages because of their justifiable reliance upon such act.

Defendant contends that the assertion that fraud may be committed by "any other act fitted to deceive" is overbroad and "gives the jury a roving commission to find that any act constitutes fraud." The Court finds this contention without merit. The instruction complained of is taken verbatim from the applicable Oklahoma statute. 15 O.S. §58 provides in pertinent part:

"Actual fraud . . . consists in any of the following acts, committed by a party to the contract, or with his connivance, with intent to deceive another party thereto, or to induce him to enter into the contract:

* * *

5. Any other act fitted to deceive."

Thus, the definition of actual fraud which the Court provided the jury was taken directly from the applicable Oklahoma statute. For this reason, the Court concludes that Defendant's objection to this instruction is without merit.

DATED this 3rd day of Nov., 1986.

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

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

MICHAEL J. EAGAN and)
PATRICIA EAGAN,)
)
 Plaintiffs,)
)
 vs.)
)
 THE COLONIAL BANK, a Missouri)
 State Banking Corporation,)
 and NICK MIRANDA, an)
 individual,)
)
 Defendants.)
-----)
 NICK MIRANDA,)
)
 Third Party Plaintiff,)
)
 vs.)
)
 DALE A. COOK,)
)
 Third Party Defendant.)
-----)

FILED

NOV 4 1986

nm

Jack C. Sive
U.S. DISTRICT COURT

Case No. 85-C-691-~~B~~
Consolidated No. 85-C-539-B

J U D G M E N T

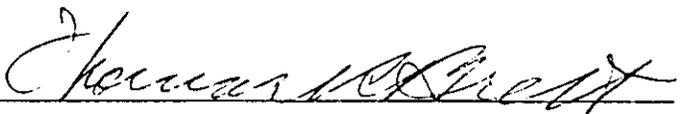
In keeping with the Findings of Fact and Conclusions of Law entered this date and the Jury Verdict of August 4, 1986, IT IS HEREBY ORDERED AND ADJUDGED that Judgment be entered in favor of the Plaintiffs, Michael and Patricia Eagan, and against Defendant, Nick Miranda, as follows:

- 1) That the Plaintiffs recover of the Defendant \$6,572.35 for compensatory damages and \$11,427.65 punitive damages, pursuant to the jury's verdict of August 4, 1986; 2) that the investment contract between the Plaintiffs and the Defendant be rescinded

and the Plaintiffs recover their \$18,000.00 investment^{1/} under the investment contract; 3) that the Plaintiffs recover pre-judgment interest at the statutory rate of 10 percent per year from August 9, 1983, until the date of judgment, and post-judgment interest thereafter at the rate of 5.75 percent per year, plus costs and a reasonable attorney's fee if timely applied for pursuant to Rule 6 of the Local Rules of the United States District Court for the Northern District of Oklahoma.

IT IS FURTHER ORDERED that Judgment be entered in favor of the Third Party Defendant, Dale Cook, and against the Third Party Plaintiff, Nick Miranda, in the amount of Sixty Thousand Dollars (\$60,000.00) compensatory damages and Ninety Thousand Dollars (\$90,000.00) punitive damages, pursuant to the jury's verdict of August 4, 1986, plus interest thereon from the date of judgment at 5.75 percent per year, plus costs and a reasonable attorney fee if timely applied for.

DATED, this 4th day of Nov., 1986.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

1

In order to prevent Plaintiffs, Michael and Patricia Eagan, from a double recovery, the total of their compensatory damages under the jury's verdict and rescission is limited to \$18,000.00. Thus, Plaintiffs' total recovery is \$18,000.00 compensatory damages and \$11,427.65 punitive damages.

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

FILED
NOV 11 1986
JAMES O. ELLISON
U.S. DISTRICT COURT

SUE ANN CHAPMAN,)
)
 Plaintiff,)
)
 vs.)
)
 THE AETNA LIFE INSURANCE COMPANY,)
)
 Defendant.)

No. 86-C-734-E

ORDER OF DISMISSAL WITH PREJUDICE

Plaintiff and Defendant having compromised and settled all issues in the action and having stipulated that the Complaint and the action may be dismissed with prejudice,

IT IS THEREFORE ORDERED that the Complaint and this cause of action are, by the Court, dismissed with prejudice to the bringing of another action upon the same cause or causes of action.

Entered this 4th day of November, 1986.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

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

DAVID PRYOR and PEGGY PRYOR,)
)
 Plaintiffs,)
)
 vs.)
)
 FARMERS INSURANCE COMPANY, INC.,)
 d/b/a FARMERS INSURANCE GROUP,)
)
 Defendants.)

NOV -4 1986

mm

JACK C. SILVER, CLERK
U.S. DISTRICT COURT
NO. 86-C-25-B ✓

J U D G M E N T

Pursuant to the verdict of the jury returned on October 31, 1986, Judgment is hereby entered in favor of the plaintiffs, David Pryor and Peggy Pryor, and against the defendant, Farmers Insurance Company, Inc., d/b/a Farmers Insurance Group, in the amount of Two Hundred Forty-Five Dollars (\$245.00) for additional medical expenses under the medical payments provision of the insurance contract; Four Thousand Seven Hundred Fifty Dollars (\$4,750.00), for breach of the implied covenant to deal fairly and in good faith and punitive damages in the amount of Four Thousand Dollars (\$4,000.00), plus the costs of this action and interest at the rate of 5.75% per annum from the date hereon. Judgment is hereby entered in favor of the defendant, Farmers Insurance Company, Inc., d/b/a Farmers Insurance Group, against the plaintiffs, David Pryor and Peggy Pryor, on plaintiffs' alleged property damage claim under the insurance contract.

As the prevailing party the plaintiffs are hereby granted an attorneys' fee pursuant to 36 Okl.Stat. Ann. §3629, if timely applied for pursuant to Local Rule 6.

DATED this 4th day of November, 1986.

Thomas R. Brett

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

THE ANDERSON GROUP, formerly)
Anderson Safeway Guardrail Corp.,)

Plaintiff,)

vs.)

Case No. 85-C-988-E

SUN BELT GUARD RAIL, INC.; WASHITA)
CONSTRUCTION COMPANY; AMERICAN)
CASUALTY OF READING; KOSS CON-)
STRUCTION COMPANY; UNITED PACIFIC)
INSURANCE; STATES CONSTRUCTION)
COMPANY; U.S. FIDELITY and)
GUARANTEE COMPANY; HASKELL-LEMON)
CONSTRUCTION COMPANY; and NATIONAL)
FIRE INSURANCE OF HARTFORD,)

Defendants.)

ORDER DISMISSING WITH PREJUDICE
DEFENDANTS, STATES CONSTRUCTION COMPANY,
U.S. FIDELITY and GUARANTEE COMPANY,
WASHITA CONSTRUCTION COMPANY, AMERICAN
CASUALTY OF READING AND KOSS
CONSTRUCTION COMPANY AND UNITED PACIFIC INSURANCE

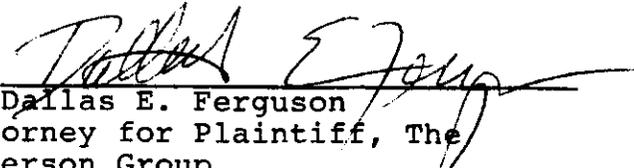
IT IS ORDERED that Plaintiff's Motion to Dismiss with Prejudice Defendants, States Construction Company, U.S. Fidelity and Guarantee Company, Washita Construction Company, American Casualty of Reading, Koss Construction Company and United Pacific Insurance, is hereby granted and these Defendants are hereby dismissed with prejudice.

DATED this 3rd day of November, 1986.

JAMES O. ELLISON
United States District Judge

AGREED TO:

DOERNER, STUART, SAUNDERS, DANIEL
& ANDERSON

By: 
Dallas E. Ferguson
Attorney for Plaintiff, The
Anderson Group

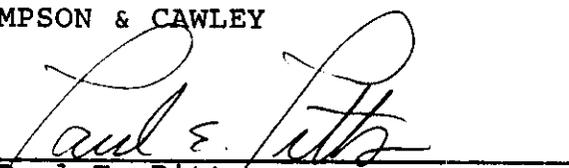
THORNTON, WAGNER & THORNTON

By: 
David M. Thornton, Jr.
Attorney for Defendant, Koss
Construction Company and United
Pacific Insurance

GABLE & GOTWALS

By: 
Elise Draper
Attorney for Defendant, States
Construction Company and U.S.
Fidelity and Guarantee Company

THOMPSON & CAWLEY

By: 
Paul E. Pitts
Attorney for Defendants, American
Casualty of Reading and Washita
Construction Company

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

NITA SUE PIGGOTT,)
)
 Plaintiff,)
)
 vs.) Case No. 86-C-808-E
)
 TEXACO INC.,)
)
 Defendant.)

ORDER OF JUDGMENT

This matter came before the undersigned judge upon the motion of Defendant to dismiss and to strike punitive damages.

Having considered Defendant's motion and based upon Plaintiff's failure to respond to same and this Court's order having been entered on October 21, 1986 granting Defendant's Motion to Dismiss pursuant to Local Rule 14(a), as amended, effective March 1, 1981,

IT IS, THEREFORE, ORDERED Plaintiff's complaint and causes of action be and hereby are dismissed, with each party to bear its own costs and attorneys fees.

DATED this 3rd day of November 1986.

S/ JAMES O. ELLISON

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

MARIAN GRAHAM; KEITH GRAHAM)
)
Plaintiffs,)
)
vs.) No. 85-C-628-E
)
TRAVELERS INDEMNITY COMPANY,)
)
Defendant.)

ORDER OF DISMISSAL WITH PREJUDICE

This matter comes on for hearing upon the joint application for dismissal with prejudice filed by the parties herein and the Court, upon the motion and being advised that all issues between the parties have been settled, finds that plaintiffs' cause of action against the defendant should be and the same are hereby dismissed with prejudice to further suit or claim.

S/ JAMES C. MORRIS

UNITED STATES DISTRICT JUDGE

APPROVED :



GREG MORRIS
Attorney for Plaintiff



RICHARD CARPENTER
Attorney for Defendant

FILED

NOV -3 1986

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

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

THE FOURTH NATIONAL BANK)
OF TULSA,)
)
Appellant,)
)
vs.)
)
DONALD RUGGLES,)
)
Debtor.)
)
PATRICK J. MALLOY, III,)
)
Trustee, Appellees,)

Bk. No. 82-00186

Adv. No. 84-0308

District Court No. 86-C-664-B

OF
JOINT STIPULATION ~~FOR~~ DISMISSAL
OF APPEAL

COME NOW the Appellant, The Fourth National Bank of
Tulsa, and the Appellee, Patrick J. Malloy, III, and hereby
jointly stipulate to the dismissal of this appeal herein
without prejudice, each party to bear its own costs and
attorneys fees.

Theodore Q. Eliot

Theodore Q. Eliot
Oliver S. Howard
GABLE & GOTWALS, INC.
20th Floor, Fourth National Bank
Tulsa, Oklahoma 74119

Patrick J. Malloy, III

Patrick J. Malloy, III
1924 South Utica Avenue
Suite 310
Tulsa, OK 74104

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

FILED

NOV -3 1986

UTICA NATIONAL BANK & TRUST CO.,)
 a national banking association,)
)
 Plaintiff,)
)
 vs.)
)
 CALVIN RANSOM, et al.,)
)
 Defendants.)

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

No. 85-C-537-C

STIPULATION OF DISMISSAL

PURSUANT to the provisions of Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties hereto agree that Plaintiff's claims against LJB Investment Partnership, a partnership of which L. L. Linn and Gary R. Jones are general partners asserted herein are hereby dismissed with prejudice, each party to bear its/their own costs incurred herein.

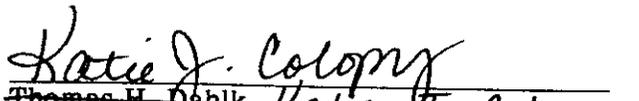
This dismissal shall have no effect on any other claims made against any other Defendant herein.

DATED this 27th day of October, 1986.



Charles V. Wheeler
GABLE & GOTWALS
2000 Fourth National Bank Building
Tulsa, Oklahoma 74119
(918) 582-9201

ATTORNEYS FOR PLAINTIFF
UTICA NATIONAL BANK & TRUST CO.



~~Thomas H. Dahlk~~ Katie J. Colopy
FITZGERALD, BROWN, LEAHY, STROM,
SCHORR & BARMETTLER
1000 Woodmen Tower
Omaha, Nebraska 68102

ATTORNEYS FOR DEFENDANT
LJB INVESTMENT PARTNERSHIP

JD

FILED

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

NOV 9 3 1986

FILED

NOV 7 1986

DOROTHY A. EVANS, CLERK
U. S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OKLAHOMA

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

WAYNE DARRELL ZANG,

Appellant,

vs.

MICHAEL H. FREEMAN, Trustee,

Appellee.

Case No. 82-00962

Ch 7
Adv. No. 85-C-1110(B)

DISMISSAL WITH PREJUDICE

COMES NOW the Plaintiff/Appellant, Wayne Darrell Zang,
and dismisses with prejudice his appeal herein.

Dated this 29th day of October, 1986.

VonDrehle & Associates
Attorneys for Appellant

Mary E. Von Drehle

Mary E. VonDrehle
C. A. Rhoads
2431 East 51st Street
Suite 701
Tulsa, Oklahoma 74105
918/742-7811

CERTIFICATE OF MAILING

I hereby certify that on this 29th day of October,
1986, a true and correct copy of the above and foregoing
Dismissal with Prejudice was deposited in the U. S. Mail with
sufficient postage affixed thereon and addressed to:

Mr. Michael H. Freeman
1612 S. Cincinnati
Tulsa, Oklahoma 74119

Mary E. Von Drehle