

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

AUG 11 1987
CLERK
U.S. DISTRICT COURT

UTICA NATIONAL BANK & TRUST)
CO., a national banking)
association,)
)
Plaintiff,)
)
vs.)
)
F.W. PARTNERSHIP, et al.,)
)
Defendants.) 86-C-864-E

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 F.W. Partnership, James R. Fraser and David E. Worthen, asserted herein, are hereby dismissed with prejudice, each party to bear its/their own costs incurred herein.

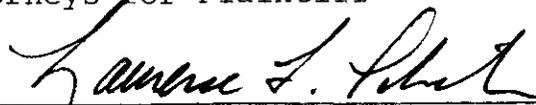
This dismissal shall have no effect on any other claims made against any other Defendant herein.

DATED this 14th day of August, 1987.



Charles V. Wheeler
GABLE & GOTWALS
2000 Fourth National Bank
Tulsa, Oklahoma 74119

Attorneys for Plaintiff



Laurence L. Pinkerton
CONNER & WINTERS
2400 First National Bank Tower
Tulsa, Oklahoma 74103

Attorneys for Defendants, F.W.
Partnership, David E. Worthn, and
James R. Fraser

RLM:vb

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

NORTH RIVER INSURANCE)
COMPANY, INC., a member of the)
Crum and Forster Group,)
)
Plaintiffs,)
)
-vs-)
)
DAVID LEE CALVERT, KIM B.	0
PALMER and CARLA WILSON RILEY,)
natural mother and next of kin of)
STEPHANIE D. RILEY, now Deceased,)
)
Defendants.)

CASE NO.: 87-C-88-C

F I L E D

AUG 14 1987

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

ORDER OF DISMISSAL

ON THIS 13 day of Aug, 1987, upon the written application of the Plaintiff, North River Insurance Company, Inc., a member of the Crum and Forster Group, for a dismissal without prejudice of the Complaint for Declaratory Judgment and all causes of action therein, 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 without prejudice. The Court being fully advised in the premises finds that said settlement is to the best interest of said Plaintiffs.

THE COURT FURTHER FINDS that said Complaint for Declaratory Action, should be dismissed pursuant to said Application.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Complaint for Declaratory Action and all causes of action of the Plaintiffs, North River Insurance Group, Inc., a member of the Crum and Forster Group, against the Defendants, David Lee Calvert, Kim B. Palmer, and Carla Wilson Riley, natural mother and next of kin of Stephanie D. Riley, now Deceased.

(Signed) H. Dale Cook

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

APPROVALS:

RICHARD L. MORROW

Richard L. Morrow
Attorneys for Plaintiffs

JIM LLOYD

15/ Jim Lloyd
Attorney for Defendant, Carla
Wilson Riley, natural mother and
next of kin of Stephanie D. Riley,
now Deceased.

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

DELLA F. LANE,)
)
 Plaintiff,)
)
 v.) No. 86-C-416-B
)
 BETHLEHEM STEEL CORPORATION,)
 a Delaware corporation,)
)
 Defendant.)

F I L E D

AUG 14 1987

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

O R D E R

This matter came before the Court for pretrial conference on August 11, 1987. Now pending before the Court for consideration is the Defendant's Motion for Summary Judgment. For the reasons set forth below, the Defendant's motion is granted in part and denied in part.

Defendant's motion seeks summary judgment on the four separate claims remaining in this lawsuit:

1. Plaintiff's ADEA claim;
2. Plaintiff's sex discrimination claim;
3. Plaintiff's intentional infliction of emotional distress claim;
4. Plaintiff's breach of the covenant of good faith and fair dealing claim.

The Plaintiff in her response brief to the motion for summary judgment has confessed that summary judgment is proper on the claim for sex discrimination and the claim for intentional infliction of emotional distress. Therefore, the motion for summary judgment is granted in favor of the Defendant on those

claims. Further, the Court finds that summary judgment in favor of the Defendant is proper on the Plaintiff's claim for breach of the covenant of good faith and fair dealing in light of the recent decision of the Oklahoma Supreme Court in Hinson v. Cameron, 58 O.B.J. 1666 (Okla. June 9, 1987). The court in Hinson clarified the decision of the Oklahoma Supreme Court in Hall v. Farmers Insurance Exchange, 713 P.2d 1027 (Okla. 1985), which had created considerable confusion in the law concerning employment at will relationships. The Court stated:

"Hall can be perceived as creating a new cause of action in favor of an at-will employee discharged in 'bad faith.' As we view Hall it stands for the rule that an agent may recover from the principal when the latter has, in bad faith, deprived him of the fruit of his own labor. The relationship between the hospital and Hinson was that of master and servant, not principal and agent. Hinson is not claiming the hospital deprived her of any earned income. In short, the facts and the legal relations dealt with in Hall are clearly distinguishable from those in the present case."

Like the plaintiff in Hinson, the instant Plaintiff makes no allegation of an agency relationship but alleges only an employee status with the Defendant. The Court finds that in light of the recent Hinson decision and the Plaintiff's failure to respond to the Defendant's arguments on the claim for breach of the covenant of good faith and fair dealing, summary judgment is proper.

The remaining issue before the Court is the Plaintiff's ADEA claim pursuant to 29 U.S.C. §§621 et seq. Defendant seeks summary judgment on the ADEA claim and asserts that the Plaintiff cannot establish a prima facie case of age discrimination. Typically, in order to make a prima facie showing of age

discrimination, the Plaintiff must satisfy the following requirements:

1. She is within the protected age group;
2. She was qualified for the job and performing satisfactorily;
3. She was adversely affected by an employment decision; and
4. Her position was filled by an individual younger than she.

Schwager v. Sun Oil Co. of Pennsylvania, 591 F.2d 58 (10th Cir. 1979). The Defendant admits that the Plaintiff is within the protected age group and that she was adversely affected by the employment decision and that the position was filled by a younger person. Defendant contends, however, that the Plaintiff is unable to establish that she was qualified for the position and therefore summary judgment should be granted for failure to state a prima facie case of age discrimination. The Court finds that the Plaintiff's response to the motion for summary judgment creates genuine issues of material fact as to the Plaintiff's qualifications for the job which remained after the company's reorganization.¹ See Hunter Deposition at 101-104, and Exhibit H, Plaintiff's performance rating dated 2-21-84 (Exhibit I).

¹ The Defendant argues that the job of "credit assistant" which remained after reorganization, did not have the same functions and duties of the previous "credit assistant" position held by Ms. Lane. There remain questions of fact regarding the job functions and the Plaintiff's qualifications for the reorganized position. (See, Depo. of Adams, pp. 91-92; Lane Depo., at 93, lines 1-13.)

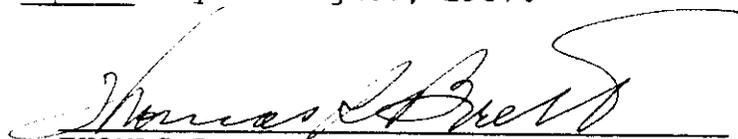
Summary judgment must be denied if a genuine issue of material fact is presented to the trial court. Exnicious v. United States, 563 F.2d 418, 425 (10th Cir. 1977). In making this determination, the Court must view the evidence in the light most favorable to the party against whom judgment is sought. National Aviation Underwriters, Inc. v. Altus Flying Service, Inc., 555 F.2d 778, 784 (10th Cir. 1977). Factual inferences tending to show triable issues must be resolved in favor of the existence of those issues. Luckett v. Bethlehem Steel Corp., 618 F.2d 1373, 1377 (10th Cir. 1980). The party moving for summary judgment has the burden of showing that there is no genuine issue of material fact regarding the legal dispute, that the party opposing a properly supported motion for summary judgment may not rest upon mere allegations or denials contained in his pleading. The nonmovant must set forth specific facts with supporting material showing that there is a genuine issue for trial. Celotex Corporation v. Catrett, 477 U.S. ____, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986); Anderson v. Liberty Lobby, Inc., 477 U.S. ____, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986); Windon Third Oil and Gas v. Federal Deposit Insurance Corp., 805 F.2d 342 (10th Cir. 1986).

The Court finds that based upon the Plaintiff's opposition to the motion for summary judgment genuine issues of material fact remain as to the ADEA claim. Therefore, the Defendant's motion for summary judgment on this claim is denied.

As previously ordered, the Defendant's ADEA claim remains for trial and Defendant is granted summary judgment on the claims for sex discrimination, intentional infliction of emotional distress, and breach of the implied covenant of good faith and fair dealing.

The parties should adhere to the schedule ordered by the Court at the August 11, 1987 pre-trial conference.

IT IS SO ORDERED, this 13th day of August, 1987.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ARRON E. VEACH,)
)
 Defendant.)

FILED
AUG 14 1987
CLERK
DISTRICT COURT

CIVIL ACTION NO. 86-C-781-E

ORDER OF DISMISSAL

Now on this 14th day of August, 1987, 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, Arron E. Veach, be and is dismissed without prejudice.

S/ THOMAS W. DREW

UNITED STATES DISTRICT JUDGE

for

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

WESTINGHOUSE ELECTRIC SUPPLY)
COMPANY, a division of)
Westinghouse Electric)
Corporation, a Pennsylvania)
corporation,)

Plaintiff,)

vs.)

WISE LIGHTING COMPANY,)
an Oklahoma corporation,)

Defendant.)

87-C-224-E

FILED

AUG 14 1987

John J. O'Connell, Clerk
U.S. DISTRICT COURT

JOURNAL ENTRY OF JUDGMENT

On this 14th day of August, 1987, this action came on for consideration before the undersigned United States District Judge for the Northern District of Oklahoma. The Plaintiff is represented by its attorney, Laurence L. Pinkerton of Conner & Winters, and Defendant is represented by its attorney, Donald E. Pool. The Court, having examined the file and being otherwise well and fully advised in the premises, finds as follows:

1. That the Court has jurisdiction of the parties hereto and of the subject matter hereof.

2. That the allegations of Plaintiff's Complaint are true and correct, and are confessed by the Defendant.

3. That Plaintiff, Westinghouse Electric Supply Company, a division of Westinghouse Electric Corporation, should recover of Defendant, Wise Lighting Company the sum of \$21,665.64, that being the amount owed Plaintiff by Defendant on open account as of May 29, 1986, with interest which should accrue on the total sum of \$21,665.64 at the rate of ~~10~~ 6.98% percent per annum from the date hereof until paid.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff, Westinghouse Electric Supply Company, a division of Westinghouse Electric Corporation, is granted judgment against Defendant Wise Lighting Company, and is awarded the sum of \$21,665.64, that being the amount owed Plaintiff by Defendant on open account as of May 29, 1986, with interest which should accrue on the total sum of \$21,665.64 at the rate of ~~10~~ 6.98% percent per annum from the date hereof until paid.

Dated this 13th day of August, 1987.

ST. THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE
FOR THE NORTHERN DISTRICT OF
OKLAHOMA

for JAMES O. BLISSON

APPROVED AS TO FORM AND CONTENT:

Laurence L. Pinkerton
Laurence L. Pinkerton
CONNER & WINTERS
2400 First National Tower
Tulsa, Oklahoma 74103

Attorney for Plaintiff,
WESTINGHOUSE ELECTRIC SUPPLY COMPANY

A handwritten signature in black ink, appearing to read "Donald E. Pool", written over a horizontal line.

Donald E. Pool
1515 South Denver
Tulsa, Oklahoma 74119

Attorney for Defendant,
WISE LIGHTING COMPANY

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

FILED

AUG 1 1987

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

TURNER BROTHERS, INC.,)
)
Plaintiff(s),)
)
vs.)
)
TRANSWESTERN MINING COMPANY,)
)
Defendant(s).)

No. 86-C-646-E

STIPULATION

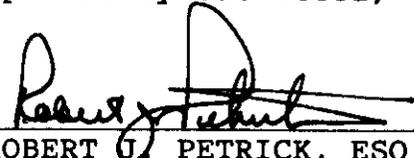
COME NOW, the Plaintiff, TURNER BROTHERS, INC. ("TBI"), and Defendant, TRANSWESTERN MINING COMPANY ("Tramco"), by and through their counsel and hereby stipulate, pursuant to F.R.Civ.P. 41(a)(1) to dismissal with prejudice of a portion of the Third Claim of Relief filed by Tramco in its Counterclaim against TBI. More specifically, the parties agree to the dismissal of the claim contained in Paragraph 1(B) of Tramco's Third Claim for Relief. In that claim Tramco alleges that it made a \$133,500.00 payment on behalf of TBI for a cash bond to be held in escrow for the benefit of the Oklahoma Department of Mines and the Office of Surface Mining to insure that certain reclamation work was performed on a mining permit known as the "Rafter J" Permit.

In executing this Stipulation, Tramco dismisses the claim set forth in the Third Claim for Relief, Paragraph 1(B) of

its Counterclaim and TBI waives any right or claim in the escrow account containing the money put up for the bond, to wit: The First National Bank and Trust Company of Tulsa; Transwestern/ ODOMOSM Escrow Account #2786197005.

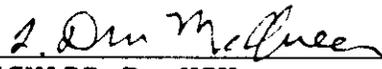
In addition, Tramco hereby forever waives and releases any right to claim any funds due from TBI under the Agreement dated as of May 10, 1985 by and among TBI. Tramco the Office of Surface Mining and the Oklahoma Department of Mines.

Respectfully submitted,

By 
ROBERT J. PETRICK, ESQ.
P.O. Box 447
Muskogee, Oklahoma 74402
(918) 687-9972

Attorney for Plaintiff,
Turner Brothers Inc.

DOERNER, STUART, SAUNDERS,
DANIEL & ANDERSON

By 
RICHARD P. HIX
L. DRU MCQUEEN
1000 Atlas Life Building
Tulsa, Oklahoma 74102
(918) 582-1211

Attorneys for Defendants,
Transwestern Mining Company
Sunbelt Mining Company, Inc.
and Public Service Company of
New Mexico

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 14th
day of August, 1987, a true and correct copy
of the above and foregoing Stipulation of Dismissal was mailed,
proper postage thereon fully prepaid to:

Thomas J. Kenan, Esq.
P.O. Box 2036
Oklahoma City, Oklahoma 73101

0244w

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

AUG 19 1987

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 BARBIE SANDERS, a/k/a)
 BARBIE JO SANDERS,)
)
 Defendant.)

CIVIL ACTION NO. 87-C-474-B ✓

DEFAULT JUDGMENT

This matter comes on for consideration this 13th day of August, 1987, the Plaintiff appearing by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Phil Pinnell, Assistant United States Attorney, and the Defendant, Barbie Sanders, a/k/a Barbie Jo Sanders, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Barbie Sanders, a/k/a Barbie Jo Sanders, acknowledged receipt of Complaint and Summons on June 25, 1987. 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 the Defendant,

Barbie Sanders, a/k/a Barbie Jo Sanders, for the principal sum of \$2,000.00, plus accrued interest of \$298.09 as of March 16, 1987, plus interest thereafter at the rate of 5 percent per annum until judgment, plus interest thereafter at the current legal rate of 6.98 percent per annum until paid, plus costs of this action.


UNITED STATES DISTRICT JUDGE

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

AUG 13 1987

CYNTHIA D. BROWN,)
)
 Plaintiff,)
)
 vs.)
)
 SUNBELT GLASS, INC., an)
 Oklahoma corporation, and)
 MIKE KELLEY, an individual,)
)
 Defendants.)

Jack C. Pinner, Clerk M
U.S. DISTRICT COURT

NO. 86-C-922-~~F~~B ✓

ORDER OF DISMISSAL

Now on this 13th day of August, 1987, upon the written application of the Plaintiff, Cynthia D. Brown, and the Defendants, Sunbelt Glass, Inc., and Mike Kelley, for a Dismissal With Prejudice of all matters, causes of action and issues, involved in this action, and the Court having examined said Application, finds that said parties have entered into a compromise settlement and Joint Confidentiality Agreement, covering all claims against the Defendants involved in this action, and have requested the Court to Dismiss said action against said Defendants, with prejudice to any further action. The Court being fully advised in the premises finds that said settlement is to the best interest of said Plaintiff.

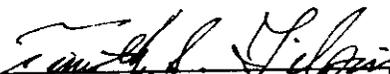
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the action and all causes of action of the Plaintiff, Cynthia D. Brown against the Defendants, Sunbelt Glass, Inc., and

Mike Kelley, by and the same are hereby dismissed with prejudice to any further action.



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

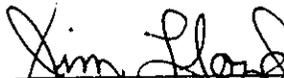
APPROVALS BY:



C. Clay Roberts III
Richard D. Marrs
Timothy Gilpin
Attorneys for Plaintiff



Dianne Smith
Attorney for Sunbelt Glass, Inc.



Jim Lloyd, Attorney for
Defendant Mike Kelley

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 BARBIE SANDERS, a/k/a)
 BARBIE JO SANDERS,)
)
 Defendant.)

FILED

AUG 13 1987

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

CIVIL ACTION NO. 87-C-474-B

DEFAULT JUDGMENT

This matter comes on for consideration this 13th day of August, 1987, the Plaintiff appearing by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Phil Pinnell, Assistant United States Attorney, and the Defendant, Barbie Sanders, a/k/a Barbie Jo Sanders, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Barbie Sanders, a/k/a Barbie Jo Sanders, acknowledged receipt of Complaint and Summons on June 25, 1987. 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 the Defendant,

Barbie Sanders, a/k/a Barbie Jo Sanders, for the principal sum of \$2,000.00, plus accrued interest of \$298.09 as of March 16, 1987, plus interest thereafter at the rate of 5 percent per annum until judgment, plus interest thereafter at the current legal rate of 6.98 percent per annum until paid, plus costs of this action.

s/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

FILED

AUG 13 1987

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

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

COOPERS & LYBRAND,)
)
 Plaintiff,)
)
 vs.)
)
 JOHN BROWN UNIVERSITY, INC.;)
 and JOHN E. BROWN, JR.,)
 JOHN E. BROWN, III, and)
 PATRICIA R. GUSTAVSON, as)
 Trustees of John Brown)
 University Pension Trust,)
)
 Defendants.)

No. 87-C-221-C

O R D E R

This matter comes before the Court on defendants' motion to dismiss or transfer this action to the Western District of Arkansas. For the reasons set forth below, the Court grants defendants' motion to transfer.

Plaintiff filed this action on March 30, 1987 asserting diversity of citizenship jurisdiction and setting forth two claims for relief.

The first claim asserts that defendants are liable to plaintiff on an open account in the sum of \$8,520.00 for accounting and auditing services rendered. Under the second claim, plaintiff is requesting declaratory relief that plaintiff did not engage in negligence in performing its professional

accounting services. Plaintiff asserts that defendants are making demands on it for payment of funds allegedly misappropriated by others, said sum is in excess of \$10,000.00.

On May 1, 1987, defendants John E. Brown, Jr., John E. Brown, III and Patricia Gustavson filed suit against the plaintiff herein in the Western District of Arkansas asserting claims for professional negligence, negligent misrepresentation, and breach of contract. Defendants assert that plaintiff filed suit in this Court during settlement negotiations in anticipation of plaintiff filing suit in Arkansas.

The plaintiff, Coopers & Lybrand (C&L), is a partnership engaged in the practice of public accounting. C&L has offices in various states with its executive offices in the State of New York. C&L has an office in Tulsa, Oklahoma. No member of C&L has an office or resides in the State of Arkansas, but it regularly transacts business in that State.

Defendant John Brown University, Inc. is a nonprofit corporation organized and existing under the laws of the State of Arkansas. John Brown University is located in Siloam Springs, Arkansas. Defendants John E. Brown, Jr.; John E. Brown, III; and Patricia R. Gustavson are individuals who reside in the State of Arkansas. They are the Trustees of the John Brown University Pension Trust (Trust).

On June 29, 1987, defendants filed a motion to dismiss this action or, alternatively, to transfer the case to the Western District of Arkansas. Defendants contend that plaintiff's

complaint contains numerous jurisdictional defects, is a blatant attempt at a race to the courthouse, and is in careless disregard of the prerequisites of personal and subject matter jurisdiction and the rules of venue.

Defendants assert that during the fiscal years 1982-1985, one William Morton, Jr. was administrator of the Trust. During this time, Morton misappropriated assets belonging to the Trust through a series of fraudulent transactions consisting of improper depositing of monies, making unauthorized withdrawals, and/or failing to make deposits. Losses to the Trust were in the approximate amount of \$1,374,405.00. Morton was indicted by a grand jury in the United States District Court for the Western District of Arkansas. On March 11, 1987, Morton entered pleas of guilty to twenty-eight criminal charges arising out of his misapplication of assets of, among others, the Trust.

Defendants' lawsuit currently pending before the District Court for the Western District of Arkansas against plaintiff herein involves allegations of negligence by plaintiff in conducting auditing and accounting services during this same time period of 1982-1985.

A trial court has discretion to determine whether to entertain a declaratory judgment action. Farmers Alliance Mut. Ins. Co. v. Jones, 570 F.2 1384, 1386 (10th Cir. 1978) cert. den. 439 U.S. 826 (1978). Regarding the defendants herein, this Court is of the opinion that to compel these defendants to litigate their claims at a time and in a forum chosen by an alleged tortfeasor

would be a perversion of the Declaratory Judgment Act, 28 U.S.C. §2201. See e.g., Cunningham Brothers, Inc. v. Bail, 407 F.2d 1165, 1167 (7th Cir. 1969) cert. den. 395 U.S. 959 (1969). In Cunningham Brothers, the court said:

The primary purpose of that Act is to avoid accrual of avoidable damages to one not certain of his rights and to afford him an early adjudication without waiting until his adversary should see fit to bring suit, after damages had accrued. Supra at 1168. (add'l citations omitted).

The court concluded that since the action involved alleged negligent acts which had already occurred and was not brought to avoid damages which would accrue if a certain course of conduct were taken in the future, the case was not appropriate under the Declaratory Judgment Act. Cunningham Brothers, supra. The declaratory judgment statute should not be used to "enable a prospective negligence defendant to obtain a declaration of non-liability." See Wright and Miller §2765. To allow otherwise would "jeopardize those procedures which the law has traditionally provided to injured parties by which to seek judicial relief." Cunningham Brothers, supra at 1168. Transfer of this action to the District Court for the Western District of Arkansas is appropriate where, as here, the plaintiff is asserting no more than what would be a defense to the Arkansas action. See e.g. Product Engineering & Manuf. Inc. v. Barnes, 424 F.2d 42 (10th Cir. 1970).

Further, venue is proper before the Arkansas court under 28 U.S.C. §1404(a) which provides:

For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.

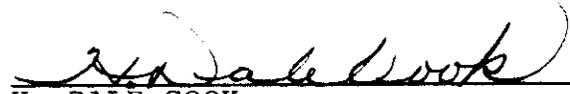
The Tenth Circuit has held that a transfer under §1404(a) lies within the discretion of the trial court. Smith Construction Corp. v. Int'l Union of Operating Engineers, 467 F.2d 862 (10th Cir. 1978).

The factors to consider under §1404(a) are the convenience of the parties, the convenience of the witnesses and the interest of justice. A large measure of deference is due plaintiff's freedom to select its own forum. However, this factor has reduced value where there is an absence of any significant contact by the forum state with the transaction or conduct underlying the cause of action. Jacobs v. Lancaster, 526 F.Supp. 767 (W.D.Okla. 1981). In the instant case, plaintiff's connection with this forum is that one of its offices is located here. However, all the defendants and their counsel reside in Arkansas, many witnesses having knowledge of the central controversy reside in Arkansas, pertinent documents are located in Arkansas, the audits were conducted in Arkansas and the cause of action arose there. Further, plaintiff is frequently in Arkansas in the regular course of its business.

Based on the foregoing consideration of the circumstances in this case, and the application of the triple standard of 28 U.S.C. §1404(a), this Court finds and concludes that defendants have sufficiently established that this action should be

transferred to the Western District of Arkansas. The motion to transfer is SUSTAINED. The Court hereby Orders this case be TRANSFERRED to the United States District Court for the Western District of Arkansas.

IT IS SO ORDERED this 12th day of August, 1987.



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

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

FILED

AUG 13 1987

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

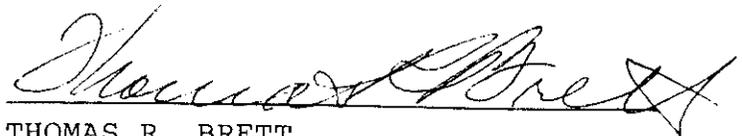
JIMMIE KEELING,)	
)	
Plaintiff,)	
)	
v.)	
)	
OTIS R. BOWEN, M.D.,)	
Secretary of Health and)	
Human Services,)	
)	
Defendant.)	

No. 84-C-422-B

J U D G M E N T

In accordance with the Order filed this date, the Court hereby enters Judgment in favor of Plaintiff's counsel, Paul F. McTighe, Jr., in the sum of One Thousand Two Hundred Twenty-Five Dollars (\$1,225.00), in fees for representation in this Court out of the benefits awarded Plaintiff, Jimmie Keeling.

ENTERED this 12 day of August, 1987.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

JIMMIE KEELING,
Plaintiff,
v.
OTIS R. BOWEN, M.D.,
Secretary of Health and
Human Services,
Defendant.

No. 84-C-422-B

F I L E D

AUG 13 1987

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

O R D E R

This Court remanded this case to the Secretary of Health and Human Services for the purpose of awarding past-due benefits to Plaintiff, Jimmie Keeling. Plaintiff now requests this Court to approve the \$7,442.20 award.

Plaintiff's counsel, Paul F. McTighe, Jr., requests an order allowing an attorney fee of \$1,225.00, for representation of Plaintiff before this Court consistent with 42 U.S.C. §406(b)(1).

Defendant Otis R. Bowen, M.D., Secretary of Health and Human Services, objects to the motion for attorney fees contending the motion is premature.¹ Defendant urges the present motion is premature because the Social Security Administration has not yet ruled on a motion filed by Plaintiff for attorney fees for representation of Plaintiff before that body.

¹ The Government has taken an inconsistent position in the case Larry D. Ketcher v. Otis R. Bowen, M.D., Secretary of Health and Human Services, Case No. 83-C-812-B. The Government's pleadings in both cases were filed July 23, 1987.

42 U.S.C. §406(a) and (b)(1) authorizes both the Secretary and this Court to award an attorney fee. The statute does not require this Court to await the determination of the Secretary. Defendant has not submitted controlling authority which mandates the Secretary must act first.

Defendant has not objected to the amount of the attorney fee request, only the timing.

The Court hereby approves the past-due benefit award of \$7,442.20, and hereby awards an attorney fee in the amount of \$1,225.00. Judgment in accord with this order is filed this date.

IT IS SO ORDERED this 12th day of August, 1987.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

SHELBY E. SALTSMAN,)
)
 Plaintiff,)
)
 v.)
)
 OTIS R. BOWEN, M.D., Secretary)
 of Health and Human Services,)
)
 Defendant.)

No. 84-C-144-B

F I L E D

AUG 13 1987

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

J U D G M E N T

In accordance with the order of Magistrate John Leo Wagner dated June 23, 1987, the Court hereby enters Judgment in favor of Plaintiff's attorney Paul B. Naylor, for the sum of One Thousand Seven Hundred Nine and 10/100 Dollars (\$1,709.10), on the claim for attorney fees out of the benefit awarded Plaintiff, Shelby E. Saltsman.

ENTERED this 12 day of August, 1987.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

LARRY D. KETCHER,)
)
 Plaintiff,)
)
 v.)
)
 OTIS R. BOWEN, M.D.,)
 Secretary of Health and)
 Human Services,)
)
 Defendant.)

No. 83-C-812-B

F I L E D

AUG 13 1987

O R D E R

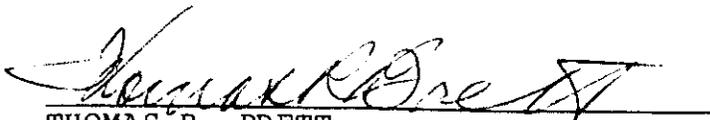
Jack C. Silver, Clerk
U.S. DISTRICT COURT

This Court remanded this case to the Secretary of Health and Human Services for the purpose of awarding past-due benefits to Plaintiff, Larry D. Ketcher. Plaintiff now requests this Court to approve the \$15,936.60 past-due benefits awarded.

Plaintiff's attorneys, Paul F. McTighe, Jr., and Harry V. Rouse, request an order allowing attorney fees in the amount of \$875.00 plus \$65.18 court costs, for services rendered before this Court under 42 U.S.C. §406(b). Defendant submits the \$940.18 fee is reasonable and has no objection.

The Court hereby approves the past-due benefit award of \$15,936.60, and hereby orders the attorney fee award in the amount of \$940.18. Judgment in accord with this order is filed this date.

IT IS SO ORDERED this 11th day of August, 1987.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 DANIEL J. JENKINS; TREASA D.)
 JENKINS; COUNTY TREASURER,)
 Ottawa County, Oklahoma; and)
 BOARD OF COUNTY COMMISSIONERS,)
 Ottawa County, Oklahoma,)
)
 Defendants.) CIVIL ACTION NO. 86-C-924-B

DEFICIENCY JUDGMENT

Now on this 13th day of August, 1987, 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 29th day of July, 1987, and a copy of said Motion being mailed to Daniel J. Jenkins and Treasa D. Jenkins, 1318 East 45th Place, Tulsa, Oklahoma 74105. The Plaintiff, United States of America, acting on behalf of the Administrator of Veterans Affairs, appeared by Tony M. Graham, United States Attorney for the Northern District of Oklahoma through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendants, Daniel J. Jenkins and Treasa D. Jenkins, appeared neither in person nor by counsel.

The Court upon consideration of said Motion finds that the amount of the Judgment rendered herein on January 27, 1987, in favor of the Plaintiff United States of America, and against the Defendants, Daniel J. Jenkins and Treasa D. Jenkins, with interest and costs to date of sale is \$32,971.41.

The Court further finds that the appraised value of the real property at the time of sale was \$19,000.00.

The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Judgment of this Court entered January 27, 1987, for the sum of \$16,818.00 which is less than the market value.

The Court further finds that the said Marshal's sale was confirmed pursuant to the Order of this Court on the 22nd day of July, 1987.

The Court further finds that the Plaintiff, United States of America on behalf of the Administrator of Veterans Affairs, is accordingly entitled to a deficiency judgment against the Defendants, Daniel J. Jenkins and Treasa D. Jenkins, as follows:

Principal Balance as of 05/18/87	\$27,103.37
Interest	5,194.56
Late Charges	150.72
Appraisal	125.00
Management Broker Fees	180.00
Court Costs	<u>217.76</u>
TOTAL	\$32,971.41
Less Credit of Appraised Value	- <u>19,000.00</u>
DEFICIENCY	\$13,971.41

plus interest on said deficiency judgment at the legal rate of 6.98 percent per annum from date of deficiency judgment until paid; said deficiency being the difference between the amount of Judgment rendered herein and the appraised value of the property herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the United States of America on behalf of the Administrator of Veterans Affairs have and recover from Defendants, Daniel J. Jenkins and Treasa D. Jenkins, a deficiency judgment in the amount of \$13,971.41, plus interest at the legal rate of 6.98 percent per annum on said deficiency judgment from date of judgment until paid.

S/ WILLIAM R. BRETT

UNITED STATES DISTRICT JUDGE

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

FEDERAL DEPOSIT INSURANCE CORP.)
)
 Plaintiff,)
)
 v.)
)
 W.F. MARTIN, et al)
)
 Defendants.)

87-C-244-B

F I L E D

AUG 13 1987

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

ORDER

The Court has for consideration the Report and Recommendation of the Magistrate filed July 21, 1987, in which the Magistrate recommended that the Motion of the Plaintiff and counter defendant Federal Deposit Insurance Corporation, to dismiss defendant's amended counterclaim only insofar as to punitive damages, and otherwise 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 Report and Recommendation of the Magistrate should be and hereby is affirmed.

It is therefore Ordered that the Motion of the Plaintiff and counter defendant Federal Deposit Insurance Corporation, as the receiver for First National Bank of Sapulpa to dismiss defendant's amended counterclaim is granted, only insofar as to punitive damages, and is otherwise denied.

Dated this 13th day of August, 1987.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

BURLINGTON NORTHERN RAILROAD
COMPANY,

Plaintiff,

vs.

LESLIE ELTON DALLAS,

Defendant.

No. 86-C-683-B

F I L E D

AUG 13 1987

ORDER

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

Upon stipulation of the parties and for good cause shown,
defendant's cause of action and counterclaim are dismissed with
prejudice and plaintiff's cause of action may proceed.

IT IS SO ORDERED this 13 day of August, 1987.

S/ THOMAS R. BRETT

United States District Judge

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

HOWARD LEE GRAGG and SUE GRAGG,)
)
 Plaintiffs,)
)
 vs.)
)
 STEPHEN M. BRADLEY and)
 BURLINGTON NORTHERN RAILROAD)
 COMPANY,)
)
 Defendants.)

No. 87-C-507-B

F I L E D

AUG 13 1987

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

ORDERS

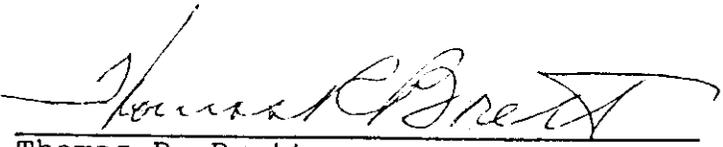
On the 11th day of August, 1987, the parties hereby appearing by their attorneys, the Court heard the motions of the parties and made the following rulings:

1. The Motion of Defendant, Steven M. Bradley, to Dismiss, is sustained and he is dismissed from this suit. No cause of action alleged against resident Defendant.

2. Plaintiffs' Motion to Remand is overruled and the Court retains jurisdiction of this action.

3. Plaintiffs' Application for Leave to Amend Petition is denied upon the representation of plaintiffs' counsel's statement that the application had been filed only for the purpose of supporting plaintiffs' Motion to Remand.

IT IS SO ORDERED.



Thomas R. Brett
United States District Judge

FILED

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

AUG 13 1987

James O. Ellison, Clerk
U.S. DISTRICT COURT

FEDERAL DEPOSIT INSURANCE CORPORATION,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 86-C-1027-E
)	
PAT SCUDDER, an individual,)	
)	
Defendant.)	

ORDER AND JUDGMENT

Now before the Court for its consideration is the Report and Recommendation of U. S. Magistrate Jeffrey S. Wolfe, filed on June 2, 1987, in which the Magistrate recommended that Plaintiff Federal Deposit Insurance Corporation's "Application for Attorney Fees" 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, this Court has concluded that the Report and Recommendation of the Magistrate should be and hereby is affirmed and adopted by this Court as its own.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff Federal Deposit Insurance Corporation is granted judgment in its favor on its Application for Attorney Fees, in the amount of \$285.00, representing three hours time at the rate of \$95.00 per hour.

DATED this 12th day of June, 1987.

S/ THOMAS R. BRETT

for James O. Ellison
United States District Judge

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

AUG 12 1987

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

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

TROY SMITH,)

Defendant.)

CIVIL ACTION NO. 87-C-576-B

NOTICE OF DISMISSAL

COMES NOW the United States of America by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, Plaintiff herein, through Peter Bernhardt, Assistant United States Attorney, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action without prejudice.

Dated this 12 day of August, 1987.

UNITED STATES OF AMERICA

TONY M. GRAHAM
United States Attorney

PETER BERNHARDT
Assistant United States Attorney
3600 United States Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

CERTIFICATE OF SERVICE

This is to certify that on the 12 day of August, 1987, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to: Mr. Troy Smith, 647 East 52nd Place North, Tulsa, Oklahoma 74126.

Assistant United States Attorney

PB/mp

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

CANSO OIL & GAS, INC.,
a Delaware corporation,

Plaintiff,

v.

DRILLERS, INC.,
a Texas corporation,

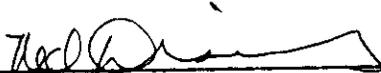
Defendants.

Case No. 87-C-225-C

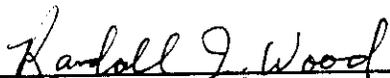
STIPULATION ^{OF} FOR
DISMISSAL WITH PREJUDICE

IT IS HEREBY STIPULATED AND AGREED, by and between Canso Oil & Gas, Inc. and Drillers, Inc., through their respective counsel, that this action be, and the same is, dismissed with prejudice.

Dated this 12th day of August, 1987.


Kenneth L. Brune
Ned Dismukes
BRUNE, PEZOLD, RICHEY & LEWIS
700 Sinclair Building
Six East Fifth Street
Tulsa, OK 74103
Telephone: 918/584-0506

Attorneys for Plaintiff


Randall J. Wood
STACK & BARNES, P.C.
701 N.W. 63rd Street
Suite 500
Oklahoma City, OK 73116
Telephone: 405/843-0363

Attorney for Defendant

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

FILED

AUG 12 1987

HOME SAVINGS & LOAN ASSOCIATION,)
F.A.,)
)
Plaintiff,)
)
v.)
)
SOUTHWOOD PARTNERSHIP, et al.,)
)
Defendants and)
Third-Party Plaintiffs,)
)
v.)
)
FEDERAL SAVINGS AND LOAN INSURANCE)
CORPORATION, as Receiver for)
FIRST FEDERAL SAVINGS AND LOAN)
ASSOCIATION OF MARYLAND, et al.,)
)
Third-Party Defendants.)

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

No. 87-C-276-B

O R D E R

This matter comes before the Court on Third-Party Defendant Federal Savings and Loan Insurance Corporation's ("FSLIC") motion to dismiss for lack of subject matter jurisdiction. The FSLIC claims that federal law and regulations require that Defendant and Third-Party Plaintiff Southwood Partnership, must pursue its claims through an administrative process established by the Federal Home Loan Board ("Bank Board").

In April 1984, Plaintiff, Home Savings and Loan Association ("Home"), loaned \$13,750,000 to Southwood Partnership to finance a real estate project. As consideration for this loan, Southwood executed and delivered to Home a promissory note, secured by a deed of trust on real property. Southwood failed to make timely

payments on the loan and Home accordingly commenced this action in state court to obtain payment on the note and certain guaranties and seeking foreclosure on the security property.

Before Home instituted the foreclosure action, it had entered into loan participation agreements with several other savings institutions, including First Federal of Maryland ("FFM"). Pursuant to these agreements, Home transferred to the other institutions the right to receive portions of the principal and interest payments made by Southwood in exchange for which FFM and the others agreed to fund portions of the loan to Southwood. In answering Home's complaint, Southwood asserted third-party claims against the participant lenders, including FFM. Southwood alleges in its third-party complaint that FFM and the other lenders failed to disburse all loan proceeds, used their economic power to coerce Southwood to take certain actions, and generally exerted such control over the project as to become general partners. Southwood requests damages and other relief from the participant lenders.

On March 20, 1987, the Bank Board found and declared that FFM was insolvent and in an unsafe and unsound condition to transact business. Accordingly, the Bank Board appointed the FSLIC as receiver for FFM for purposes of liquidation. Pursuant to 12 U.S.C. §1730(k)(1)(c), the FSLIC removed this action to this Court.

The FSLIC's assertion of adjudicatory power rests first on 12 U.S.C. §1464(d)(6)(c) which states:

"Except as otherwise provided in this subsection, no court may take any action for or toward the removal of any conservator or receiver, or, except at the instance of the Board, restrain or affect the exercise of powers or functions of a conservator or receiver."

The FSLIC asserts that judicial adjudication of creditors claims would restrain or affect the exercise of its receivership powers in violation of the statute. The FSLIC cites North Mississippi Savings and Loan Association v. Hudspeth, 756 F.2d 1096 (5th Cir. 1985), which held that no court can adjudicate or enforce any right against the receiver or its assets, or delay or otherwise effect any allocation or distribution of receivership assets in satisfaction of a claim. The court reasoned that "resolution of even the facial merits of claims outside the statutory reorganization process would delay the receivership function of distribution of assets..." Given the overriding Congressional purpose of expediting the FSLIC's task as receiver, such a delay is a restraint within the scope of the statute. Hudspeth at 1102.

Several courts have construed the §1464 statute provisions to require the dismissal for lack of subject matter jurisdiction of any claims asserted by any party against the closed association, the receiver, or the receivership assets. E.g., Lyons Savings and Loan Association v. Westside Bancorporation, Inc., No. 86-1793 (7th Cir. June 5, 1987) (affirming 636 F.Supp. 576 (N.D.Ill. 1986)); First Financial Savings and Loan Association of El Dorado v. FSLIC, 651 F.Supp. 1289 (E.D.Ark. 1987); Kohlbeek v. Kis, 651 F.Supp. 1233 (D.Mont. 1987); Sunrise

Savings and Loan Association v. LIR Development Co., 641 F.Supp. 744 (S.D.Fla. 1986).

The FSLIC also relies on 12 U.S.C. §1729(d), which states:

"In connection with the liquidation of insured institutions in default, (FSLIC) shall have the power to carry on the business of and to collect all obligations to the insured institutions, to settle, compromise, or release claims in favor of or against the insured institutions, and to do all other things necessary in connection therewith, subject only to the regulation of the court or other public authority having jurisdiction over this matter."

This provision, argues FSLIC, demonstrates Congress' intent that FSLIC have plenary power in connection with the liquidation of insolvent institutions. See also, §1729(a) (grant of authority to facilitate the liquidation of insured institutions), §1729(b)(1)(A)(v) (FSLIC authorized to liquidate assets in an orderly manner), §1729(c)(3)(B) (authority to liquidate granted).

Southwood cites the alternate construction of §1464 as held by the Ninth Circuit in Morrison-Knudsen Co. v. CHG International, Inc., 811 F.2d 1209 (9th Cir. 1987). The Morrison-Knudsen court held that a receiver's ordinary functions do not include adjudication. Common law receivers have never in ordinary practice had the power to adjudicate claims; that power remains vested in the courts. Id. at 1219. After a review of FSLIC's statutes and legislative history, the Ninth Circuit found that it was unable to locate a single explicit indication in the legislative history or the language of its governing statutes that Congress intended or expected FSLIC to adjudicate claims as part of its receivership functions. Id.

The Ninth Circuit's holding in Morrison-Knudsen seems to stand alone in its interpretation of §1464. Several courts have taken the posture of the Fifth Circuit's holding in Hudspeth, including the District Court for the Northern District of Florida, which stated:

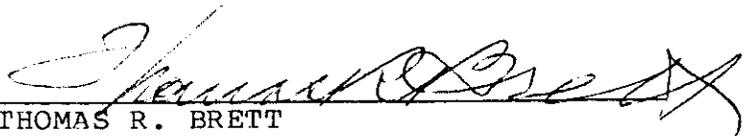
"The primary purpose of this entire statutory scheme was to protect the average depositor from financial ruin resulting from the failure of a savings institution. This purpose would be defeated by the denial of even one valid depositor claim. This legislation was not designed to protect creditors.... Under Hudspeth, all claims of Fairfax are switched to the administrative process by §1464(d)(6)(c). Fairfax can challenge the FSLIC's actions before the FHLBB and, if dissatisfied, can seek judicial review under the Administrative Procedure Act. Until such time, the statute prevents Fairfax from going forward in any court before seeking review before the FHLBB."

"This Court concludes that 12 U.S.C. §1464, 1729(d), preclude courts from adjudicating creditor claims and thus dismissal due to lack of subject matter jurisdiction.

FSLIC v. Urquhardt, No. 86-04294 (N.D.Fla. April 7, 1987); FSLIC v. Oldenburg, No. 85-C-1481W (D.Utah April 18, 1987); Acquisition Corp. of America v. Sunrise Savings and Loan Association, No. 86-2144-CIV (S.D.Fla. April 24, 1987).

Although a case of first impression in the Tenth Circuit, the weight of authority leads to the conclusion that this Court has no power to affect the functions of the receiver, as would the adjudication of the present claims. The FSLIC should be subject to the regulation of the FHLBB and the motion to dismiss for lack of subject matter jurisdiction is hereby granted.

IT IS SO ORDERED, this 11th day of August, 1987.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

AUG 11 1987

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

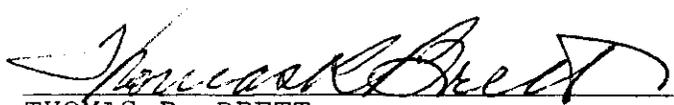
HAROLD and BARBARA)
PICKENS,)
)
Plaintiffs,)
)
v.)
)
CAPITAL MORTGAGE COMPANY,)
et al.,)
)
Defendants.)

No. 86-C-810-B

J U D G M E N T

In accordance with the Order entered July 31, 1987,
IT IS HEREBY ORDERED AND ADJUDGED that Judgment is entered in favor
of the Defendants, Fleet Mortgage Company and AGS Title Company,
and against the Plaintiffs, Harold and Barbara Pickens, on all of
the Plaintiffs' claims herein and that Plaintiffs are to take nothing
thereby. The parties are to pay their respective costs of this action.

DATED, this 11th day of Aug., 1987.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

F I L E D

AUG 11 1987

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

BRYANT W. WELLS, MURRAY B. WELLS,)
CLARK D. WELLS, Beneficiaries of)
the DOW TRUST,)

Petitioners,)

v.)

NO. 87-C-358-B

UNITED STATES OF AMERICA, JERRY)
McCULLEY, Internal Revenue Agent,)
GWEN DAMPEER, Internal Revenue)
Service Employee, COMMISSIONER OF)
INTERNAL REVENUE K. J. Sawyer,)
District Director, Internal)
Revenue Service,)

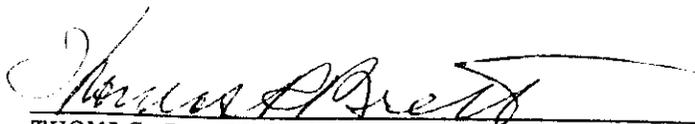
Defendants.)

O R D E R

This matter came before the Court for hearing on July 10, 1987. At the time of the hearing the Plaintiffs announced that they would seek to settle the instant dispute through alternate methods and moved to dismiss with prejudice.

The Court finds that the Plaintiffs' motion to dismiss this action with prejudice should be granted and IT IS THEREFORE ORDERED AND ADJUDGED that the instant action is dismissed with prejudice.

IT IS SO ORDERED this 10th day of August, 1987.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

F I L E D

AUG 11 1987

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

ARVLE E. MEDLIN,)
)
 Plaintiff,)
)
 v.) No. 86-C-681-B
)
 FRANK THURMAN, Sheriff of)
 Tulsa County, Oklahoma,)
 et al.,)
)
 Defendants)

O R D E R

This matter comes before the Court on the Motions for Summary Judgment of Defendants Frank Thurman, Don Carter and A. T. Ferree. The Motions for Summary Judgment were filed June 23, 1987, and the Plaintiff has failed to respond thereto. Rule 14(a) of the United States District Court for the Northern District of Oklahoma provides:

"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."

Since the Defendants' motions were filed June 23, 1987, Plaintiff's memoranda in opposition to the Motions for Summary Judgment were due no later than July 8, 1987.

The Court's deputy clerk contacted Plaintiff on July 22, 1987, and advised counsel that a reply or an application for extension of time to reply had to be filed no later than July 24, 1987.

As of August 11, 1987, Plaintiff has not filed his response to these motions and has not requested an extension of time within which to so respond. Thus, under Rule 14(a) Plaintiff's failure to respond constitutes a confession of the matters raised by the Defendants' Motions for Summary Judgment. Thus, Defendants' Motions are deemed confessed. For this reason, the Motions for Summary Judgment are sustained. A separate Judgment in accordance with this Order will be entered contemporaneously.

IT IS SO ORDERED, this 11th day of August, 1987.

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

THOMAS R. BRET
UNITED STATES DISTRICT JUDGE

ED
AUG 10 1987
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

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

WESTERN CASUALTY AND SURETY)
COMPANY, a foreign corporation,)
)
Plaintiff,)
)
v.)
)
FLOYD EASTER, CHARLES ROGER HOLLIS,)
DERAL T. HOLLIS, and BILLY EASTER,)
)
Defendants.)

CASE NO.: 87-C-212-E

APPLICATION OF PLAINTIFF TO DISMISS
CAUSE WITHOUT PREJUDICE

COMES NOW the Plaintiff, Western Casualty and Surety Company, and requests of this Court an Order dismissing the above captioned matter without prejudice to the refileing of same. Plaintiff would show the Court that the State Court action which gave rise to this cause for declaratory judgment has been dismissed with prejudice as is shown by the "Dismissal With Prejudice" attached hereto as Exhibit A. The issues in Plaintiff's declaratory judgment action have thereby been rendered moot. Plaintiff therefore requests that the Court enter an Order dismissing this cause without prejudice.

Respectfully Submitted,

KNIGHT, WAGNER, STUART, WILKERSON & LIEBER

SCOTT D. CANNON OBA #10755
P. O. Box 1560
Tulsa, Oklahoma 74101-1560
(918) 584-6457

AUG 10 1987

J. O. Cannon, Clerk
U.S. DISTRICT COURTORDER

NOW ON THIS 10th day of August, 1987, there came on for consideration Plaintiff's request for Order dismissing its cause without prejudice. Being apprised in the premises, and finding that the State Court action giving rise to Plaintiff's Complaint has been dismissed, rendering this action moot, the Court finds that Plaintiff's Motion should be granted and an Order entered dismissing this action without prejudice.

WHEREFORE, Plaintiff's cause of action against the Defendants herein is hereby dismissed without prejudice to the refiling of same.

S/ THOMAS R. BRETT

for JUDGE JAMES O. ELLISONCERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing has been mailed to the following attorneys of record, with sufficient postage thereon, on this 7th day of August, 1987.

Mr. Gary J. Dean
Attorney at Law
P. O. Drawer 1047
Pryor, OK 74362-1047

Mr. James K. Secrest, II
Attorney at Law
1515 E. 71st, Ste. 102
Tulsa, OK 74136

SCOTT D. CANNON

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

F I L E D

AUG 10 1987

ANTHONY VINCENT LUDWICK,)
)
 Plaintiff,)
)
v.)
)
DAN LAWRENCE and the)
ATTORNEY GENERAL OF THE)
STATE OF OKLAHOMA,)
)
 Defendants.)

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

No. 86-C-873-B

O R D E R

This matter comes before the Court on a request to issue a certificate of probable cause to perfect Petitioner's appeal to the Tenth Circuit Court of Appeals.

Fed.R.App.P. 22(b) provides in a habeas corpus proceeding in which the detention complained of arises out of process issued by a state court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of probable cause.

The test for granting a certificate of probable cause requires that the issue to be raised is "not frivolous" and more recently has required the question be of some "substance" before the certificate shall issue. Gardner v. Pogue, 558 F.2d 548 (9th Cir. 1977). In Clements v. Wainwright, 648 F.2d 979, 981 (5th Cir. 1981), the Court said:

"... The test for granting a certificate of probable cause is stricter. Justice (then Judge) Blackmun has stated:

"My own reaction is that the cases [of the several circuits], taken as a whole,

do indicate that the standard of probable cause requires something more than the absence of frivolity and that the standard is a higher one than the 'good faith' requirement of §2925.'

"Blackmun, Allowance of In Forma Pauperis Appeals in §2255 and Habeas Corpus Cases, 8 Cir., 43 F.R.D. 343, 352 (1967), quoted in Gardner v. Poque, 558 F.2d 548 (9th Cir. 1977) ..."

The Court has applied the test for granting a certificate of probable cause and finds such certificate should issue pursuant to Fed.R.App.P. 22(b), the issue raised by Petitioner not being frivolous and of some substance.

IT IS THEREFORE ORDERED as follows:

1. A certificate of probable cause is hereby issued pursuant to Fed.R.App.P. 22(b).

ENTERED this 10 day of August, 1987.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

MISSOURI PACIFIC RAILROAD COMPANY,
a Delaware corporation,

Plaintiff,

vs.

UNITED FRUIT AND PRODUCE COMPANY
OF OKLAHOMA, a Missouri corporation,

Defendant,

and,

TOM LANGE COMPANY, INC., a Missouri
Corporation,

Third-Party Defendant.

No. 85-C-1091-E

FILED

AUG 10 1987

W. J. [unclear], Clerk
U.S. DISTRICT COURT

JOURNAL ENTRY OF JUDGMENT

This cause came on before me, the undersigned United States District Judge, on the 26th day of March, 1987, upon Plaintiff's "Request to Enter Judgment Upon Stipulation". The Court, treating said Request as a Motion for Summary Judgment under Fed.R.Civ.Proc. 56, found that the Plaintiff and Defendant had stipulated to all facts material to Plaintiff's claim against Defendant and that summary judgment should be entered thereon in favor of Plaintiff and against Defendant for \$4,342.00.

This cause again came on before the undersigned on the _____ day of July, 1987, upon the "Report and Recommendation of U.S. Magistrate" that, inter alia, Defendant's Counterclaim against Plaintiff should be dismissed for failure of Defendant to appear at a Status Conference on July 1, 1987, after having been given proper notice. No objection has been filed to said Report.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff Missouri Pacific Railroad Company have and recover of Defendant United Fruit and Produce Company of Oklahoma the principal sum of \$4,342.00, along with interest at the prescribed statutory rate, a reasonable attorneys' fee, and the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Counterclaim of Defendant against Plaintiff be, and the same hereby is, DISMISSED.

DATED this 10 day of July, 1987.

S/ THOMAS R. BRETT

for James O. Ellison
United States District Judge

APPROVED AS TO FORM:


Tom L. Armstrong, OBA #329
Joe M. Fears, OBA #2850
MARSH & ARMSTRONG
808 ONEOK Plaza
100 West Fifth Street
Tulsa, Oklahoma 74103
(918) 587-0141

ATTORNEYS FOR PLAINTIFF


Vincent D. Vogler
Post Office Box 27337
St. Louis, Missouri 63141-1737
(314) 567-7970

ATTORNEY FOR DEFENDANT

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

JOHN DEERE COMPANY
Plaintiff

vs

Case #87-C-505-B

ROBERT FITZSIMMONS
Defendant

FILED

AUG 10 1987

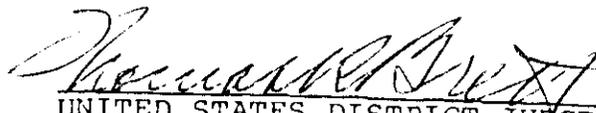
Jack C. Silver, Clerk
U.S. DISTRICT COURT

ADMINISTRATIVE CLOSING ORDER

The defendant having filed its petition in bankruptcy and these proceeding 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 prupose required to obtain a final determination of the litigation.

IF, within 60 days of a final adjudication of the bankruptcy proceedings, 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 10 day of AUGUST, 19 87.


UNITED STATES DISTRICT JUDGE
THOMAS R. BRETT

4810-0019
DFA/tlf
MID

Firm Bar No. 31

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

WANDA D. JONES,)
)
 Complainant,)
)
 vs.)
)
 MICHROME, INC., MID-STATES)
 AIRCRAFT ENGINES, INC., MIKE)
 MILLER, DON PARISH, and)
 STEPHEN R. RUSSELL,)
)
 Respondents.)

No. 87-C-500B ✓

FILED

AUG 10 1987 *jc*

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

ORDER FOR DISMISSAL WITH PREJUDICE

Upon Stipulation of the parties for dismissal with
prejudice;

IT IS SO ORDERED.

Dated August 10, 1987.

[Signature]

JUDGE OF THE DISTRICT COURT

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

REPUBLIC TRUST & SAVINGS)
COMPANY, (d/b/a Western Trust)
and Savings Company), an)
Oklahoma Trust Company)

DOBIE R. LANGENKAMP,)
Successor Trustee,)

Plaintiff,)

v.)

LEROY DENNIS AND)
JANET DENNIS,)

Defendants.)

FILED

AUG 10 1987

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

87-C-376-B

ORDER

This matter comes before the court on defendants' Motion for Leave to Appeal From an Interlocutory Order of the United States Bankruptcy Court for the Northern District of Oklahoma. For the reasons set forth below, the Motion for Leave to Appeal is denied.

In October, 1985, the Trustee for Republic Trust & Savings Company ("RTS") filed an adversary complaint against defendants to recover an alleged preferential transfer in the amount of \$342,361.07. Defendants claimed that the redemption of their RTS thrift certificate in July, 1984 fell within the "ordinary course of business" exception to the preference statute codified at 11 U.S.C. §547(c)(2). Defendants further claimed that the Trustee had denied defendants due process by not giving them notice of the time in which to accept or reject the RTS Reorganization Plan or of the date and time of the hearing on confirmation of the Plan.

Defendants filed a motion for summary judgment in the Bankruptcy Court raising the two claims stated above. The Honorable Glen E. Clark, sitting by designation, entered an order on May 1, 1987 denying defendants' summary judgment motion. From that order defendants now seek leave to appeal.

Authority for the District Court to hear appeals from interlocutory orders is found at 28 U.S.C. §158, which provides in pertinent part:

(a) The district courts of the United States shall have jurisdiction to hear appeals from final judgments, orders, and decrees, and, with leave of the court, from interlocutory orders and decrees, of bankruptcy judges entered in cases and proceedings referred to the bankruptcy judges under section 157 of this title. An appeal under this subsection shall be taken only to the district court for the judicial district in which the bankruptcy judge is serving; and,

(c) An appeal under subsections (a) and (b) of this section shall be taken in the same manner as appeals in civil proceedings generally are taken to the courts of appeals from the district courts and in the time provided by Rule 8002 of the Bankruptcy Rules.

Section 158 is silent as to what standard or considerations should be employed by the district court in determining whether leave to appeal should be granted.

Because bankruptcy appeals are to be taken in the same manner as appeals in civil matters, generally, the court finds the statutory provision governing interlocutory appeals from district courts to appellate courts should be applied. 28 U.S.C. §1292(b). See, In re Johns-Manville Corp., 47 B.R. 957 (S.D.N.Y. 1985). In general, exceptional circumstances must be present to warrant allowing an interlocutory appeal. Coopers & Lybrand v.

Livesay, 437 U.S. 463 (1977). Title 28 U.S.C. §1292(b) mandates three conditions requisite to an interlocutory appeal: (1) the existence of a controlling question of law; which (2) would entail substantial ground for differences of opinion; and (3) the resolution of which would materially advance the ultimate termination of the litigation.

The defendants have failed to satisfy any of these requirements. Thus, this court is compelled to deny the motion for leave to appeal.

Moreover, the likelihood of defendants prevailing on appeal, should this court give them leave to do so, is one consideration for the court in determining whether defendant should be given leave to appeal the action of the Bankruptcy Court. In In re Den-Col Cartage & Distribution, Inc., 20 B.R. 645 (D.Colo. 1982), the court outlined the standards to determine when "the circumstances are extraordinary enough to warrant an interlocutory appeal." Id. at 648. According to the court, an interlocutory appeal should be allowed only when:

(1) the appellant has demonstrated a substantial likelihood that he will eventually prevail on his appeal;

(2) the appellant has demonstrated that the party he represents will suffer irreparable injury unless the interlocutory appeal is allowed;

(3) the potential injury to the appellant's client if the appeal is not allowed outweighs the potential injury to other parties if the appeal is allowed; and

(4) an interlocutory appeal is not adverse to either the public interest or the orderly administration of the Chapter 11 bankruptcy proceeding.
Id.

Here, the defendants have not demonstrated that, should leave be denied, they will suffer irreparable injury; nor have they shown that their potential injury, if the appeal is not allowed, outweighs the potential injury to the plaintiff if the appeal is allowed; nor have defendants demonstrated a substantial likelihood that they would prevail on appeal. Thus, defendants have failed to meet the necessary standard for this court to allow their appeal. Additionally, the court finds that the interests of justice would better be served by a review of the bankruptcy court proceedings in their entirety at their conclusion. For these reasons, the Motion for Leave to Appeal is hereby denied.

It is so Ordered this 10th day of August, 1987.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

DALE KELSO,)
)
 Plaintiff,)
)
 v.) No. 87-C-41-B
)
 THE AMERICAN TOBACCO CO.,)
 a foreign corporation,)
)
 Defendant.)

FILED
AUG 10 1987
Jack C. Silver, Clerk
U.S. DISTRICT COURT

O R D E R

This matter comes before the Court on the Plaintiff's request to reconsider this Court's order of July 21, 1987, and the Defendant's Request for Entry of an Order of Dismissal With Prejudice. On July 13, 1987, the Court ordered the Plaintiff, Dale Kelso, to pay to the Defendant, The American Tobacco Company, the sum of One Thousand Six Hundred Thirty Four and 93/100 Dollars (\$1,634.93), on or before July 17, 1987, for expenses incurred unnecessarily during discovery. On July 16, 1987, the Plaintiff requested the Court to reconsider its July 13, 1987 order. On July 21, 1987, the Court entered an order overruling the motion to reconsider but allowing the Plaintiff until July 28, 1987, in which to adhere to the Court's order regarding payment of expenses.

Now before the Court is the Plaintiff's second motion to reconsider the earlier order. In his motion, the Plaintiff states that the Defendant's counsel failed to appear at a rescheduled deposition of the Plaintiff on July 20, 1987, and therefore the order awarding expenses should be vacated.

The Court has reviewed the arguments raised by the Plaintiff and the Defendant's response that it failed to appear for the deposition based upon the belief that the continuation of the deposition was conditioned upon the compliance by the Plaintiff with the Court's order made at the July 7, 1987 hearing. The Court finds the Defendant's interpretation of the previous order correct and denies the Plaintiff's second motion to reconsider.

The Court therefore finds that the Plaintiff, Dale Kelso, has failed to comply with the Court's orders filed July 13, 1987 and July 21, 1987; this action is dismissed with prejudice.

DATED this 10th day of August, 1987.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

ELTA THOMAS and LEONARD)
THOMAS,)
)
Plaintiffs,)
)
vs.)
)
SANBORDE, INC., a corporation,)
HARP'S FOOD STORES, INC., a)
corporation; and KEANE-)
MONROE AUTOMATIC OPERATING)
SYSTEMS, INC., a corporation,)
)
Defendants.)

No. 86-C-96-6

FILED

AUG 10 1987

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

ORDER

Upon stipulation of the parties through their respective counsel of record it is herewith ordered that the above styled and numbered cause be and the same is hereby dismissed with prejudice with each party to bear their or its own costs.

Dated this 10th day of August, 1987.

S/ THOMAS R. BRETT
THOMAS R. BRETT
United States District Judge

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
 vs.)
)
 RICHARD D. STEWART,)
 BARBARA R. STEWART,)
 O'MALLEY EQUIPMENT COMPANY,)
 BOARD OF COUNTY COMMISSIONERS,)
 Nowata County, Oklahoma,)
 COUNTY TREASURER, Nowata)
 County, Oklahoma,)
)
 Defendants.)

F I L E D

AUG 10 1987

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

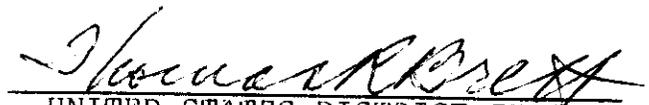
CIVIL ACTION NO. 83-C-12-B

ORDER DISMISSING WITHOUT PREJUDICE

NOW before the Court for its consideration is the Motion of the Plaintiff, United States of America, to dismiss the above-captioned case without prejudice.

Good cause being shown, and there being no objection, it is ordered that the above-captioned case is hereby dismissed without prejudice.

IT IS SO ORDERED this 10 day of August, 1987.


UNITED STATES DISTRICT JUDGE

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

ROBERT J. WEEMS and DEBORAH WEEMS,)
)
 Plaintiffs,)
)
 vs.)
)
 NATIONAL FLOOD INSURANCE PROGRAM)
 and STEAMATIC CARPET CLEANERS,)
)
 Defendants.)

No. 87-C-538-B ✓

FILED

AUG 10 1987 jc

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

ORDER OF DISMISSAL

NOW on this 10th day of August, 1987, upon the written application of the Plaintiffs, Robert J. Weems and Deborah Weems, and the Defendants, National Flood Insurance Program and Steamatic Carpet Cleaners, for a Dismissal with Prejudice as to all claims and causes of action involved in the Complaint of Weems v. National Flood Insurance Program, et al., and 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. The Court being fully advised in the premises finds said settlement is to the best interest of said Plaintiffs.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that all claims and causes of action of the Plaintiffs, Robert J. Weems and Deborah Weems, against the Defendants, National Flood Insurance Program and Steamatic Carpet Cleaners, be and the same hereby are dismissed with prejudice to any future action.



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

APPROVALS:

R. BRENT BLACKSTOCK

R. Brent Blackstock
Attorney for the Plaintiffs

HARRY A. PARRISH

Harry A. Parrish
Attorney for the Defendant
Steamatic Carpet Cleaners

NANCY NESBITT BLEVINS

Nancy Nesbitt Blevins
Attorney for the Defendant
National Flood Insurance
Program

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

AUG 10 1987

U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
ONE 1962 BEEHCRAFT QUEENAIR,)
VIN LD68, MODEL NO. 1152806,)
)
Defendant.)

CIVIL ACTION NO. 86-C-251-E ✓

JUDGMENT OF FORFEITURE

This cause having come before this Court upon Plaintiff's Application and being otherwise fully apprised in the premises, it is hereby

ORDERED, ADJUDGED, AND DECREED that judgment be entered against the Defendant, 1962 Beechcraft Queenair, VIN LD68, Model No. 1152806, and against all persons interested in such property, other than Iliff Aircraft & Service Company, Inc., and that the said property be and the same is hereby forfeited to the United States of America.

F.H. DALE COOK

UNITED STATES DISTRICT JUDGE

for the U.S. District Court

APPROVED:

UNITED STATES OF AMERICA

TONY M. GRAHAM
United States Attorney

Catherine J. Hardin

CATHERINE J. HARDIN
Assistant U.S. Attorney

FILED

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

AUG 10 1987

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

MARY HICKERSON, Individually
and as Personal Representative
of the Heirs and Estate of
JAMES V. HICKERSON, Deceased

PLAINTIFF

VS.

NO. 87-C-160-E ✓

AC & S, INC., ET AL.

DEFENDANTS

ORDER OF DISMISSAL

Upon motion of the Plaintiff, the above cause of action against
Kansas City Insulation Co., Inc., is hereby dismissed.

IT IS SO ORDERED.


for U.S. DISTRICT JUDGE ~~ST~~ JAMES O. ELLISON
DATE: August 7, 1987

43

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

~~FILED~~

~~JUL 28 1987~~

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

FILED

AUG 10 1987

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

PLAINTIFF

MARY HICKERSON, Individually
and as Personal Representative
of the Heirs and Estate of
JAMES V. HICKERSON, Deceased

VS.

NO. 87-C-160-E

AC & S, INC., ET AL.

DEFENDANTS

ORDER OF DISMISSAL

Upon motion of the Plaintiff, the above cause of action against
John Crane is hereby dismissed.

IT IS SO ORDERED.

s/H. DALE COOK

for U.S. DISTRICT JUDGE

DATE: 8/10/87

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

FILED

JUL 29 1987

AUG 10 1987

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

MARY HICKERSON, Individually
and as Personal Representative
of the Heirs and Estate of
JAMES V. HICKERSON, Deceased

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

PLAINTIFF

VS.

NO. 87-C-160-E

AC & S, INC., ET AL.

DEFENDANTS

ORDER OF DISMISSAL

Upon motion of the Plaintiff, the above cause of action against
Defendant Nicolet, Inc. is hereby dismissed.

IT IS SO ORDERED.

s/H. DALE COOK

for U.S. DISTRICT JUDGE JAMES V. HICKERSON
DATE: 8-10-87

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

~~FILED~~

~~FILED~~

~~JUN 22 1987~~

AUG 10 1987

~~Jack C. Silver, Clerk~~

~~U.S. DISTRICT COURT~~

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

MARY HICKERSON, Individually
and as Personal Representative
of the Heirs and Estate of
JAMES V. HICKERSON, Deceased

PLAINTIFF

VS.

NO. 87-C-160-E

AC & S, INC., ET AL.

DEFENDANTS

ORDER OF DISMISSAL

Upon motion of the Plaintiff, the above cause of action against
Defendant The Thermal Products Co. is hereby dismissed.

IT IS SO ORDERED.

s/H. DALE COOK

U.S. DISTRICT JUDGE

DATE: 8-10-87

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

~~FILED~~
JUL 27 1987
JAMES V. HICKERSON, et al.
U.S. DISTRICT COURT

FILED

AUG 10 1987

Joseph W. Clark
U.S. DISTRICT COURT

PLAINTIFF

MARY HICKERSON, Individually
and as Personal Representative
of the Heirs and Estate of
JAMES V. HICKERSON, Deceased

VS.

NO. 87-C-160-E

AC & S, INC., ET AL.

DEFENDANTS

ORDER OF DISMISSAL

Upon motion of the Plaintiff, the above cause of action against
Defendant Crown Cork & Seal Company, Inc. is hereby dismissed.

IT IS SO ORDERED.

Joseph W. Clark
for U.S. DISTRICT JUDGE
DATE: 8-10-87

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

~~FILED~~

~~FILED~~

~~JUN 25 1987~~

AUG 10 1987

U.S. DISTRICT COURT

~~U.S. DISTRICT COURT~~

MARY HICKERSON, Individually
and as Personal Representative
of the Heirs and Estate of
JAMES V. HICKERSON, Deceased

PLAINTIFF

VS.

NO. 87-C-160-E

AC & S, INC., ET AL.

DEFENDANTS

ORDER OF DISMISSAL

Upon motion of the Plaintiff, the above cause of action against
Defendant Benjamin Foster is hereby dismissed.

IT IS SO ORDERED.

s/H. DALE COOK

fn U.S. DISTRICT JUDGE

DATE: 8-10-87

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

FILED

AUG 10 1987

Jud. A. Clerk
U.S. DISTRICT COURT

MARY HICKERSON, Individually
and as Personal Representative
of the Heirs and Estate of
JAMES V. HICKERSON, Deceased

PLAINTIFF

VS.

NO. 87-C-160-E

AC & S, INC., ET AL.

DEFENDANTS

ORDER OF DISMISSAL

Upon motion of the Plaintiff, the above cause of action against
Defendant Colt Industries, Inc. is hereby dismissed.

IT IS SO ORDERED.

s/H. DALE COOK

for U.S. DISTRICT JUDGE

DATE: 8-10-87

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

~~FILED~~

~~FILED JUL 28 1987~~

AUG 16 1987

~~JOSE G. SIVER, Clerk
U. S. DISTRICT COURT~~

MARY HICKERSON, Individually
and as Personal Representative
of the Heirs and Estate of
JAMES V. HICKERSON, Deceased

~~JOSE G. SIVER, Clerk
U. S. DISTRICT COURT~~

PLAINTIFF

VS.

NO. 87-C-160-E

AC & S, INC., ET AL.

DEFENDANTS

ORDER OF DISMISSAL

Upon motion of the Plaintiff, the above cause of action against
Defendant United Insulation is hereby dismissed.

IT IS SO ORDERED.

s/H. DALE COOK

yn U.S. DISTRICT JUDGE

DATE: 8-10-87

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

FILED

FILED

JUL 28 1987

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

AUG 10 1987

MARY HICKERSON, Individually
and as Personal Representative
of the Heirs and Estate of
JAMES V. HICKERSON, Deceased

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

PLAINTIFF

VS.

NO. 87-C-160-E

AC & S, INC., ET AL.

DEFENDANTS

ORDER OF DISMISSAL

Upon motion of the Plaintiff, the above cause of action against
Defendant Gustin-Bacon is hereby dismissed.

IT IS SO ORDERED.

s/H. DALE COOK

U.S. DISTRICT JUDGE

DATE: 8-10-87

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

FILED

AUG 10 1987

J. R. G. Clerk
U.S. DISTRICT COURT

MARY HICKERSON, Individually
and as Personal Representative
of the Heirs and Estate of
JAMES V. HICKERSON, Deceased

PLAINTIFF

VS.

NO. 87-C-160-E

AC & S, INC., ET AL.

DEFENDANTS

ORDER OF DISMISSAL

Upon motion of the Plaintiff, the above cause of action against
Defendant Ball Distribution Co. is hereby dismissed.

IT IS SO ORDERED.

for U.S. District Court

for U.S. DISTRICT JUDGE

DATE: 8-10-87

FILED

AUG - 7 1987

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

Jack C. [unclear]
U.S. DISTRICT COURT

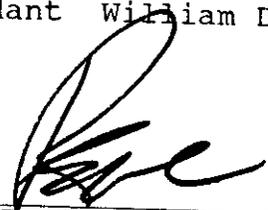
In Re:
HOME-STAKE PRODUCTION
COMPANY SECURITIES
LITIGATION.

) MDL 153 CASES: 73-C-175,
) 73-C-377/73-C-382 (Consolidated),
) 74-C-151, 74-C-180, 74-C-181,
) 74-C-229, 74-C-230, 74-C-231
)

ORDER GRANTING DEFENDANT TRIPPET'S MOTION TO DISMISS
CROSS-CLAIMS AGAINST DEFENDANT WILLIAM D. LEWIS

NOW on this 7th day of Aug., 1987, there comes on for review Defendant Robert S. Trippet's Motion To Dismiss Cross-Claims against Defendant William D. Lewis. Being fully advised in the premises, the Court finds that good cause exists for the granting of the Motion.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the cross-claims filed against the Defendant William D. Lewis by Defendant Robert S. Trippet be dismissed.



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

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

RICHARD VAL CREWS,)
)
 Plaintiff,)
)
 v.)
)
 SHERIFF FRANK THURMAN,)
 TULSA COUNTY JAILERS,)
)
 Defendants.)

87-C-363-C

FILED

AUG 7 1987

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

ORDER

The Court has for consideration the Findings and Recommendation of the Magistrate filed June 4, 1987, in which the Magistrate recommended that plaintiff's civil rights complaint be dismissed. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

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

It is Ordered that plaintiff's civil rights complaint is dismissed under 28 U.S.C. §1915(d).

Dated this 6 day of August, 1987.


H. DALE COOK, CHIEF
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
MARK D. RUDROW; DEBRA S. RUDROW;)
COUNTY TREASURER, Tulsa County,)
Oklahoma; and BOARD OF COUNTY)
COMMISSIONERS, Tulsa County,)
Oklahoma,)
)
Defendants.)

FILED

AUG 7 1987

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

CIVIL ACTION NO. 87-C-309-C

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 6 day
of Aug, 1987. The Plaintiff appears by Tony M.
Graham, 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
Doris L. Fransein, Assistant District Attorney, Tulsa County,
Oklahoma; and the Defendants, Mark D. Rudrow and Debra S. Rudrow,
appear not, but make default.

The Court being fully advised and having examined the
file herein finds that the Defendants, Mark D. Rudrow and
Debra S. Rudrow, acknowledged receipt of Summons and Complaint on
July 1, 1987; that Defendants, County Treasurer and Board of
County Commissioners, Tulsa County, Oklahoma, acknowledged
receipt of Summons and Complaint on April 29, 1987.

It appears that the Defendants, County Treasurer, Tulsa
County, Oklahoma, and Board of County Commissioners, Tulsa

County, Oklahoma, filed their Answers herein on May 18, 1987; and that the Defendants, Mark D. Rudrow and Debra S. Rudrow, have failed to answer and their default has therefore been entered by the Clerk of this Court.

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 North Fifty (50) feet of Lot One (1), Block Twelve (12), FAIRLAND ADDITION to Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof.

The Court further finds that on July 1, 1982, the Defendants, Mark D. Rudrow and Debra S. Rudrow, 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 \$33,600.00, payable in monthly installments, with interest thereon at the rate of fifteen and one-half percent (15.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Mark D. Rudrow and Debra S. Rudrow, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated July 1, 1982, covering the above-described property. Said mortgage was recorded on July 2, 1982, in Book 4623, Page 775, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Mark D. Rudrow and Debra S. Rudrow, made default under the terms of the

aforesaid 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, Mark D. Rudrow and Debra S. Rudrow, are indebted to the Plaintiff in the principal sum of \$34,093.31, plus interest at the rate of fifteen and one-half percent (15.5%) per annum from March 1, 1986 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.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants, Mark D. Rudrow and Debra S. Rudrow, in the principal sum of \$34,093.31, plus interest at the rate of fifteen and one-half percent (15.5%) per annum until judgment, plus interest thereafter at the current legal rate of 6.98 percent per annum until paid, plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, 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, Mark D. Rudrow and Debra S.

Rudrow, 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 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.

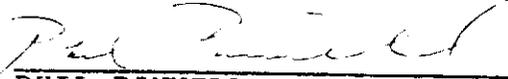
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of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

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney



PHIL PINNELL
Assistant United States Attorney



DORIS L. FRANSEIN
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma

PP/css

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

DONNA RENFRO and BILLY MARTIN RENFRO)

Plaintiff(s),)

vs.)

MANFRED PFEIFFER,)

Defendant(s).)

No. 86-C-950-C

FILED

AUG 7 1987

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

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 6 day of August, 19 87.


UNITED STATES DISTRICT JUDGE

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

FILED

AUG 7 1987

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

BOONE, SMITH, DAVIS & HURST,)

Plaintiff,)

vs.)

HARRY F. THOMPSON,)

Defendant.)

No. 86-C-262-C

JUDGMENT

In accordance with the Confession of Judgment executed by the Defendant, Harry F. Thompson, on January 15, 1987 and filed herein on July 2, 1987, wherein the Defendant confessed judgment in the amount of \$13,583.44, plus interest, judgment is hereby decreed according to the terms of the aforementioned Confession of Judgment, in favor of the Plaintiff, Boone, Smith, Davis & Hurst, and against the Defendant, Harry F. Thompson, in the amount of \$13,583.44, plus interest thereon at a rate of ten percent (10%) per annum from this date.

DATED this 6 day of Aug, 1987.

(Signed) H. Dale Cook

H. DALE COOK
UNITED STATES DISTRICT JUDGE

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

SEE & SEA TRAVEL SERVICE, INC.)	
)	
Plaintiff(s),)	
)	
vs.)	No. 86-C-253-C
)	
)	
JOHN NOVACK)	
)	
Defendant(s).)	

FILED
AUG 7 1987

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

ADMINISTRATIVE CLOSING ORDER

The Defendant having filed its petition in bankruptcy 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 30 days of a final adjudication of the bankruptcy proceedings, 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 6 day of August, 1987.

John Dale Cook
UNITED STATES DISTRICT JUDGE

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

REPUBLIC TRUST & SAVINGS CO.

Plaintiff(s),

vs.

DR. W.L. ASHER

Defendant(s).

No. 83-C-800-C

FILED

AUG 7 1987

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

ADMINISTRATIVE CLOSING ORDER

The defendant having filed its petition in bankruptcy 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 60 days of a final adjudication of the bankruptcy proceedings, 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 6 day of Aug, 1987.

(Signed) H. Dale Cook
UNITED STATES DISTRICT JUDGE

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

AUG 7 1987 A

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

In Re:

HOME-STAKE PRODUCTION
COMPANY SECURITIES
LITIGATION.

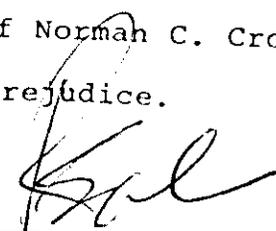
MDL 153 CASES: 73-C-175,
73-C-377/73-C-382 (Consolidated),
74-C-151, 74-C-180, 74-C-181,
74-C-229, 74-C-230, 74-C-231.

ORDER

NOW on this 7th day of Aug., 1987, the defendant Robert S. Trippet's Motion to Dismiss Cross-Claims Against the Co-Defendants Cross and Company, Norman C. Cross, Jr. d/b/a Cross and Company, and the Estate of Norman C. Cross, Jr., coming on for consideration in accordance with Rule 41(a)(2) of the Federal Rules of Civil Procedure, and the Court being fully advised in the premises,

FINDS that defendant Trippet's Motion to Dismiss Cross-Claims Against Co-Defendants Cross and Company, Norman C. Cross, Jr. d/b/a Cross and Company, and the Estate of Norman C. Cross, Jr., should be granted. It is therefore

ORDERED, ADJUDGED AND DECREED that the cross-claims filed by defendant Trippet in the above-referenced cases against the co-defendants Cross and Company, Norman C. Cross, Jr. d/b/a Cross and Company, and the Estate of Norman C. Cross, Jr., be and they are hereby dismissed with prejudice.



Chief Judge, Central District
of California

Robert S. Trippet
Pro Se
1616 First National Building
Tulsa, Oklahoma 74103
(918) 587-3194

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

C & H TRANSPORTATION CO.,
INC.,

Plaintiff,

vs.

EUTSLER DRILLING COMPANY,
a corporation; WYMAN STEAM,
a corporation; and OKLAHOMA
REBEL DRILLING COMPANY, a
corporation,

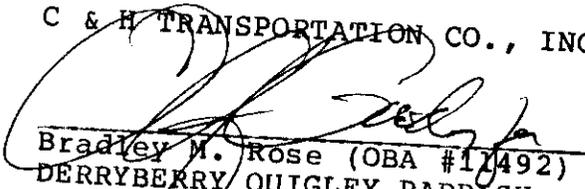
Defendants.

Case No. 85-C-1124 C

DISMISSAL WITH PREJUDICE

COMES NOW the Plaintiff, C & H Transportation Co., Inc.,
by and through its attorney, Bradley M. Rose, and hereby dismisses
the above cause with prejudice as to the Defendants, Eutsler
Drilling Company, a corporation, Oklahoma Rebel Drilling Company,
a corporation, and Clarence "Skip" Eutsler.

C & H TRANSPORTATION CO., INC.


Bradley M. Rose (OBA #11492)

DERRYBERRY QUIGLEY PARRISH

GOODING & NANCE

4800 N. Lincoln Blvd.

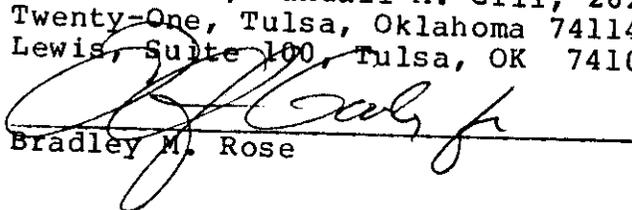
Oklahoma City, OK 73105

(405) 528-6569

ATTORNEY FOR C & H TRANSPORTATION,
CO., INC.

CERTIFICATE OF MAILING

This is to certify that on the 4 day of ^{April}~~April~~, 1987, a true and correct copy of the foregoing document was mailed, postage paid, to Mr. Ann Makela Schneider, Randall A. Gill, 2624 E. 21st Street, Suite 1, Park Twenty-One, Tulsa, Oklahoma 74114 and Mr. David Harris, 5561 S. Lewis, Suite 100, Tulsa, OK 74105.


Bradley M. Rose

IN THE UNITED STATES DISTRICT COURT - 8 1987
FOR THE NORTHERN DISTRICT OF OKLAHOMA

CLERK
U.S. DISTRICT COURT

SOONER ASSOCIATION, a New)
Mexico limited partnership,)
and its general partners,)
W. H. CUNICO and C. B. WATSON,)

Plaintiffs,)

vs.)

Case No. 84-C-771-B

BANK OF COMMERCE AND TRUST)
COMPANY, S & T GAS)
TRANSMISSION COMPANY, and)
WELLHEAD ENTERPRISES, INC.)

Defendants.)

VOLUNTARY DISMISSAL BY STIPULATION
UNDER F.R.C.P. 41(a)(1)(ii)
DUE TO SETTLEMENT

COME NOW the Plaintiffs and hereby dismiss with prejudice the above entitled and numbered action for the reason and upon the grounds that Plaintiffs' claims for relief have been settled.

Pursuant to the provisions of F.R.C.P. 41(a)(1)(ii) voluntary dismissals may be made without order of the court by the filing of a stipulation of dismissal signed by all parties in the action, which is the case herein.

WHEREFORE, the above entitled and numbered action is hereby dismissed with prejudice by stipulation of all parties pursuant to the provisions of F.R.C.P. 41(a)(1)(ii).

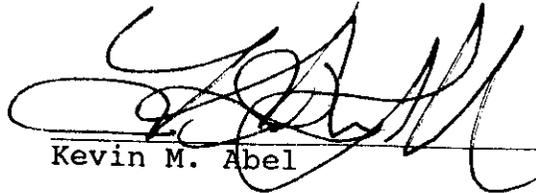
SOONER ASSOCIATION, a New Mexico limited partnership, and its general partners,

By: 
W. H. Cunico.

and


C. B. Watson

2424 Fourth National
Bank Bldg.
Tulsa, OK 74119
(918) 583-2424

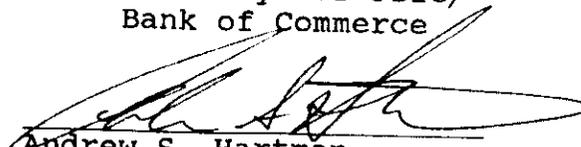

Kevin M. Abel

Attorney for Plaintiffs

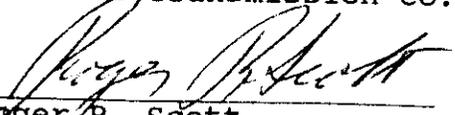
2000 Fourth National
Bank Building
Building
Tulsa, OK 74119
(918) 582-9201


Richard B. Noulles
Attorney for FDIC/
Bank of Commerce

410 Oneok Plaza
Tulsa, OK 74103
(918) 599-9991


Andrew S. Hartman
Attorney for S&T
Gas Transmission Co.

1111 Park Center
Building
Tulsa, OK 74103
(918) 583-8201


Roger R. Scott
Attorney for Wellhead
Enterprises, Inc.

CERTIFICATE OF MAILING

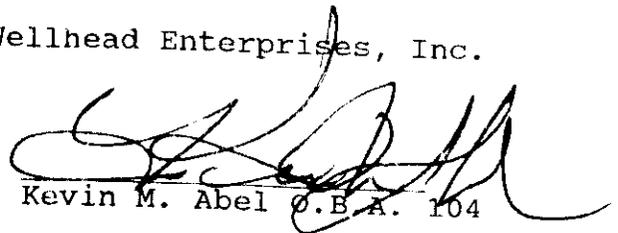
I, Kevin M. Abel, hereby certify that on this 6th day of August 1987, I mailed a true and correct copy of the above and foregoing Dismissal to:

Sooner Association
W.H. Cunico
and
C.B. Watson
P. O. Box 1086
Los Lumas, NM

Richard B. Noulles, Esquire
2000 Fourth National Bank Bldg.
Tulsa, OK 74119
Attorney for FDIC/Bank of Commerce

Andrew S. Hartman, Esquire
410 Oneok Plaza
Tulsa, OK 74103
Attorney for S&T Gas Transmission Co.

Roger Scott, Esquire
1111 Park Center Building
Tulsa, OK 74103
Attorney for Wellhead Enterprises, Inc.



Kevin M. Abel O.B.A. 104

JHP/kgb

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

SHELTER MUTUAL INSURANCE)
COMPANY,)
)
Plaintiff,)
)
vs.)
)
CARL GOURLEY and RICHARD)
GLEN WHITTINGTON,)
)
Defendants.) No. 86-C-1005C

O R D E R

Now on this _____ day of _____, 1987,
pursuant to the plaintiff's request for dismissal, Defendant Carl
Gourley is hereby dismissed from this action.

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

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

AUG 5 1987

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
CHARLES L. BOYD,)
)
Defendant.)

CIVIL ACTION NO. 87-C-12-E

DEFAULT JUDGMENT

This matter comes on for consideration this 4th day
of August, 1987, the Plaintiff appearing by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Nancy Nesbitt Blevins, Assistant United States
Attorney, and the Defendant, Charles L. Boyd, appearing not.

The Court being fully advised and having examined the
file herein finds that Defendant, Charles L. Boyd, acknowledged
receipt of Complaint and Summons on January 23, 1987. 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 the Defendant,

Charles L. Boyd, for the principal sum of \$1,076.63, plus interest at the rate of 12.25 percent per annum and administrative costs of \$.68 per month from May 11, 1984, \$.67 per month from February 1, 1985, and \$.63 per month from February 1, 1986, until judgment, plus interest thereafter at the current legal rate of 6.64 percent per annum until paid, plus costs of this action.

for s/H. DALE COOK
s/ JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

AUG 5 1987

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

86-C-662-E

NEWELL COACH CORPORATION,)
)
Plaintiff,)
)
v.)
)
R. WAYNE LOWE,)
)
Defendant.)

ORDER

The Court has for consideration the Report and Recommendation of the Magistrate filed July 14, 1987, in which the Magistrate recommended that plaintiff's oral motion for dismissal without prejudice 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 Report and Recommendation of the Magistrate should be and hereby is affirmed.

It is therefore Ordered that plaintiff's oral motion for dismissal is granted, defendant's oral objection thereto is denied, and plaintiff's complaint and all claims for relief that are based thereon are dismissed without prejudice.

It is further Ordered that defendant's motion for fees and costs, pursuant to 12 O.S. 1986 Supp. §936 and Federal Rules of Civil Procedure Rule 11, is denied.

It is further Ordered that each party bear its or his own fees and costs.

Dated this 7 day of ^{aug}~~July~~, 1987.

for 
JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Entered

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

PATRICIA BURRITT,

Plaintiff,

v.

K-MART CORPORATION, a Michigan
corporation; TULSA EMERGENCY MEDICAL
CENTER, INC., an Oklahoma corporation; DR.)
JAMES KING; and DOES 1 thru 15, inclusive,)

Defendants.)

FILED

No. 85-C-661-E

AUG 5 1987

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

ORDER OF DISMISSAL WITHOUT PREJUDICE

NOW ON this 4 day of Aug, 1987, it appearing to the Court that this
matter has been compromised and settled, this case is herewith dismissed with
prejudice to the refiling of a future action.

s/H. DALE COOK

S/ JAMES O. ELLISON

GM

United States District Judge

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

F D
AUG 5 1987

INLAND INVESTMENT COMPANY,)
INC., an Oklahoma corporation,)

Plaintiff,)

vs.)

GOMACO, INC., an Oklahoma)
corporation, WARREN F. YOUNG,)
GEORGE W. KNEPPER, and)
TRUMAN A. ARMSTRONG,)

Defendants.)

clerk
DISTRICT COURT

No. 86-C-1168-E

ORDER DISMISSING COMPLAINT AGAINST DEFENDANT KNEPPER ONLY

NOW on this 4th day of Aug, 1987, the Court considers Plaintiff's Motion to Dismiss Complaint Against Defendant George W. Knepper Only. The Court finds that no party objects to the granting of said Motion and that good cause exists for the granting of same.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the instant action against Defendant George W. Knepper only should be, and hereby is, dismissed with prejudice, and that the entirety of the instant action against other Defendants shall remain pending before this Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that as to the dismissed claims against Defendant Knepper, each party shall pay its own attorney fees and costs related thereto.

s/H. DALE COOK

an James O. Ellison
United States District Judge

in brief

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

MISSOURI PACIFIC RAILROAD)
COMPANY,)
)
Plaintiff,)
)
v.)
)
UNITED FRUIT AND PRODUCE)
COMPANY OF OKLAHOMA,)
)
Defendant,)
)
v.)
)
TOM LANGE COMPANY, INC.,)
)
Third-party)
Defendant.)

85-C-1091-E ✓

FILED

AUG 5 1987

U.S. District Court

ORDER

The Court has for consideration the Report and Recommendation of the Magistrate filed July 13, 1987, in which the Magistrate recommended that plaintiff's motion to compel (pleading #29) be granted, and that defendant United Fruit and Produce Company of Oklahoma's counterclaim be dismissed. No objections or exceptions have been filed and the time for filing such exceptions or objections has expired.

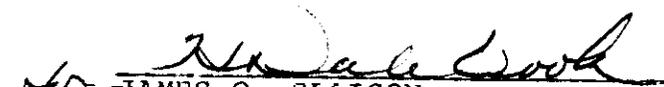
After careful consideration of the record and the issues, the Court has concluded that the Report and Recommendation of the Magistrate should be and hereby is affirmed.

It is therefore Ordered that plaintiff's motion to compel defendant to answer interrogatories is granted and the defendant, United Fruit and Produce Company of Oklahoma, is directed to file such answers within ten days of this date.

h

It is further Ordered that defendant United Fruit and Produce Company of Oklahoma's counterclaim against plaintiff is dismissed without prejudice for failure of defendant to appear for the July 1, 1987 status conference and motion hearing.

Dated this 4 day of July, 1987.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

AUG -5 1987

CLERK
U.S. DISTRICT COURT

H & W BUILDING PRODUCTS, INC.,)
)
Plaintiff)
)
vs.) No. 87-C-301-B
)
UNITED SIDING SUPPLY, INC.,)
)
Defendant.)

STIPULATION OF DISMISSAL

Plaintiff and Defendant, pursuant to Fed. R. Civ. P. 41(a)(1)(ii), stipulate that all claims raised by the parties in the above-styled action shall be, and hereby are, dismissed with prejudice, with each party to bear its own costs herein.

Respectfully submitted,

HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON, P.C.

By: Frank M. Hagedorn
Frank M. Hagedorn
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, Oklahoma 74172

ATTORNEYS FOR H & W
BUILDING PRODUCTS

BLACKSTOCK, JOYCE,
POLLARD & MONTGOMERY

By: Brian J. Rayment
Rick D. Chamberlain
515 South Main, Suite 300
Tulsa, Oklahoma 74103

ATTORNEYS FOR DEFENDANT
UNITED SIDING SUPPLY, INC.

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the above and foregoing instrument was mailed this 4 day of ~~July~~^{August} 1987, to: Brian J. Rayment and Rick D. Chamberlain, BLACKSTOCK, JOYCE, POLLARD & MONTGOMERY, 515 South Main, Suite 300, Tulsa, Oklahoma 74103, with proper postage thereon prepaid.

Gordon D. Quinn

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

\$2,448.00 in United States)
Currency; 1972 Chevrolet)
El Camino; Ranch at 2450 West)
43rd Street North, Tulsa,)
Osage County, Oklahoma;)
Condominium at 13510 East)
30th Place, #B, Tulsa, Tulsa)
County, Oklahoma; Strip)
Shopping Center at 3636 North)
Peoria, Tulsa, Tulsa County)
Oklahoma; Fast Track Lounge)
a/k/a Foxtrot Club at 2530)
Mohawk Boulevard, Tulsa, Tulsa)
County, Oklahoma; Residence)
at 4120 North Frankfort Place,)
Tulsa, Tulsa County, Oklahoma;)
and Residence at 332 Mohawk)
Boulevard, Tulsa, Tulsa)
County, Oklahoma,)

Defendants.)

CIVIL ACTION NO. 86-C-790-E

FILED

AUG 5 1987

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

AMENDED JUDGMENT OF FORFEITURE

This cause having come before this Court upon
Plaintiff's Application for Default Judgment and being otherwise
fully apprised in the premises, it is hereby

ORDERED, ADJUDGED, AND DECREED that judgment be entered
against the defendant properties:

(1) Ranch at 2450 W. 43 Street North, Tulsa, Osage County, Oklahoma:

The W/2 NW/4 NW/4 of Section 15 and a tract of land in the NE/4 NE/4 of Section 16 described: beginning at the Northeast corner of Section 16; thence Southerly along the East line of Section 16 a distance of 1316 feet; thence Westerly and parallel to the North line of Section 16 a distance of 468 feet; thence Northerly and parallel to the East line of Section 16 a distance of 1316 feet to a point on the North line of Section 16; thence East 468 feet to the point of beginning, all located in Township 20 North, Range 12 East of the I. M., Osage County, State of Oklahoma, according to the U.S. Government Survey thereof.

(2) Strip Shopping Center at 3636 North Peoria, Tulsa, Tulsa County, Oklahoma:

The North One-Hundred Fifty (150) feet of Lot One (1), Block One (1), Market Addition, a Subdivision in Tulsa County, State of Oklahoma, according to the recorded plat thereof.

(3) Fast Track Lounge a/k/a Foxtrot Club at 2530 Mohawk Boulevard, Tulsa, Tulsa County, Oklahoma:

Beginning at the South Line of Mohawk Blvd 10 degrees West of the East Line of the SW/4 of the SW/4 then Southwesterly to the Point 100 feet West of the East Line of the SW/4 of the SW/4, thence South 50 feet East, thence 90 feet North to the Point of beginning of Section 17, Township 20, Range 13 East of the Indian Meridian, Tulsa County, State of Oklahoma, also commonly known as: 2530 Mohawk Boulevard, Tulsa, Oklahoma.

(4) Residence at 332 Mohawk Boulevard, Tulsa, Tulsa County,
Oklahoma:

Lot Three (3), Block Four (4), Devonshire
Place Fourth, a resubdivision of Boulevard
Acres, being a subdivision of the SW 1/4
of the SW 1/4 Section 24, Township 20 North,
Range 12 East, of the I. M., Tulsa County,
Oklahoma, according to the recorded plat
thereof,

and against all persons interested in such properties, other than
joint claimants Steven Cowen and Cecil Drummond as to the Ranch at
2450 West 43rd Street North, Tulsa, Osage County, Oklahoma and
other than joint claimants Cherry and Raymond Foster as to 332
Mohawk Boulevard, Tulsa, Tulsa County, Oklahoma, and that the said
properties be and the same hereby are forfeited to the United
States of America.

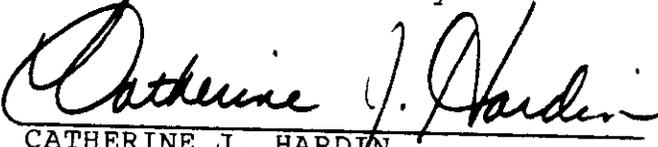
s/H. DALE COOK

 JAMES O. ELLISON
United States District Judge

APPROVED:

UNITED STATES OF AMERICA

TONY M. GRAHAM
United States Attorney


CATHERINE J. HARDIN
Assistant United States Attorney



COMMISSION
FOR HUMAN SERVICES

HO. Any filing of the log??
State of Oklahoma
Department of Human Services

Sequoyah Memorial Office Building
P.O. Box 25352
Oklahoma City, Oklahoma 73125

August 4, 1987



ROBERT FULTON
Director of Human Services

Honorable Thomas R. Brett
United States District Judge
333 W. Fourth, Room 4-508
Tulsa, OK 74103

Re: Capaldi v. Hissom Memorial
Center, No. 86-C-690-B
(N.D. Okla.)

Dear Judge Brett:

Enclosed for your consideration is a proposed order dismissing this case pursuant to Rule 41(b), Federal Rules of Civil Procedure.

Sincerely,

Richard Freeman
Assistant General Counsel

RF:sch
cc: Earl W. Wolfe
Attorney for Plaintiff

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

JASON GEORGE, a minor, by and
through his parent, guardian and
next friend, CONNIE GEORGE,

Plaintiff,

vs.

Case No. 85-C-896-C

ROBERT FULTON, in his official
and individual capacity;
REGINALD BARNES, WILLIAM FARHA,
ALBERT FURR, LEON GILBERT,
ROBERT GREER, JANE HARTLEY,
JOHN ORR, DAVID WALTERS, and
CARL WARD, in their official
capacities as members of the
Oklahoma Commission for Human
Services and in their
individual capacities;
JEAN COOPER, in her individual
and official capacity; JAMES
BORREN, in his official and
individual capacity; HAROLD
GOLDMAN, in his official and
individual capacity;
HERIBERTO MARTINEZ, in his
individual capacity; SERGIO
RODRIGUEZ, in his individual
capacity;

Defendants.

F I L E D

AUG 4 1987

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

JUDGMENT

This matter comes on before this Court for execution of the parties' settlement agreement. The parties hereto, excluding Defendants Martinez and Goldman, present to this Court for approval a Settlement Agreement. Being fully advised of the premises, this Court finds and rules as follows:

I.

The Settlement Agreement, signed on behalf of James Borren and the Plaintiff, is hereby approved.

II.

This settlement was made with the approval of the Department of Human Services.

III.

That the events giving rise to this action occurred on or after May 29, 1984.

IV.

That at all times pertinent hereto James Borren was acting within the scope of his employment, and that the acts or omission complained of herein were not the result of fraudulent conduct on his part; nor were they motivated by invidious discriminatory animus directed toward race, sex or national origin.

V.

That Jason George, his sister and mother presently live with relatives. Despite the fact that Mrs. George works full-time as an LPN, the substantial expenses incurred in providing for Jason have effectively prohibited the family from having their own home. Jason is a nine year old retarded child who needs a consistent and stable home environment where he can relate to a limited number of people. Based upon the representations of professional opinion, nothing could be more important to Jason George than that his mother and hence his own family have a home of their own. In this context, the Court notes that Mrs. George not only brought this action on Jason's behalf, but that she has cared for and supported him solely on her own (except for the two week period complained of in this litigation). The funds made available in this settlement and judgment shall be used by Jason's mother, Connie George, to purchase a home for herself and her family

and shall not otherwise be available for Jason's needs and care. This is not a ruling lightly made. This Court is aware that funds available to Jason for his general support will render him ineligible for Medicaid and other benefits which would be paid for him by those very Defendants who have approved this settlement. The government's recovery of these funds by requiring them to be spent on his behalf for social services in lieu of the government paying for these services to which he would otherwise be eligible would work a shocking and manifest injustice. It is to avoid this that this Court orders that the proceeds be used by his mother to purchase a home in which to live and to purchase the home in her name only so that Jason's future eligibility for social services shall not be placed in question.

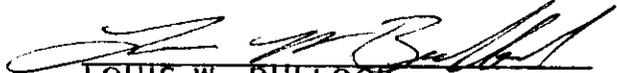
WHEREFORE, subject to the terms of the Settlement Agreement and the further findings and rulings made herein, this Court enters judgment against Defendant James Borren and in favor of Plaintiff Jason George in the amount of \$70,000.00, which amount includes all costs and fees and which shall not bear interest.

(Signed) H. Dale Cook

H. DALE COOK
Judge of the District Court



THOMAS TUCKER
Attorney for Defendants
James Borren, et al.



LOUIS W. BULLOCK
Attorney for Plaintiff

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

PERFECT INVESTMENTS, INC.,

Plaintiff,

v.

AETNA CASUALTY AND SURETY COMPANY,

Defendant,

v.

WADE FARNAN,

Third-Party Defendant.

Case No. 86-C-369-C

FILED

AUG 4 1987

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

JOURNAL ENTRY OF DEFAULT JUDGMENT

The Motion for Default Judgment of Aetna Casualty & Surety Company has been reviewed by the court and the court finds that judgment should be entered accordingly in favor of the Aetna Casualty & Surety Company and against the Third-Party Defendant, Wade Farnan.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the court that Aetna Casualty & Surety Company has no obligation to pay any sums to Wade Farnan by reason of the fire described in the Third Party Complaint of Aetna Casualty & Surety Company.

(Signed) H. Dale Cook

H. Dale Cook
United States District Judge

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

AUG -3 1987

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

DONALD R. SMITH,)
)
 Plaintiff,)
)
 v.)
)
 McDONNELL DOUGLAS - TULSA,)
 a Component of McDonnell)
 Douglas Corporation,)
 a Maryland corporation)
)
 Defendant.)
)

Civil Action No.
87-C-131-E

STIPULATION OF
DISMISSAL WITH PREJUDICE

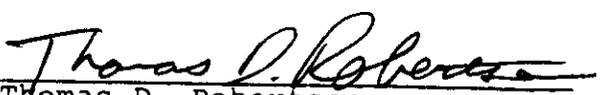
Come now the parties hereto and stipulate that this action is, pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii), hereby dismissed with prejudice. Each party is to bear his or its own attorney's fees and costs.

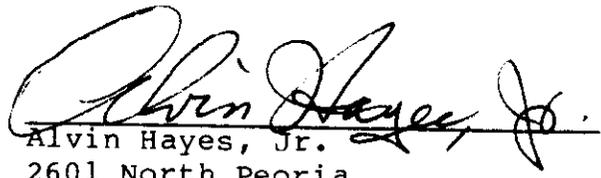
For Plaintiff:

For Defendant

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