

entire record, which includes a transcript of the June 8, 1987 hearing.

Regarding the motion for summary judgment itself, the defendants have asserted that any infringement committed by them was innocent. Such innocence usually will not preclude a determination of liability. 3 M.Nimmer, Nimmer on Copyright, §13.08 at 13-137 (1987). However "[i]f the court concludes that an infringer was not aware and had no reason to believe that his acts constituted an infringement of copyright, the court may in its discretion reduce the minimum award of statutory damages from \$250 to \$100." Id. at 13-138 - 13-139. Defendant McCaskey testified that he was unaware of any notice of copyright on the computer program, even after checking with the copyright office. He further testified, over plaintiff's objection, that he relied upon an opinion rendered by a patent attorney that the program was in the public domain. No documentation of the attorney opinion was admitted into evidence, and plaintiff's counsel stated that the opinion had been withheld from him during discovery upon the basis of attorney-client privilege. (Transcript of June 8, 1987 at 96, LL. 13-19).

The plaintiff presented no evidence as to defendants' alleged infringement of plaintiff's circuit boards, and therefore plaintiff is not entitled to judgment in this regard. Neither did the plaintiff present any evidence justifying an award of damages for misappropriation, as distinct from damages for

copyright infringement. Further, no evidence was presented justifying an award of punitive damages.

Accordingly, it is the Order of the Court that the motion of the plaintiff for summary judgment should be and hereby is granted, solely as to infringement by defendants of plaintiff's computer program, and solely as to liability.

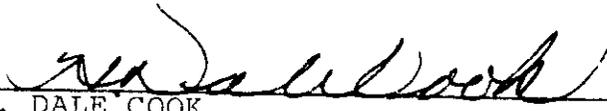
It is the further Order of the Court that the defendants render an accounting to the plaintiff of all profits gained by defendants through sales of copies of plaintiff's 2000K Integrator Program, Version 304, and that defendants deliver for impoundment all copies of plaintiff's computer program in defendants' possession or control.

It is the further Order of the Court that, pursuant to Rule 53 F.R.Cv.P. and 28 U.S.C. §636(b)(2), the Court hereby designates the United States Magistrate to serve as a special master in order to determine plaintiff's damages and defendant's profits in regard to infringement of the computer program copyright. Following this determination, the Court will render its damage award.

It is the further Order of the Court that the defendants, their officers, agents, servants, employees and all persons in active participation with them are hereby permanently enjoined from reproducing, distributing to the public, or authorizing others to reproduce or distribute to the public computer software, whether in human-readable or machine-readable form, which is a copy of plaintiff's 2000K Integrator Program, Version 304

and from otherwise infringing copyright in the 2000K integrator Program, Version 304.

IT IS SO ORDERED this 30th day of October, 1987.



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

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

U.S. DISTRICT COURT

CANNON ENGINEERING, INC.,)
an Oklahoma corporation,)
)
Plaintiff,)
vs.)
)
INTEGRATOR SERVICES, INC.,)
an Oklahoma corporation;)
JERRY L. McCASKEY, WILLIAM)
L. CARNAHAN and DONALD SMITH,)
individuals,)
)
Defendants.)

No. 87-C-193-C

J U D G M E N T

This matter came on for consideration of the motion for summary judgment of the plaintiff Cannon Engineering, Inc. The issues having been duly considered and a decision having been duly rendered in accordance with the Order filed contemporaneously herewith,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judgment is hereby entered for plaintiff and against defendants on Count 1 of the Complaint solely as to liability for infringement of plaintiff's 2000K Integrator Program, Version 304.

IT IS SO ORDERED this 30th day of October, 1987.


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

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

FILED

OCT 30 1987

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

OLLIE MOYER,
a citizen of Texas,

and

INTERNATIONAL CASSETTE CORPORATION,
a Texas corporation,

Plaintiffs,

v.

PETER ENNS,
a subject of Canada,

and

S.T.L. INTERNATIONAL, INC.,
an Oklahoma corporation,

and

COLORGRAPHICS CORP., INC.,
an Oklahoma corporation,

Defendants.

No. 86-C-612 E

ORDER

On this 30 day of October, 1987, this matter came on before me, the undersigned Judge of the District Court, upon the parties' Joint Motion to Dismiss and upon Defendant Colorgraphics Corp., Inc.'s agreement and consent to the Joint Motion to Dismiss. The Court finds for good cause that this matter should be dismissed with prejudice to the refiling of same.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that all claims and counterclaims of the parties to this action be and are hereby dismissed with prejudice.

S/ JAMES O. ELLISON

JUDGE OF THE DISTRICT COURT

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

FILED

OCT 28 1987

CLERK OF DISTRICT COURT

EXECUTIVE OFFICE NETWORK, LTD.,)
)
Plaintiff,)
)
vs.)
)
HQT, INC., ET AL.,)
)
Defendants.)

Case No. 86-C-446-B

JOURNAL ENTRY OF JUDGMENT

On this 15th day of July, 1987 this matter comes on for hearing upon stipulation of all of the parties as evidenced by their approval of this Journal Entry of Judgment and at the request of all parties. The parties stipulate and the Court finds as follows:

1. The facts as recited in the Complaint and the Undisputed Facts as recited in the Brief in Support of Plaintiff's Motion for Summary Judgment are correct and the Plaintiff is entitled to judgment as a matter of law in the amount of \$500,000.00.

2. The parties have settled and compromised all of the issues and claims that could be counterclaims herein and Defendants have executed and delivered a general release thereof which general release was joined in by Gregory D. Lorson.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff, Executive Office Network, Ltd. is hereby granted a judgment, joint and several, against the Defendants HQT, Inc. and Rose Rock Gas Marketing Group, Inc. in the amount of \$500,000.00 plus interest thereon at the applicable rate as provided by law from this date until paid for all of which let execution issue.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the counterclaims herein, if any, are hereby dismissed with prejudice and the parties shall bear their own costs.



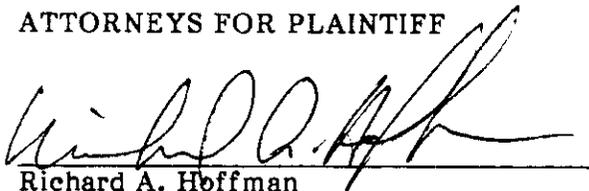
THE HONORABLE THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

APPROVED:



Richard W. Gable
GABLE & GOTWALS
2000 Fourth National Bank Building
Tulsa, Oklahoma 74119
(918) 582-9201

ATTORNEYS FOR PLAINTIFF



Richard A. Hoffman
SPENCER, HOFFMAN, FISCHER, & BAINES
320 South Boston
Suite 1000
Tulsa, Oklahoma 74119
(918) 585-5997

ATTORNEYS FOR DEFENDANTS
HQT, INC. AND ROSE ROCK
GAS MARKETING GROUP, INC.

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

PHILLIP RICE,)	
)	
Plaintiff,)	
)	
vs.)	No. 86-C-740-E
)	
LAWRENCE LAFLEUR, et al.,)	
)	
Defendants,)	
)	
LIL ANN RICE, mother and next)	
friend of Melanie Rice, a minor,)	
)	
Plaintiffs,)	
)	
vs.)	No. 86-C-742-E
)	(Consolidated)
LAWRENCE LAFLEUR, et al.,)	
)	
Defendants.)	

STIPULATION FOR DISMISSAL

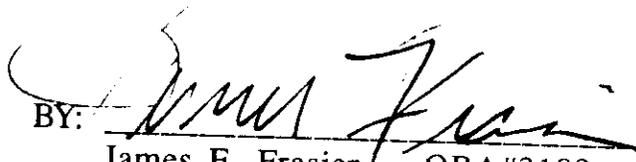
COMES NOW the Plaintiffs by an through their attorney of record, James E. Frasier of Frasier & Frasier, and the Defendant Avis Corporation and Avis Rent-A-Car System, Inc., through their attorney of record, Paul T. Boudreaux of Best, Sharp, Thomas, Glass and Atkinson, and herewith request of this Court a Dismissal Without Prejudice as to the Defendants Avis Corporation and Avis Rent-A-Car System, Inc.

DATED this 29 day of October, 1987.

Respectfully submitted,

FRASIER & FRASIER

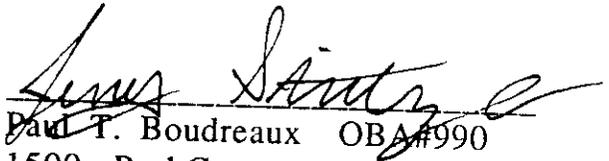
BY:



James E. Frasier OBA#3108
1700 S.W. Blvd., Suite 100
P. O. Box 799
Tulsa, OK 74101
918/584-4724

BEST, SHARP, THOMAS, GLASS
AND ATKINSON

BY:



Paul T. Boudreaux OBA#990
1500 ParkCentre
525 S. Main
Tulsa, OK 74103
918/582-8877

ATE/ts

10/15/87

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

NATIONAL UNION FIRE INSURANCE)
COMPANY and MID-STATES AIRCRAFT)
ENGINES, INC.,)

Plaintiffs,)

vs.)

A.A.R. WESTERN SKYWAYS, INC.,)
and TELEDYNE, INC., d/b/a)
TELEDYNE CONTINENTAL MOTORS,)

Defendants.)

Case No. 87-C-5-E

FILED

OCT 29 1987

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

ORDER DISMISSING TELEDYNE, INC., D/B/A
TELEDYNE CONTINENTAL MOTORS

NOW on this 26 day of October, 1987, the above styled and numbered cause coming on for hearing before the undersigned Judge of the United States District Court in and for the Northern District of Oklahoma, upon Stipulation For Order of Dismissal of the Plaintiffs and the Defendant, Teledyne, Inc., d/b/a Teledyne Continental Motors; and the Court, having examined the pleadings and being well and fully advised in the premises, is of the opinion that said cause should be dismissed as set forth.

IT IS ORDERED by the Court that the claim of the Plaintiffs in the above styled and numbered cause against the Defendant, Teledyne, Inc., d/b/a Teledyne Continental Motors (properly named Teledyne Continental Motors, Aircraft Products

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OCT 21 1987

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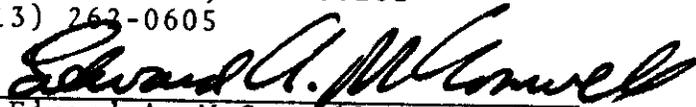
Division, a division of Teledyne Industries, Inc.), is hereby dismissed with prejudice.

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

APPROVAL AS TO FORM:

LAW FIRM OF EDWARD A. McCONWELL
Suite 210 Cloverleaf 5 Building
6701 West 64th Street
Overland Park, KS 66202
(913) 262-0605

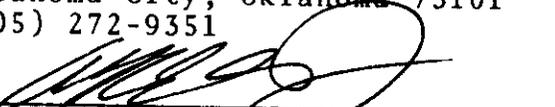
By



Edward A. McConwell
ATTORNEY FOR PLAINTIFFS

STEWART & ELDER
1329 Classen Drive
Post Office Box 2056
Oklahoma City, Oklahoma 73101
(405) 272-9351

By



A.T. Elder, Jr., Bar #002657
ATTORNEY FOR DEFENDANT
TELEDYNE, INC., d/b/a
TELEDYNE CONTINENTAL MOTORS

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OCT 21 1987

S & E

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

FILED
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In re:)
)
STOCKTON OIL/GAS COMPANY,) 87-C-398-E
INC.,) Bky. No. 85-01974
)
THE REMINGTON COMPANY,) Bky. No. 85-02114

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

ORDER

This matter comes before the court on Stockton Oil/Gas Company, Inc., and The Remington Company's Motion for Leave to Appeal 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.

On April 17, 1987, the Honorable Mickey D. Wilson entered an order granting the Trustee's Motion to Approve Compromise and Settlement of any claims that the debtors may have against the First National Bank and Trust Company of Ponca City, Oklahoma, and/or Giant Energy Corporation, pre-bankruptcy receiver for the debtors, for certain actions alleged to have been taken by Giant when acting as the debtors' pre-bankruptcy receiver.

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

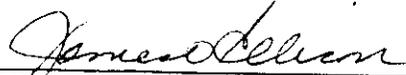
Moreover, the likelihood of appellants prevailing on appeal, should this court give them leave to do so, is one consideration for the court in determining whether leave to appeal the action of the Bankruptcy Court should be granted. In

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 appellants 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. Furthermore, appellants have not demonstrated a substantial likelihood that they would prevail on appeal. In fact, no legal authority has been cited in support of appellants' motion. Thus, appellants have failed to meet the necessary standard for this court to allow their appeal.

Dated this 28th day of October, 1987.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

CCT 29 1987

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

MCC REAL ESTATE COMPANY,)
)
Plaintiff,)
)
vs.)
)
E. CHARLES SHAFER and THOMAS)
WENKSTERN and PARIS SAVINGS &)
LOAN ASSOCIATION,)
)
Defendant.)

No. 85-C-950-E

ORDER OF DISMISSAL

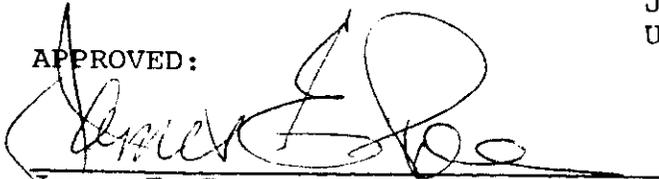
Pursuant to the Stipulation for Dismissal entered herein, it is

ORDERED that plaintiff's Complaint and Amended Complaint and claims against all defendants be dismissed with prejudice, each party to bear its own costs and fees.

S/ JAMES O. ELLISON

JAMES O. ELLISON,
UNITED STATES DISTRICT JUDGE

APPROVED:



James E. Poe
COVINGTON & POE
740 Granston Bldg.
Tulsa, OK 74103

Attorney for Plaintiff,
MCC Real Estate Company

Terry M. Thomas
NORMAN, WOHLGEMUTH & THOMPSON
909 Kennedy Bldg.
Tulsa, OK 74103

Attorneys for Defendants,
E. Charles Shafer, and Thomas
Wenkstern

Entered

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

FILED

OCT 29 1987

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

CAKS-JR., LTD.,)

Plaintiff,)

vs.)

Civil Action No.
86-C-121-E

RALLY FLAG, INC.,)
RICHARD J. BLACKBURN,)
and NEVER M. FAIL, JR.,)

Defendants.)

ORDER OF DISMISSAL

NOW on this 28th day of October, 1987, the referenced matter comes on for hearing pursuant to the joint Application of the Plaintiff and the Defendant, Never M. Fail, Jr. for dismissal of said Defendant, and said Defendant only, from this litigation and, for good cause shown, this Court finds that said Application should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by this Court that this matter is dismissed as to the Defendant, Never M. Fail, Jr. and as to Never M. Fail, Jr. only. It should continue in all respects against the other Defendants, Rally Flag, Inc. and Richard J. Blackburn.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

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

BOBBY RAY BEAR,)
)
 Plaintiff,)
)
 v.) 87-C-42-C
)
 DONALD WOOD, et al,)
)
 Defendants.)

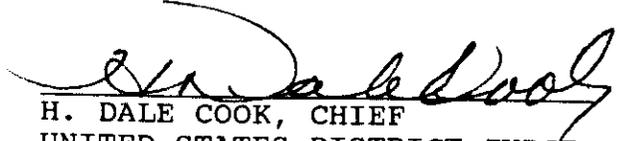
ORDER

The court has for consideration the Findings and Recommendations of the Magistrate filed October 8, 1987, in which the Magistrate recommended that defendants' motions to dismiss and defendant Lowe's motion for summary judgment be granted. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

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

It is therefore Ordered that defendants' motions to dismiss (pleadings #2, 4, 7, and 8) and defendant Lowe's motion for summary judgment (pleading #9) are granted.

Dated this 28th day of October, 1987.


H. DALE COOK, CHIEF
UNITED STATES DISTRICT JUDGE

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

OCT 2 1987

BERNARD MILES and)
DEBORAH K. MILES,)
)
Plaintiffs,)
)
vs.)
)
BANKERS LIFE COMPANY, a)
corporation,)
)
Defendant.)

Case No. 86-C-386-C

ORDER OF DISMISSAL WITH PREJUDICE

On this 26 day of Oct, 1987, upon written application of the parties for an Order of Dismissal with Prejudice of the Complaint and all causes of action, the Court, having examined said application finds that siad parties have entered into a compromise settlement covering all claims involved in the Complaint with prejudice to any future action, and the Court, having been fully advised in the premises, finds that said Complaint should be dismissed. It is, therefore,

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

(Signed) H. Dale Cook

UNITED STATES DISTRICT COURT JUDGE

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

ETSI PIPELINE PROJECT, et al)
)
Plaintiff,)
)
v.) 87-C-800-C
)
BURLINGTON NORTHERN, INC., et al,)
)
Defendants.)

ORDER

The Court has for consideration the Report and Recommendation of the Magistrate filed October 5, 1987 in which the Magistrate recommended that the Motion to Quash Subpoena 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 to Quash Subpoena is denied.

Dated this 27th day of October, 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.)
)
 AUDREY F. DUNAWAY,)
)
 Defendant.) CIVIL ACTION NO. 87-C-475-C

ORDER OF DISMISSAL

Now on this 28th day of October, 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, Audrey F. Dunaway, be and is dismissed without prejudice.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ONE HUNDRED AND FIFTY-EIGHT)
 THOUSAND, SIX HUNDRED)
 FORTY-FIVE DOLLARS AND)
 THIRTY-EIGHT CENTS)
 (\$158,645.38) IN UNITED)
 STATES CURRENCY,)
)
 Defendant.) CIVIL ACTION NO. 86-C-680-C

ORDER DISMISSING CLAIMS AND DECREE OF FORFEITURE

IT NOW APPEARS that the claim filed herein has been fully compromised and settled. Such settlement more fully appears by the written Stipulation entered into between the claimant, John Jerry Wampler, and the United States of America on October 23, 1987, and filed herein, to which Stipulation reference is hereby made and is incorporated herein. Therefore the claim filed herein should be dismissed with prejudice and the Clerk of the Court should be authorized and directed to enter of record in this civil action such dismissal.

It further appearing that no other claims to said property have been filed since such property has been seized,

Now therefore, on motion of Catherine J. Depew, Assistant United States Attorney, and with the consent of John Jerry Wampler, it is

ORDERED that the claim of John Jerry Wampler in this action be and the same hereby is dismissed with prejudice, and it

FURTHER ORDERED that the Clerk of the above-entitled Court is hereby authorized and directed to enter of record in the

Court the dismissal of the claim filed herein by John Jerry Wampler with prejudice, and it is

FURTHER ORDERED AND DECREED that the defendant property be and hereby is condemned as forfeited to the United States of America for disposition according to the terms of the Stipulation for Compromise dated October 27, 1987.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

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

DWIGHT F. ROBINSON,

Plaintiff,

vs.

OTIS R. BOWEN, M.D., Secretary of
HEALTH AND HUMAN SERVICES OF THE
UNITED STATES OF AMERICA,

Defendant.

Case No. 86-C-6-E

OF
STIPULATION FOR DISMISSAL WITHOUT PREJUDICE

IT IS HEREBY STIPULATED by and between the parties to the above entitled action, by their respective attorneys of record, that the action be, and it is, dismissed without prejudice to either party, each party to bear its own costs, and that an order to that effect accordingly may be made and entered without further notice.

Dated this 27 day of October, 1987.

APPROVED AS TO FORM AND CONTENT:

Kurt M. Kennedy
KURT M. KENNEDY, OBA #4968
Attorney for Plaintiff
5416 South Yale, Suite 202
Tulsa, OK 74135
(918) 496-9200

OTIS R. BOWEN, M.D., Secretary
of Health and Human Services
of the United States of
America

LAYN R. PHILLIPS
U. S. District Attorney

By: *Phil Pinnell*

Phil Pinnell, Assistant
U.S. District Attorney
3600 U.S. Courthouse
Tulsa, OK 74103
(918) 581-7463

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

RONALD O. CATLIN,

Plaintiff,

vs.

SENTRY LIFE INSURANCE COMPANY,

Defendant.

No. 87-C-279-E

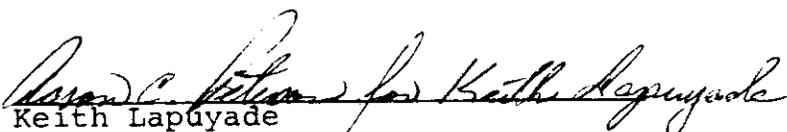
STIPULATION OF DISMISSAL

The parties hereto hereby stipulate to the dismissal of the above referenced cause of action for the reasons and upon the grounds that a full, final and complete settlement has been entered into between the parties.

Dated this 16 day of ~~September~~ ^{October}, 1987.


Stephen C. Stapleton, OBA #10972
ParkCentre - Suite 1400
525 South Main
Tulsa, OK 74103-4409
(918) 583-7129

ATTORNEY FOR DEFENDANT


Keith Lapuyade
1611 South Harvard
Tulsa, OK 74112
(918) 745-0687

ATTORNEY FOR PLAINTIFF

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

FILED

OCT 26 1987

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

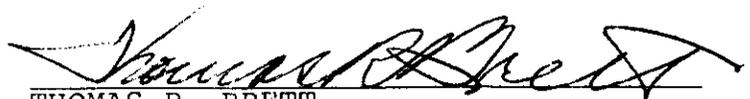
RONALD H. ELROD,)
)
 Plaintiff,)
)
 v.)
)
 OKLAHOMA BEVERAGE COMPANY,)
 an Oklahoma corporation,)
)
 Defendant.)

No. 86-C-676-B

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law entered herein this date, IT IS HEREBY ADJUDGED AND DECREED the Plaintiff, Ronald H. Elrod, is to take nothing on his claim against the Defendant, Oklahoma Beverage Company, and said Defendant is to have judgment herein on Plaintiff's claim. The Defendant, Oklahoma Beverage Company, is awarded the costs of this action if timely application pursuant to Local Rule is made therefor, and the parties are to pay their own respective attorney's fees.

DATED this 23rd day of October, 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

OCT 23 1987

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

LACY DAWN BIBLE, a minor, by
and through her parents and
next friends, DONALD G. BIBLE
and SUSAN L. BIBLE, and DONALD
G. BIBLE and SUSAN L. BIBLE,
individually,

Plaintiffs,

v.

JANE PHILLIPS EPISCOPAL
HOSPITAL, INC., a corporation,

Defendant.

No. 86-C-461-B

ORDER AND JUDGMENT

In accordance with the Findings of Fact and Conclusions of Law filed this date, Judgment is hereby entered against Donald G. Bible, Susan L. Bible, Bill V. Wilkinson, and the law firm of Chapel, Wilkinson, Riggs, Abney & Henson, jointly and severally, and in favor of Connie Born, Judy Averill, Mary McGarry and Dee Collins awarding them the reasonable expenses incurred in obtaining a protective order, including attorney's fees, in the respective amounts of two thousand eight hundred two dollars and fifty cents (\$2,802.50), three thousand six hundred eighty dollars (\$3680.00), and five thousand eight hundred thirty eight dollars (\$5,838.00).

IT IS, THEREFORE, ORDERED, ADJUDGED and DECREED that Connie Born have and recover judgment of and from Donald G. Bible, Susan L. Bible, Bill V. Wilkinson, and the law firm of Chapel, Wilkinson, Riggs, Abney & Henson, jointly and severally, in the sum of two thousand eight hundred two dollars and fifty cents (\$2,802.50), as and for attorney's fees and expenses.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that Judy Averill have and recover judgment of and from Donald G. Bible, Susan L. Bible, Bill V. Wilkinson

and the law firm of Chapel, Wilkinson, Riggs, Abney & Henson, jointly and severally, in the sum of three thousand six hundred eighty dollars (\$3,680.00), as and for attorney's fees and expenses.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that Mary McGarry and Dee Collins recover judgment of and from Donald G. Bible, Susan L. Bible, Bill V. Wilkinson, and the law firm of Chapel, Wilkinson, Riggs, Abney & Henson, jointly and severally, in the sum of five thousand eight hundred thirty eight dollars (\$5,838.00), as and for attorney's fees and expenses, together with interest on said sums from date of judgment at the rate of 6.90% per annum.

IT IS SO ORDERED this 23rd day of October, 1987.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

COPIES TO:

Bill V. Wilkinson and Delores Bedingfield, CHAPEL, WILKINSON, RIGGS & ABNEY, 502 West Sixth Street, Tulsa, Oklahoma 74119

Sandra F. Rodolf and Steven Rodolf, BARKLEY, ERNST, WHITE, HARTMAN & RODOLF, OneOk Plaza, Suite 410, 100 West Fifth Street, Tulsa, Oklahoma 74103

Linda C. Martin and Michael Lewis, DOERNER, STUART, SAUNDERS, DANIEL & ANDERSON, 1000 Atlas Life Building, Tulsa, Oklahoma 74103

Teresa A. Meinders and David G. Page, BOONE, SMITH, DAVIS & HURST, 500 OneOk Plaza, 100 West Fifth Street, Tulsa, Oklahoma 74103

Thomas J. Sinclair, General Counsel, SAINT FRANCIS HOSPITAL, INC., 6161 South Yale, Tulsa, Oklahoma 74136

Joan Godlove, JONES, GIVENS, GOTCHER, BOGAN & HILBORNE, 3800 First National Tower, Tulsa, Oklahoma 74103

FILED

OCT 23 1987

John L. Sever, Clerk
U.S. DISTRICT COURT

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

DYCO PETROLEUM CORPORATION,)
)
 Plaintiff,)
)
 vs.)
)
 NATURAL GAS PIPELINE COMPANY)
 OF AMERICA,)
)
 Defendant.)

Case No. 87-C-120-B

STIPULATED DISMISSAL WITH PREJUDICE

COMES NOW the Plaintiff, Dyco Petroleum Corporation, by and through its counsel, and the Defendant, Natural Gas Pipeline Company of America, by and through its counsel, John L. Arrington, Jr., and pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, hereby dismiss the above-styled and numbered cause with prejudice to any further action. It is stipulated by the parties that they shall each bear their own attorneys' fees and costs.

DATED this 23rd day of October, 1987.

DYCO PETROLEUM CORPORATION

By *J. Williams*

NATURAL GAS PIPELINE COMPANY OF AMERICA

By 
John L. Arrington, Jr.
Curtis M. Long
Caroline B. Benediktson
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

F I L E D

OCT 23 1987

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

DONALD J. WILSON, THOMAS A. LAYON)
and ELIZABETH LAYON, husband and)
wife,)

Plaintiff,)

v.)

No. 87-C-173-B

GREAT WESTERN ENERGY CORPORATION;)
VENTURE PROPERTIES, INC.; GREAT)
WESTERN ENERGY, LTD. 1984 Medina)
Gas Program; THE MUTUAL FIRE)
MARINE AND INLAND INSURANCE)
COMPANY; THOMAS C. HERRMANN;)
HERRMANN & VERGIN; STEWART,)
HERRMANN, TODD & CHANEY; DANIEL S.)
PENA, SR.; RODNEY L. DOCKERY; and)
CHRYSLER CAPITAL CORPORATION,)

Defendants.)

O R D E R

This matter comes before the Court on Defendants' motions to dismiss the amended complaint, on Chrysler Capital Corporation's motion for summary judgment, on the parties' motion to strike and and Wilson's motion for sanctions.

Plaintiff Donald J. Wilson originally filed a complaint against the Defendants herein for primary and secondary federal securities violations, state security violations and fraud. The amended complaint simply adds Thomas and Elizabeth Layon as Plaintiffs for the same claims.

Plaintiffs allege that the Defendants conspired to defraud Plaintiffs into investing in the Medina Partnership Program ("the Limited Partnership Program"). Plaintiffs allege Defendants

induced them to become limited partners and to execute promissory notes to the Limited Partnership Program in 1984 (Wilson, a \$185,000 note, and the Layons, two notes totaling \$92,500). These notes were secured by a bond issued by Mutual Fire Marine and Inland Insurance Company ("Mutual Fire").

Defendant Great Western Energy Corporation is the managing general partner of the limited partnership program. Defendant Daniel S. Pena, Sr., is the Chairman of the Board and Chief Executive Officer of Great Western Energy Corporation. Defendant Venture Properties, Inc., is also a general partner of the Limited Partnership Program. Defendant Rodney L. Dockery is the President and a member of the Board of Venture Properties, Inc.

The notes and the security bonds were assigned to E. F. Hutton Credit Corporation in August 1984 (later acquired by Defendant Chrysler Capital Corporation) as security for a loan made to the Limited Partnership Program.

Plaintiffs claim it was falsely represented to them that¹:

1. Gas from the Medina Partnership Program would be sold from an existing "take or pay" contract;
2. A "back up contract" was in place for the sale of gas;
3. No other money would be required past their initial down payment because gas revenues would cover obligations as they came due;
4. Revenue checks would come in November 1984 (substantially lesser amounts than promised arrived in the spring of 1985);

¹ The Court acknowledges Plaintiffs fail to identify which Defendant actually said what.

5. Nearly all of the \$9,000,000 had been raised for the program. (Program was actually formed on \$1,400,000);
6. 30 wells would be drilled;
7. Herrmann performed accounting services only for Plaintiffs (failing to disclose he received fees for promoting from the Limited Partnership);
8. Herrmann was an investor in Medina Partnership Program (Herrmann withdrew prior to substantial losses).

I. FAILURE TO STATE A CLAIM

Defendants² have filed motions to dismiss under Rule 12(b)(6) and also for failure to comply with Rule 9(b), Fed.R.Civ.P.

Rule 12(b)(6) allows a motion to dismiss for "failure to state a claim upon which relief can be granted." The Supreme Court has held a complaint should not be dismissed unless it appears beyond doubt that Plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Conley v. Gibson, 355 U.S. 41, 45 (1957). The factual allegations of the complaint must be taken as true and all reasonable inferences from them must be indulged in favor of the complainant. Mitchell v. King, 537 F.2d 385, 386 (10th Cir. 1976).

Rule 9(b) requires that the circumstances constituting fraud "shall be stated with particularity." The dismissal of a complaint for failing to satisfy the requirement of Rule 9(b) is treated as a dismissal for failure to state a claim upon which

² The Mutual Fire Marine and Inland Insurance Company, Thomas C. Herrmann, Herrmann and Vergin, Stewart, Herrmann, Todd & Chaney, and Daniel S. Pena.

relief can be granted under Rule 12(b)(6). Seattle-First National Bank v. Carlstedt, 800 F.2d 1008 (10th Cir. 1986).

The Tenth Circuit, adopting language from Trussell v. United Underwriters, 288 F.Supp. 757, 774 (D.Colo. 1964), stated:

"Rule 9(b) does not ... require the pleading of detailed evidentiary matter, nor does it require any particularity in connection with an averment of intent, knowledge, or condition of mind. It only requires identification of the circumstances constituting fraud or mistake. That requirement means ... that individual plaintiffs should identify particular defendants with whom they dealt directly, and from whom they purchased stock; that individual plaintiffs should designate the occasions on which affirmative statements were allegedly made to them--and by whom; and that individual plaintiffs should designate what affirmative misstatements or half-truths were directed to them--and how." Seattle-First v. Carlstedt, supra.

A. Mutual Fire Marine and Inland Insurance Company's Motion to Dismiss

Defendant Mutual Fire filed a motion to dismiss the original complaint. Thereafter the original complaint was amended to add Plaintiffs Thomas and Elizabeth Layon. The amended complaint asserted no new claims. Plaintiffs through their counsel and Mutual Fire through its counsel state this motion should be applied to all Plaintiffs in the amended complaint.

Plaintiffs' amended complaint states Mutual Fire was the issuer of a surety bond which guaranteed the payment of Plaintiffs' promissory notes now held by Chrysler Capital Corporation. Plaintiffs quote the "Private Placement Memorandum" which states:

"[I]f the revenues derived by the partnership ... are not sufficient to allow payment [of financing due], ... the limited partners delivering promissory notes to the partnership will then become personally liable to the surety. . . ."

Plaintiffs very generally allege that Mutual Fire aided and abetted the Great Western Defendants in making misrepresentations concerning the investment. Specifically, however, Plaintiffs state that the presence of Mutual Fire

"...facilitated the general partners' ability to either pledge the promissory notes as security for additional financing or negotiate the notes to Chrysler. Plaintiffs relied upon the presence of Mutual Fire in the transaction when they purchased their interests in the Medina Partnership Program. But for the presence of Mutual Fire . . . Program would not have been organized and offered for sale and sold to the Plaintiffs. In addition, Plaintiffs relied upon the fact that Mutual Fire would have conducted a reasonable and diligent investigation. . . ."

These allegations fall far short of stating a claim upon which relief can be granted against Mutual Fire. There is no specific allegation in the amended complaint that Mutual Fire ever misrepresented or in any way, participated in any fraud. Liability concerning aiding and abetting may not be based on routine or incidental participation in making loans or acting as a surety. Such claims do not satisfy Fed.R.Civ.P. 9(b) and are not sufficient to state a claim. Seattle-First National Bank v. Carlstedt, 800 F.2d 1008 fn. 2 (10th Cir.1986); Landy v. Federal Deposit Insurance Corporation, 486 F.2d 139, 163 (3rd Cir. 1973). Furthermore, the references that Mutual Fire's presence was relied upon is irrelevant to Mutual Fire's liability. It appears beyond a doubt that even when taking all Plaintiffs' allegations

as true, Plaintiffs cannot prove any set of facts in support of the claim alleged to entitle them to relief against Mutual Fire. Conley v. Gibson, 355 U.S. 41, 78 S.Ct. 99 (1957).

Therefore, all claims against Mutual Fire Marine and Inland Insurance Company are dismissed as insufficient under Fed.R.Civ.P. 9(b).

B. Thomas C. Herrmann's, Herrmann and Vergin's, and Stewart, Herrmann, Todd and Chaney's Motions to Dismiss

The amended complaint states Thomas C. Herrmann, certified public accountant, introduced Wilson to and promoted the Limited Partnership Program. The complaint also states that Herrmann was a partner of Stewart, Herrmann, Todd and Chaney at the time Thomas Herrmann was promoting the Program. Later Thomas Herrmann left that firm and formed the firm of Herrmann and Vergin. Plaintiffs allege Thomas Herrmann was acting as a representative of and within the scope of the accounting partnership when dealing with Plaintiffs. Plaintiffs claim at the inducement of both partnerships (through Thomas Herrmann), Plaintiffs became limited partners in the Limited Partnership Program.

Specifically, Plaintiffs contend Thomas Herrmann was performing accounting and investment functions for them and yet not disclosing that he was receiving promotion fees from the Limited Partnership Program. Further, Thomas Herrmann represented he, too, was an investor, yet he later withdrew from the Program. Plaintiffs complain they were not given the opportunity to withdraw.

It is also alleged that in the fall of 1984, Thomas Herrmann and Herrmann and Vergin disseminated to Plaintiffs projected revenues and tax benefits to be gained through investing.

However, as pointed out in Plaintiffs' own brief, Herrmann and Vergin was not even formed until 1985. All the allegations as to this later accounting partnership being a party to the inducement to purchase are clearly meritless. It is alleged that after Herrmann and Vergin was formed, a meeting took place at their office to explain why the investment was not going as planned. This falls far short of stating a claim for which relief can be granted against Herrmann and Vergin. Therefore, all claims against the firm of Herrmann and Vergin are dismissed.

The amended complaint is sufficient however as to Thomas Herrmann and the accounting partnership, Stewart, Herrmann, Todd and Chaney. Taking Plaintiffs' allegations as true, Herrmann, acting as a representative of the original accounting partnership, made all the misrepresentations outlined early in this order. We hold the complaint is sufficient under Fed.R.Civ.P. 9(b). The amended complaint informs Herrmann and the original accounting partnership of the claims in order to prepare an adequate response and defense.

C. Daniel S. Pena's Motion to Dismiss

Daniel S. Pena requests dismissal of all claims of fraud concerning him because Plaintiffs have failed to allege any specific act in which he took a part in the fraud.

Plaintiffs have alleged Pena served as Chairman of the Board and Chief Executive Officer of Great Western Energy Corporation ("GWEC") since its inception. Plaintiffs allege Pena had the overall responsibility for GWEC's administrative operations and had an integral part in carrying out the scheme to defraud. Although Plaintiffs have not alleged any direct communication with Pena which they relied on to purchase the investment, their general allegations are sufficient under Schlick v. Penn Dixie Cement Corp., 507 F.2d 374 (2nd Cir. 1974), and Banowitz v. State Exchange Bank, 600 F.Supp. 1466 (N.D.Ill. 1985). Although the amended complaint is not as precise as Rule 9(b) requires it to be concerning Pena, Plaintiffs cannot be expected at this point in the action to allege or know with specificity who played what part in the alleged fraud. Defendants have been given sufficient notice of the alleged fraud to allow adequate responsive pleading. However, the Court will re-examine these conclusory allegations thoroughly at the motion for summary judgment stage.

II. STATUTE OF LIMITATIONS

Defendants³ contend all claims are barred by various applicable statutes of limitation. Defendants point out a motion to dismiss may be granted when Plaintiff's own allegations establish a bar due to the statute of limitations. Aldrich v. McCulloch, 627 F.2d 1036 (10th Cir. 1980).

³ Great Western Energy Corporation, Great Western Energy Ltd., 1984 Medina Gas Program, Thomas C. Herrmann, Herrmann and Vergin and Stewart, Herrmann, Todd and Chaney, and Daniel S. Pena.

A. Plaintiffs' §12(1) Claim of the Securities Act of 1933.

Count I of Plaintiffs' Amended Complaint alleges that the "Defendants, as issuers, offered and sold the Medina Partnership Program interests without registering them with the SEC as required by Section 5 of the Securities Act, 15 U.S.C. §77e." Plaintiff Wilson invested prior to October 2, 1984 and Plaintiffs Layons invested June 13, 1984. The original complaint was filed March 11, 1987. Plaintiffs contend under Fed.R.Civ.P. 15(c) the Layons' claims as set forth in the amended complaint relate back to the date of the original pleading citing Metropolitan Paving Co. v. International Union, 439 F.2d 300 (10th Cir. 1971).

The parties agree 15 U.S.C. §77m is the applicable statute of limitations for a violation of §12(1). The action must be brought within one year after the violation. Plaintiffs claim the limitation period should be tolled because there was so much concealment concerning the fraudulent acts alleged in this case.

We adopt the reasoning in McCullough v. Leede Oil & Gas, 617 F.Supp. 384 (W.D.Okla. 1985). Neither the discovery rule nor the doctrine of equitable tolling should be applied to the one-year limitation period for a registration violation because:

1. "Had Congress intended that this limitation be subject to equitable tolling it could have included the discovery rule utilized in the limitation provision applicable to §11 and §12(2) claims."
2. "[A] seller of securities cannot conceal the fact that the securities he sells are not registered."
3. "[T]he type of relief available for §12(1) violations [rescissionary relief] militates against application of the discovery rule to the one year statute of limitations. . . . One who

seeks rescission is under an obligation to do so with reasonable diligence." McCullough v. Leede Oil & Gas, supra at 387.

We therefore dismiss Plaintiffs' claims based on a violation of §12(1) of the Securities Act of 1933, 15 U.S.C. §77L(1)(1982).

B. Plaintiffs' 12(2) Claim and Fraud Claims

Count II of Plaintiffs' amended complaint alleges that the Defendants disseminated false communications at the time they offered the program to Plaintiffs in violation of §12(2) of the Securities Act, 15 U.S.C. §77L(2).

15 U.S.C. §77m sets forth the applicable statute of limitation. An action must be "brought within 1 year after the discovery of the untrue statement or the omission, or after such discovery should have been made by the exercise of reasonable diligence . . . in no event shall any such action be brought . . . more than 3 years after the sale." Defendants point out that Plaintiffs' own complaint shows Plaintiff (1) found out on December 1, 1984, that he would be required to pay more than just the original "down payment" as was allegedly promised; (2) found out November 1984, that his first revenue check would not come at the time originally promised; and (3) found out October 1984, the program was financed with \$1,400,000, not \$9,000,000 as originally told. Defendants therefore argue, due to Plaintiff's discovery, the statute began running in the fall of 1984 and Plaintiff is time barred.

We disagree. Plaintiffs allege they did not find out that their accountant (who it is alleged held a fiduciary duty to

them), was accepting money from the Limited Partnership Program to get them into the deal, until August 1986. They allege they found out for the first time there was not a "back up" gas contract in the summer of 1986. They point out they paid on the promissory notes up until September 1986 when it was discovered they had been defrauded. Plaintiffs contend although they certainly found out earlier that the program was not going exactly as planned, they had no reason to suspect they had been defrauded by their accountant and others. The fiduciary relationship supports the contention that Plaintiffs were not lacking in diligence in their discovery of the alleged fraud. Azalea Meats v. Muscat, 386 F.2d 5, 9 (5th Cir. 1967). Applying motion to dismiss standards, Plaintiffs have not, through their own complaint, established a bar due to the statute of limitations. Aldrich v. McCullough, 627 F.2d 1036 (10th Cir. 1980). However, the Court acknowledges this is a factual question to be litigated at trial.

For the same reasons the Court denies the motion to dismiss Plaintiffs' other counts on the basis of a bar under the statute of limitations.

III. PRIVATE RIGHT OF ACTION

A. Sections 17(a) and (b)

Defendants⁴ contend Count V, asserting a violation of §§17(a) and (b) of the Securities Act, 15 U.S.C. §§ 77q(a) and

⁴ Great Western Energy Corporation, Great Western Energy Ltd., 1984 Medina Gas Program, Thomas C. Herrmann, Stewart, Herrmann, Todd, Chaney and Daniel S. Pena.

(b), should be dismissed because there is no private right of action thereunder. They also argue there is no private right of action under 71 Okl.St. Ann. §101 which is asserted in Count VIII of Plaintiffs' Amended Complaint.

This Court held in Westland Energy 1981-1 LTD v. Bank of Commerce, 603 F.Supp. 698 (N.D.Okl. 1984), that in light of Herman & MacLean v. Huddleston, 459 U.S. 375, 103 S.Ct. 683, 74 L.Ed.2d 548 (1983), and the majority view of the Circuit Courts, §17(a) does provide a private right of action. Defendants' motion to dismiss Count V is denied.

B. 71 Okla.St. Ann. §101

71 Okla.St. Ann. §101 provides:

"It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly

(1) to employ any device, scheme, or artifice to defraud,

(2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading,

(3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person."

Defendants point out the Oklahoma Supreme Court has yet to decide if this section is applicable to a private cause of action. Plaintiff cites Lambrecht v. Bartlett, 656 P.2d 269 (Okl. 1982) as authority. Although the headnotes make reference to several sections including §101, neither the headnote nor the opinion makes clear whether Plaintiff was able to recover under that

particular section. Further, the Court recognizes the Oklahoma Security Act closely follows the federal act. However, 71 Okl.St. Ann. §408(i) expressly limits civil causes of action to those specified in §408 or §202(e). We therefore decline to imply a private right of action. See, Mid-Continent Gas v. McAlester Aircraft, 349 F.2d 885 (10th Cir. 1965); Long, 32 Okla.L.Rev. 541, 554 (Summer, 1979).

IV. PENDENT JURISDICTION

As is clear from the above discussion, the Court finds that Plaintiffs' claims are sufficient to withstand in part a motion to dismiss. Therefore, there is a basis for pendent jurisdiction as to Plaintiffs' State claims. See, UMW v. Gibbs, 383 U.S. 715 (1966). Defendants' Motion to Dismiss for a failure of pendent jurisdiction is hereby denied.

V. CONSPIRACY

Several places in the amended complaint Plaintiffs state that Defendants "conspired" to defraud them. However, Plaintiffs do not set forth a direct and specific claim for conspiracy in any of the thirteen counts. Any attempt to allege conspiracy is inadequate and is dismissed.

VI. Plaintiffs concede Count VI of the amended complaint is redundant and withdraws it.

VII. CHRYSLER CAPITAL'S MOTION FOR SUMMARY JUDGMENT

Chrysler Capital now holds the promissory notes executed by Plaintiffs for their capital contributions in the Limited Partnership Program. The amended complaint states payments of

principal and interest on Plaintiff Wilson's notes were paid through September 1, 1986.

Chrysler is not mentioned at all in the "operative facts" section of Plaintiffs' amended complaint in connection with the alleged fraud. However in two counts, Plaintiffs allege Chrysler is an aider and abettor, knowing of the fraud simply because it granted loans to the Limited Partnership Program. Plaintiffs state, "But for the presence of Chrysler in the transaction, the Medina Partnership Program would not have been organized and offered for sale and sold to Plaintiffs and others. In addition, Plaintiffs relied upon the fact that Chrysler would have conducted a reasonable and diligent investigation. . . ."

Chrysler Capital requests that the claims against it by Plaintiff Wilson in the amended complaint be dismissed pursuant to Fed.R.Civ.P. 12(b)(6) and 9(b). Chrysler also states Plaintiffs' execution of "consent to assignments" of their notes to E. F. Hutton acknowledged they were not relying on any representations of E.F. Hutton in connection with the investment.

Chrysler counterclaims alleging Plaintiffs are in default on their notes. Wilson is in default for \$120,000 and Layons for \$60,872.14. Chrysler attaches Wilson's note which states:

"This note may be assigned or pledged by the partnership. In either event, Maker hereby agrees, confirms and asserts that no defense, off-set, claim, counterclaim or other right which he has or might have as against the partnership, or its general partners, with respect to or affecting maker's obligations hereunder, may or shall be raised or asserted by maker against any assignee or pledgee of the partnership hereunder."

Further, the consent assignment agreement states:

"The undersigned has been advised by the payee that the said Note is to be endorsed or assigned to you as collateral security for extension(s) of credit by you to the payee or holder thereof. The undersigned acknowledges that with respect to said Note, you are acting solely in the capacity of a lender to the Payee and that you have made no representations or recommendations whatsoever to the undersigned concerning the Investment and that you have made no investigations of the persons involved in the Investment whether as promoters, organizers or otherwise."

Chrysler filed a motion for summary judgment on both the cause of action asserted against it and the counterclaim asserted by it.

A. Chrysler raised (in its answer to the amended complaint and in the motion for summary judgment), the issue that Wilson fails to state a claim upon which relief can be granted and fails to comply with the particularity requirement of Fed.R.Civ.P. 9(b). Fed.R.Civ.P. 12(b) states that "if matters outside the pleadings are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment" under Fed.R.Civ.P. 56.

Chrysler submits an affidavit of Hal B. Parkerson, Vice-President of Chrysler Capital Corporation, which states no one from Chrysler ever made any representation about the investment to Plaintiff Wilson. Plaintiff Wilson objects to the motion for summary judgment and moves to strike Parkerson's affidavit arguing he lacks personal knowledge of the motions which is required by Fed.R.Civ.P. 56(e). The Court tends to agree. The affidavit fails to disclose if Parkerson had any relationship to Hutton's financing of the Limited Partnership

Program in 1984. The Court chooses to exclude the affidavit for the limited purpose of summary judgment on Plaintiff's claim against Chrysler.

Similarly, Plaintiff Wilson's evidence submitted to this Court is not of any assistance. In an effort to show that Chrysler had actual knowledge of the fraud upon Plaintiffs, Plaintiff Wilson submitted various documents⁵ and depositions⁶. The Court has made a thorough review of these and none of these give any indication that Chrysler had the slightest indication that fraud was being committed. Nor do the documents indicate anyone from Chrysler ever contacted investors. The documents do not indicate Chrysler carried on a routine loan investigation. The evidence before us simply indicates Chrysler was doing an investigation for its own benefit for the purpose of determining whether a substantial loan should be made. Chrysler in no way was investigating the deal made on behalf of Plaintiffs. Plaintiff auspiciously asserts with this documentation that there remains a factual dispute. When analyzed there is no factual dispute, just vague inferences upon inferences. We therefore

⁵ Submitted are: a proposal of the terms of the loan of E.F. Hutton to a loan broker for the partnership, a check from GWEC to Hutton for \$9,000, a financial analysis summary and statements for Universal Resources (the drilling company used), Dunn & Bradstreet report and notice that Universal Resources' phone has been disconnected, GWEC balance sheet, various geologist reports, a positive profile of Pena, various letters and memos to the file, turnkey documents, an analysis of cashflow and tax benefits prepared by Herrmann, questionnaires and the promissory notes, among others.

⁶ Submitted are excerpts of Miller, Long and Parkerson, employees of Chrysler.

exclude all evidence submitted in the objection and motion for summary judgment.

The Court elects to treat Chrysler's motion as a motion to dismiss. The Court finds the amended complaint does not comply with Fed.R.Civ.P. 9(b) nor does it state a claim for which relief can be granted. Liability based on routine participation in loans does not satisfy Rule 9(b). Seattle-First National Bank v. Carlstedt, 800 F.2d 1008 (10th Cir. 1986).

B. And finally, the Court grants Chrysler's motion for summary judgment on Plaintiff Wilson's note. Vice-President of Chrysler, Hal Parkerson's affidavit⁷ is certainly sufficient to show Plaintiff Wilson has failed to pay and is in default. As discussed above, Plaintiff Wilson has shown nothing to this Court in the way of evidence to create a factual dispute. Interest as per the promissory note continued at 14% per annum until this date.⁸ Post-judgment interest from this date is 7.88% per annum.

VIII. MOTIONS FOR SANCTIONS

Plaintiff Wilson filed a motion to strike Chrysler's reply and requested sanctions contending Chrysler misquotes Plaintiff in Chrysler's brief. The Court has considered the situation thoroughly and although the paragraph should not have been set

⁷ Although this affidavit was insufficient concerning the motion for summary judgment on Plaintiff's claim, it is adequate as to personal knowledge on Defendant's claim.

⁸ Post-judgment interest starts on the date this order is filed. However, for appeal purposes, final judgment will not be entered until final judgment on the entire case unless the parties so request under Fed.R.Civ.P. 54(b).

off in quotation marks, the Court clearly understood upon the first reading that the paragraph was a paraphrasing of Chrysler's interpretation of Plaintiff Wilson's position. The motion to strike and for sanctions is denied.

IX. CONCLUSION

Therefore, the Court hereby dismisses all claims by Plaintiff Wilson in the amended complaint against Defendant Chrysler Capital Corporation. The Court hereby dismisses all claims asserted in the amended complaint against Mutual Fire Marine and Inland Insurance Company. All claims in the amended complaint against the partnership Herrmann and Vergin are dismissed. Count I and Count VIII of the amended complaint are dismissed as to Great Western Energy Corporation, Great Western Energy Ltd., 1984 Medina Gas Program, Thomas C. Herrmann, Stewart Herrmann, Todd and Chaney, and Daniel S. Pena. Any claims for conspiracy are dismissed. And finally, summary judgment is granted in favor of Chrysler Capital Corporation on its counterclaim against Plaintiff Donald J. Wilson for \$120,000.00.

The following claims still remain: Chrysler Capital Corporation's claim against Thomas and Elizabeth Layon; Wilson and Layons' Count I and VIII claims as to Venture Properties, Inc. and Rodney L. Dockery; Counts II, III, V, IX, X, XI, XII and XIII claims as to Great Western Energy Corporation, Venture Properties, Inc., Great Western Energy Ltd. 1984 1984 Medina Gas Program, Thomas C. Herrmann, Stewart, Herrmann, Todd and Chaney, Daniel S. Pena, Sr. and Rodney L. Dockery; and the Layons' claims against Chrysler Capital.

The parties shall adhere to the following schedule:

1. The defendants shall file an answer within ten days from the date herein;
2. The parties are to exchange the names and addresses of all witnesses, including experts, in writing, along with a brief statement regarding each witness' expected testimony (not necessary if witness' deposition taken) by January 25, 1988;
3. The parties are granted until February 8, 1988 in which to complete discovery;
4. The parties are to file any motions for summary judgment by February 22, 1988;
5. The parties are to file responses to any motions for summary judgment by March 4, 1988;
6. The parties are to file any replies by March 11, 1988;
7. The case is set for pretrial conference and hearing on motions on March 17, 1988, at 9:00 A.M.

IT IS SO ORDERED this 23rd day of Oct., 1987.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

MARK L. MARTIN,)
)
Plaintiff,)
)
vs.)
)
LIQUID CARBONIC CORP., a)
corporation,)
)
Defendant,)
)
vs.)
)
HOME INSURANCE COMPANY,)
)
Intervenor.)

F I L E D

OCT 22 1987

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

CASE NO. 87-C-172-B

ORDER OF DISMISSAL WITH PREJUDICE

The Court having been advised that the plaintiff's action against the defendant having been settled between the parties, finds that the action should be dismissed with prejudice.

IT IS, THEREFORE, ORDERED that the plaintiff's action against the defendant, Liquid Carbonic Corporation, be and the same is hereby dismissed with prejudice.

DATED this 22 day of October, 1987.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 22 1987

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	
)	
OSCAR N. MAYFIELD,)	
)	
Defendant.)	CIVIL ACTION NO. 87-C-733-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 with prejudice.

Dated this 22nd day of October, 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 22nd day of October, 1987, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to: Oscar N. Mayfield, P.O. Box 342, Spavinaw, Oklahoma 74366.

Assistant United States Attorney

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

FILED

IBEW-NECA SOUTHWESTERN HEALTH
AND BENEFIT FUND, and TULSA
ELECTRICAL INDUSTRY RECEIVING
TRUST,

Plaintiffs,

vs.

ALPHA ELECTRIC COMPANY,

Defendant.

FEB 27 1987

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

No. 86-C-870-E

JOURNAL ENTRY OF JUDGMENT

COMES NOW before me, the undersigned Judge of the United States District Court for the Northern District of Oklahoma, Plaintiffs' Motion for Default Judgment in the above captioned matter.

The Court finds that the Court has jurisdiction upon the parties and the subject matter hereto under §301 of the Labor Management Relations Act of 1947 as amended, 29 U.S.C. §185 and 502 of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1132.

That the venue is proper in that the action arose as the parties and the Defendant do business in the Northern Judicial District of Oklahoma,

The Court finds that the Defendant, Alpha Electric Company, was served with summons and complaint by Kevin Cash, licensed process server, No. 86-188 on the 19th day of February, 1987 by service upon Mike Updike, Service Agent of said corporation.

The Court finds that since service of process, the Defendant has failed to plead or answer and therefore is in default.

The Court further finds that the Plaintiff is entitled to a judgment as prayed for in its Petition for money judgment of \$3,564.03 plus

LAW OFFICES

UNGERMAN,
CONNER &
LITTLE

MIDWAY BLDG.
2727 EAST 21 ST.
SUITE 400

P. O. BOX 2099
TULSA, OKLAHOMA
74101

statutory interest thereon, and ~~attorney's fees of \$800.00 and court costs of \$80.00.~~

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Plaintiff, IBEW-NECA Southwestern Health and Benefit Fund and the Tulsa Electrical Industry Receiving Trust have as against the Defendant, Alpha Electric Company, a money judgment for the principal sum of \$3,564.03 plus statutory interest thereon, *at the rate of 7.88% per annum, plus court costs.* Plaintiff shall submit a separate application for attorney's fees and billing costs.
Done this 21st day of October, 1987.


UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:


Thomas F. Birmingham

UNGERMAN, CONNER & LITTLE
Attorneys for Plaintiff
1323 East 71st Street
P. O. Box 2099
Tulsa, Oklahoma 74101

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

MARK L. MARTIN,)
)
 Plaintiff,)
)
 vs.)
)
 LIQUID CARBONIC CORP., a)
 corporation,)
)
 Defendant,)
)
 vs.)
)
 HOME INSURANCE COMPANY,)
)
 Intervenor.)

F I L E D

OCT 22 1987

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

CASE NO. 87-C-172-B

ORDER OF DISMISSAL WITH PREJUDICE

The Court having been advised that the intervenor's action against the defendant having been settled between the parties, finds that the intervenor's action should be dismissed with prejudice.

IT IS, THEREFORE, ORDERED that Home Insurance Company's action against the defendant, Liquid Carbonic Corporation, be and the same is hereby dismissed with prejudice.

DATED this 22 day of October, 1987.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

UNITED STATES OF AMERICA,)
)
Respondent,)
)
v.)
)
OSCAR FOSTER GONZALES,)
)
Movant.)

No. 86-CR-49-B ✓

FILED

87-C-637/B

OCT 21 1987 m

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

O R D E R

Defendant Oscar Foster Gonzales filed a motion to vacate his five (5) year sentence pursuant to 28 U.S.C. §2255. Defendant maintains that because he was a non-English speaking defendant he did not understand the charges and the consequences of his plea of guilty.

Defendant was provided an interpreter at his arraignment and at his change of plea. At his sentencing, he requested his own interpreter be used. It is absolutely clear from the record Defendant understood and participated fully in the proceedings.

Defendant also contends he had inadequate counsel. Defendant gives no factual basis for his allegation and the Court finds no basis.

Finally, Defendant contends he was unable to communicate to the Court concerning the alleged errors in the presentence investigation report. It is clear from the record Defendant did communicate his differences to the judge and they were given full consideration.

The motion is therefore denied.

XCB 2

IT IS SO ORDERED, this 21 day of Oct., 1987.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

JAMES C. STILL,
Plaintiff,

v.

TEXACO INC. and TEXACO
REFINING AND MARKETING INC.,
Defendants.

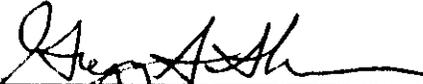
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NO. 87-C-61-B

STIPULATION FOR DISMISSAL WITHOUT PREJUDICE

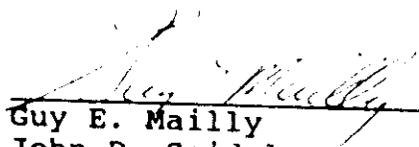
It is hereby stipulated by and among the parties to the above-entitled action, by their respective attorneys of record, that the action be, and is, dismissed without prejudice to all parties, including both TEXACO INC. and TEXACO REFINING AND MARKETING INC. and that an order to that effect accordingly may be made and entered without further notice.

Respectfully submitted,


C. Clay Roberts III, OBA #7632
Gregory S. Sherman, OBA #8169
MARSH & ARMSTRONG
808 ONEOK Plaza
100 W. Fifth Street
Tulsa, Oklahoma 74103
(918) 587-0141

Attorneys for Plaintiff,
James C. Still

APPROVED:



Guy E. Mailly
John D. Seidel
P.O. Box 52332
Houston, Texas 77052
(713) 650-4210

and

John T. Schmidt, Esq.
HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON
4100 Bank of Oklahoma Tower
One Williams Tower
Tulsa, Oklahoma 74172

Attorneys for Defendants, Texaco, Inc.
and Texaco Refining and Marketing Inc.

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

FILED

OCT 21 1987

HOMeward BOUND, INC., et al.,)
)
Plaintiffs,)
)
vs.)
)
THE HISSOM MEMORIAL CENTER,)
et al.,)
)
Defendants.)

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

No. 85-C-437-E

JUDGMENT

NOW on this 21st day of October, 1987 comes on for hearing the above styled case and the Court, being fully advised in the premises finds that, in accordance with the Findings of Fact and Conclusions of Law, judgment is entered in favor of the Plaintiffs and against the Defendants. Defendants shall comply in all respects with the Plan and Order of Deinstitutionalization, previously signed and entered by the Court.

The Plaintiffs are the prevailing party in this action. By achieving an order which requires additional or new services to be delivered regardless of the severity of handicaps, Plaintiffs have secured the relief sought. Plaintiffs shall file an Application for Attorney Fees and Motion to Tax Costs on or before November 10, 1987. The hearing concerning Plaintiff's Application for Attorney Fees is set on the 15th day of December, at 9:30 o'clock a.m.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

1.0
FSu

BURLINGTON NORTHERN RAILROAD)
COMPANY, a corporation,)
)
Plaintiff,)

vs.)

No. 87-C-568 B

KARL D. JONES, Special)
Administrator of the)
Estate of Joe Ervin Epperson)
Deceased, Individually and)
d/b/a Epperson Hauling and/or)
Epperson Trucking; PROGRESSIVE)
CASUALTY INSURANCE COMPANY,)
a corporation; VINITA ROCK)
COMPANY, a corporation;)
and WESTERN ENGINEERING)
COMPANY, INC., a corporation,)
)
Defendants)

F I L E D

OCT 21 1987

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

STATUS/SCHEDULING CONFERENCE ORDER, AND
ORDER DISMISSING WESTERN ENGINEERING WITHOUT PREJUDICE

The status/scheduling conference was held October 7, 1987, before the undersigned Judge. The parties were represented by counsel of record.

Counsel for plaintiff informed the Court that it wishes to immediately dismiss Western Engineering Company, Inc., without prejudice. Counsel for Western Engineering had no objection. IT IS THEREFORE ORDERED that Western Engineering Company, Inc. is hereby dismissed without prejudice.

Plaintiff's counsel also informed the Court that plaintiff probably will desire, within a short time, to join as a party defendant one of the shippers of cars in the train, and that plaintiff, in addition to its claim for property damages, also

desires to recover from defendants amounts plaintiff has and may in the future pay plaintiff's injured trainmen.

Counsel for Vinita Rock Company informed the Court that his client would probably file a motion for summary judgment on the issue of agency.

The Court set the following deadlines:

1. Motions to add parties or amend pleadings 11/6/87
2. Exchange all witnesses names and addresses, including experts in writing and any witnesses that appear on the list whose depositions have not been taken; state briefly the subject of that witness' testimony 12/24/87
3. Discovery to be complete 1/8/88
4. Dispositive motions 1/15/88
5. Responses 1/25/88
6. Replies 2/1/88
7. Pretrial conference and hearing on motions, 10:30 A.M. 2/12/88

The Court announced that it may give the parties an additional 45 days beyond the pretrial conference and hearing on motions in which to conclude any final discovery on whatever issues are left after the rulings at the pretrial conference and hearing on motions.

The case may be set for trial in April or May, but this is no more than a general prediction at present.

S/ THOMAS R. BRETT

Thomas R. Brett
United States District Judge

Approved:

John A. Mackechnie
John A. Mackechnie
Attorney for Plaintiff

Stephen C. Stapleton
Stephen C. Stapleton
Attorney for Defendants,
Karl D. Jones, Special
Administrator of the Estate
of Joe Ervin Epperson, Deceased,
and Progressive Casualty Insurance
Company

Coy D. Morrow
Coy D. Morrow
Attorney for Defendants,
Vinita Rock Company and
Federated Mutual Insurance Company

Richard C. Honn
Richard C. Honn
Attorney for Defendant
Western Engineering Company, Inc.

OCT 15 1987

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

ROBERE KAZADI,

Plaintiff,

vs.

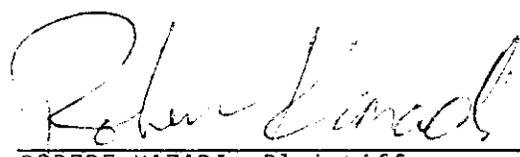
NO. 86-C-703E

CIRCLE K CONVENIENCE STORES, INC.,
a Texas corporation domesticated in
Oklahoma, and CARRIE HARRIS,
individually,

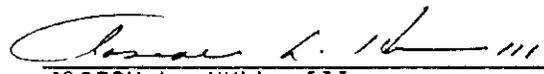
Defendants.

STIPULATION OF DISMISSAL WITH PREJUDICE

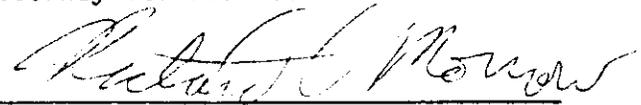
COME NOW the parties hereto, by and through their attorneys of record and pursuant to the provisions of Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, agree and do hereby stipulate to a dismissal of the captioned cause with prejudice.



ROBERE KAZADI, Plaintiff



JOSEPH L. HULL, III
1717 South Cheyenne
Tulsa, Oklahoma 74119
(918) 582-8252
Attorney for Plaintiff



RICHARD L. MORROW
233 West Eleventh Street
Tulsa, Oklahoma 74119
(918) 584-6457
Attorney for Defendant

HAP:bmc

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

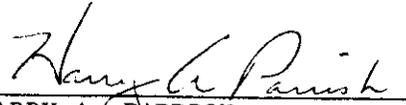
BUSINESS INTERIORS, INC.,)	
)	
Plaintiff,)	
)	
vs.)	Case No.: 81-C-323-E
)	
THE AETNA CASUALTY AND SURETY)	
COMPANY,)	
)	
Defendant and Third Party)	
Plaintiff,)	
)	
vs.)	
)	
THE BARTON AGENCY, INC.,)	
)	
Third Party Defendant.)	

STIPULATION OF DISMISSAL WITHOUT PREJUDICE

COME NOW the Third Party Plaintiff, The Aetna Casualty and Surety Company, and Third Party Defendant, The Barton Agency, Inc., and stipulate to Third Party Plaintiff's Dismissal of its Third Party Claim against Third Party Defendant, all without prejudice.



 R. SCOTT SAVAGE
 Attorney for Third Party Defendant



 HARRY A. PARRISH
 Attorney for Defendant and
 Third Party Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

JOHN DEERE COMPANY,)
)
 Plaintiff,)
)
 Vs.)
)
 DUNCAN D. MINSON,)
)
 Defendant.)

FILED

OCT 20 1987

Case No. 87-C-722 B

JOURNAL ENTRY OF JUDGMENT

NOW, on this 20 day of October, 1987, the Plaintiff has moved for and directed the Clerk of this Court to enter the default of Defendant, Duncan D. Minson, an individual, in this action and granting to the Plaintiff judgment against the said Defendant on the basis of said default, for possession of the collateral, for a money judgment together with interest thereon, a reasonable attorney's fee and costs.

The Plaintiff appears and is represented by its counsel, O. Clifton Gooding of Derryberry, Quigley, Parrish & Gooding, the Court finds that Defendant, Duncan D. Minson, has been duly served personally within the State of Oklahoma more than twenty (20) days prior to this date, but has failed to answer or otherwise plead within the time provided by law.

The Court further finds the Defendant, Duncan D. Minson, is in default and therefore, the allegations stated in Plaintiff's Complaint and supported by the Affidavit of O. Clifton Gooding previously filed herein, are true as they are set forth. The Court having heard the argument of counsel and due deliberation having been had, the Court considering all evidence herein and being fully advised in the premises and in consideration thereof;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Plaintiff, John Deere Company, have and recover judgment of and from Duncan D. Munson, an individual, as follows:

1. That the Clerk of this Court enter and certify the default of the Defendant, Duncan D. Minson, and in his actions;

2. That Plaintiff holds a first, valid, paramount and superior security interest in certain personal property, to-wit:

- 1 - John Deere 4440 Tractor w/SGB wts. - cyl., Serial #48750;
- 1 - John Deere 4640 Tractor w/SGB wts. - cyl., Serial #22552;
- 1 - John Deere 2700 Plow, Serial #11402;
- 1 - John Deere 220 Disk, Serial #18520;
- 1 - John Deere 145 5x16 Plow;

pursuant to the security agreement and financing statement attached to Plaintiff's Complaint.

3. That because of the default of Defendant, Duncan D. Minson, the Plaintiff have and recover money judgment against said Defendant in the amount of \$22,207.79, including prejudgment interest at the contract rate as provided in each promissory note from date of default, until date of judgment herein, and thereafter at the rate of _____% per annum until paid;

4. That Plaintiff have and recover against the Defendant, Duncan D. Minson, its reasonable attorney's fees herein pursuant to the terms of the agreement between the parties and judgment to recover its costs in this action which will be determined upon an application for recovery of attorney fees and cost to be filed by Plaintiff in a timely manner.

5. That Plaintiff shall have and recover judgment against the Defendant, Duncan D. Minson, for possession of the collateral described in Plaintiff's Complaint for the purpose of exercising its rights thereto under its Security Agreement and the Uniform Commercial Code, and Plaintiff is directed to foreclose or otherwise enforce its security interest in said collateral in compliance with the Oklahoma Uniform Commercial Code.

6. That Plaintiff have and recover from the Defendant Duncan D. Minson, costs of this action and future accruing costs; provided, however, that execution shall not issue for the money judgment rendered in paragraph 3 and 4 above, against the Defendant Duncan D. Minson, unless and until the Plaintiff, its successors or assigns, have sold, leased, or otherwise disposed of the collateral hereinabove described in a manner provided for by the Security Agreement and Oklahoma Uniform Commercial Code and an accounting of the proceeds therefrom is made by sworn affidavit and filed with the Court. Execution on the money judgment rendered in Paragraph 3 and 4 above, may thereafter issue for any deficiency so established, should Defendant default on any terms herein.

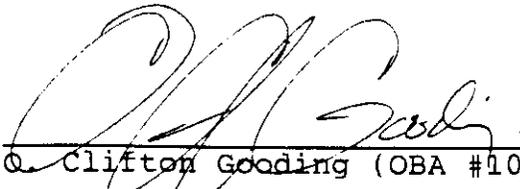
IT IS FURTHER ORDERED that the Bond, Number 37117, posted by Plaintiff on September 22, 1987, is hereby released and John Deere Company and John Deere Insurance Company are discharged from their obligations thereon.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

Approved:

By:


Clifton Gooding (OBA #10315)

Of the Firm:

DERRYBERRY, QUIGLEY, PARRISH,
& GOODING
4800 N. Lincoln Blvd.
Oklahoma City, OK 73105
(405) 528-6569

Attorney(s) for
JOHN DEERE COMPANY

FILED

IN THE UNITED STATES DISTRICT COURT OCT 20 1987
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JOHN C. GUMM, R. CLERK
U.S. DISTRICT COURT

AMERICAN EXCEL CORPORATION,)
a Texas corporation,)
)
Plaintiff,)
)
vs.)
)
TULSA GENERAL INSURANCE AGENCY,)
INC., an Oklahoma corporation,)
and DAVID SIMMONS,)
)
Defendants.)

No. 86-C-973 B

ADMINISTRATIVE CLOSING ORDER

UPON the Joint Application for Administrative Closing Order and for good cause shown, it is hereby ordered that the clerk administratively close this action in his records, without prejudice to the rights of the parties to reopen the proceeding for the entry of any stipulation, order, or judgment, or for any other purpose required to obtain a final determination of the litigation.

The Court finds that the following settlement has been reached by the parties and that if this matter has not been otherwise terminated or reopened for the purposes of obtaining a final judgment on or before June 15, 1988, this action shall be deemed dismissed with prejudice.

1. As a full and complete settlement of the claims in this cause, Defendants will pay to the Plaintiff \$500,000.00 as follows:

- a. \$250,000.00 upon the execution of this application,
- b. \$125,000.00 on February 1, 1988,

c. \$125,000.00 on June 4, 1988.

2. Upon the payment of \$125,000.00 by the Defendants to the Plaintiff on or before February 1, 1988, and the payment of \$125,000.00 on or before June 4, 1988, the Plaintiff will tender to the Defendants a release of all claims herein in a form acceptable to all parties and dismiss with prejudice all of the claims asserted herein.

3. The Plaintiff and Defendants will each pay their own litigation expenses, including attorney fees and court costs, except as provided in paragraph 4.

4. In the event of a failure by the Defendants to make either of the two payments, upon application of the Plaintiff, the Court will reopen this matter for the purpose of entering judgment in the amount of the unpaid balance owing under the settlement agreement set forth in the application, which judgment shall include accrued interest, court costs and attorney fees. If an application to reopen this matter has not been filed on or before June 15, 1988, this action will be deemed dismissed with prejudice.

IT IS SO ORDERED this 20 day of October, 1987.

S/ THOMAS R. BRETT

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

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

PEMBERTON NISSAN, INC.,)
)
Plaintiff,)
)
vs.)
)
DEAN BAILY OLDS, INC.,)
)
Defendant.)

Case No. 87-C-651-B

U.S. DISTRICT COURT
TULSA, OKLAHOMA

STIPULATION OF DISMISSAL

COMES NOW Pemberton Nissan, Inc. by and through its attorney, James W. Barlow and Dean Bailey Olds, Inc. by and through its attorneys, Marsh & Armstrong, by Larry D. Clark and pursuant to 41(a)(1) of the Federal Rules of Civil Procedure mutually agree and stipulate to the dismissal, with prejudice, of any and all claims and actions herein.

DATED this 20th day of October, 1987.



James W. Barlow (OBA #521)
35 East 18th Street
Tulsa, Oklahoma 74119
(918) 532-4775

ATTORNEY FOR PLAINTIFF

MARSH & ARMSTRONG



808 ONEOK Plaza
100 West Fifth Street
Tulsa, Oklahoma 74103
(918) 587-0141

ATTORNEYS FOR DEFENDANT

(JWB:1):(Dismissa)

CLERK OF THE DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

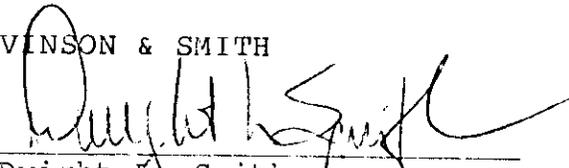
EMPIRE PLUMBING SUPPLY, INC., an)
Oklahoma corporation,)
)
Plaintiff,)
)
vs.)
)
THE LAW COMPANY, INC., a)
corporation,)
)
Defendant.)

Case No. 87-C-155-B

STIPULATION OF DISMISSAL

COMES NOW the Plaintiff, Empire Plumbing Supply, Inc., and announces to the Court that this case has been settled and accordingly, Plaintiff does hereby dismiss, with prejudice, its claims and causes of action against the Defendant, with each party to bear all and exclusively its own costs of litigation and attorney fees. By their signatures below, the attorneys for the parties would further show the Court that this Dismissal is by stipulation.

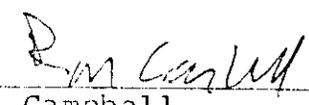
LEVINSON & SMITH

By 

Dwight E. Smith
OBA #008340
35 East 18th Street
Tulsa, Oklahoma 74119
(918) 599-7214

ATTORNEYS FOR PLAINTIFF

FLEESON, GOOING, COULSON
& KITCH

By 

Ron Campbell
P.O. Box 997
Wichita, Kansas 67201-0997

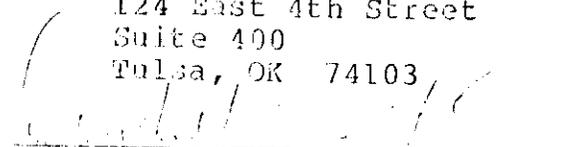
ATTORNEYS FOR DEFENDANT

CERTIFICATE OF MAILING

The undersigned does hereby certify that on the 20th day of October, 1987, a true and correct copy of the above and foregoing instrument was mailed with proper postage thereon prepaid, to:

Ron Campbell
FLEESON, GOOING, COULSON
& KITCH
P.O. Box 997
Wichita, KS 67201-0997

Gerald G. Stamper
NICHOLS, WOLFE, STAMPER,
NALLY & FALLIS
124 East 4th Street
Suite 400
Tulsa, OK 74103



Dwight L. Smith

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

F I L E D

OCT 20 1987

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

HANOVER INSURANCE COMPANY,)
A foreign corporation,)
)
Plaintiff,)
)
vs.)
)
FEDERAL DEPOSIT INSURANCE)
CORPORATION,)
)
Defendant.)

No. 86-C-992 - C

STIPULATION FOR DISMISSAL AND SETTLEMENT AGREEMENT

COME NOW the parties herein, Hanover Insurance Company, plaintiff, and the Federal Deposit Insurance Corporation, as Liquidating Agent of United Oklahoma Bank, defendant, and hereby state to the court as follows:

1. That Plaintiff's lawsuit is an action for Declaratory Judgment with regard to an insurance policy issued to Defendant, United Oklahoma Bank.

2. That the cause for the filing of this Declaratory Judgment Action was an adversary proceeding filed in the United States Bankruptcy Court for the Western District of Oklahoma, Case No. 84-0688, filed in Bankruptcy Case No. BK-83-02860-B.

3. That, in said adversary proceeding, the debtor, Brad A. Moss has sued United Oklahoma Bank for breach of contract, conversion, and requested a declaration of rights of the debtor.

That Defendant, United Oklahoma Bank has previously made a demand on the plaintiff for defense and coverage under the aforementioned policy of insurance, and this action was filed for a determination that there was no coverage under Plaintiff's policy of insurance with the Defendant.

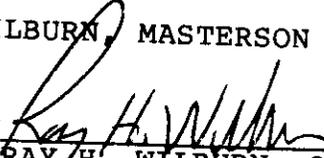
4. That Defendant Bank has since been closed by the State Banking Commissioner, and the Federal Deposit Insurance Corporation (FDIC) accepted appointment as Liquidating Agent. The FDIC has now been substituted as party defendant in this case.

5. After examining the demand for the defense filed by United Oklahoma Bank, the underlying adversary proceeding, and the subject insurance policy, the FDIC hereby stipulates that the insurance policy afforded no coverage to United Oklahoma Bank for the losses alleged by Mr. Moss in his adversary proceeding. The FDIC further stipulates and agrees that it will not pursue any claims or demands against Hanover Insurance Company arising out of the Brad Moss adversary proceeding, the controversy underlying the adversary proceeding, and the demand for coverage and defense filed by United Oklahoma Bank in connection with the adversary proceeding.

6. The parties hereto agree and stipulate that this case be dismissed without prejudice. Each party shall bear its own attorneys' fees and costs.

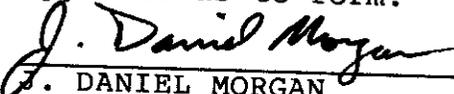
Respectfully submitted,

WILBURN, MASTERSON & HOLDEN

By 
RAY H. WILBURN, OBA #9600
Attorney for Plaintiff

2526-A East 71st Street
Tulsa, OK 74136
(918) 494-0414

Approved as to form:


J. DANIEL MORGAN
Attorney for Defendant, FDIC

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

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

SANDRA FAYE JONES and JAMES)
P. JONES, her husband)
)
Plaintiffs,)
)
v.)
)
RONALD ERVIN FOX, and)
FARMERS INSURANCE CO., INC.)

No. 87-C-249-C

000 1987

U.S. DISTRICT COURT

O R D E R

NOW on this 20th day of October, 1987,
defendant Farmers Insurance Company's Application to Dismiss with
Prejudice its Cross Petition against Defendant Fox came on for
hearing. The Court being fully advised in the premises finds
that said Application should be sustained and the defendant
Farmers Insurance Company's Cross Petition against defendant Fox
should be dismissed with prejudice.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that
Defendant Farmers Insurance Company's Application to Dismiss With
Prejudice its Cross Petition against defendant Fox be sustained
and defendant Farmers Insurance Company's Cross Petition against
defendant Fox be dismissed with prejudice.

(Signed) H. Dale Cook

HONORABLE H. DALE COOK, Judge
OF THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT

F I L E D

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

OCT 20 1987

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

JEFF JORDAN d/b/a CUSTOM CONCRETE)
 FINISHING,)
)
 Plaintiff,)
)
 v.)
)
 SOUTHWESTERN BELL TELEPHONE COMPANY,)
)
 Defendant.)

No. 86-C-912-E

J U D G M E N T

In accordance with the Order entered herein on the 5th day of October, 1987 granting Defendant Southwestern Bell Telephone Company's Motion for Summary Judgment, it is ORDERED, ADJUDGED and DECREED that Defendant Southwestern Bell Telephone Company have judgment in its favor and against Plaintiff Jeff Jordan.



 JAMES O. ELLISON
 UNITED STATES DISTRICT JUDGE

F I L E D

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

OCT 20 1987

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

FRED SHAEFFER AND MURRIEL M.
SHAEFFER,

Plaintiffs,

vs.

ST. LOUIS-SAN FRANCISCO
RAILWAY, now BURLINGTON
RAILROAD,

Defendant.

No. 85-C-297-E

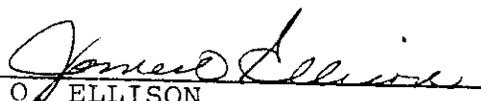
JOURNAL ENTRY OF JUDGEMENT

The Court held a pretrial conference in this case on April 8, 1987. At that time plaintiffs' counsel Mr. Bill Wilson informed the Court that he had recently been appointed a Special District Court Judge in Creek County, Oklahoma and that although he was not legally disqualified from representing the plaintiffs in this case, the duties and workload of his judicial office made it impossible for him to continue as their counsel. Therefore, at Mr. Wilson's request, the Court allowed him to withdraw as plaintiffs' counsel on condition that new counsel file an appearance not later than May 8, 1987. In order to give new counsel time to prepare, and at Mr. Wilson's request, the Court struck the May 18, 1987 trial date and rescheduled the trial date to June 20, 1988. Then on May 9, 1987, Mr. Wilson filed an Application to be allowed to withdraw as counsel in which he requested "an additional period of 15 days to obtain new counsel." The Court granted Mr. Wilson's Application on May 12, 1987. However, there was no appearance filed by any new attorney for the plaintiffs, either during the applicable 15 day period or at any time thereafter. This Court

25

then entered an order on August 31, 1987 in which plaintiffs were given 15 days from that date to obtain new counsel. Since no appearance has ever been filed by another attorney, it is the judgement of this Court that all of plaintiffs' claims herein, of whatever nature, should be, and the same hereby are, dismissed with prejudice.

SO ORDERED this 20th day of October, 1987.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

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

OCT 20 1987

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

RITA A. ROBERTS,)
)
 Plaintiff,)
)
 v.)
)
 HEALTHCARE SERVICES, INC.,)
 a Corporation; and NANCY)
 KETCHUM,)
)
 Defendants.)

No. 86-C-705-E

ORDER OF DISMISSAL

NOW on this 19 day of Oct, 1987, the Court having reviewed the Joint Application for Dismissal Without Prejudice, the Court finds that said dismissal is proper.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that Nancy Ketchum is hereby dismissed from this case without prejudice and that each party shall be responsible for her own costs and attorney's fees.

UNITED STATES DISTRICT JUDGE

APPROVED:

W. Michael Hackett
W. MICHAEL HACKETT
Attorney for Defendant
Nancy Ketchum

D. Gregory Bledsoe
D. GREGORY BLEDSOE
and
JAMES W. DUNHAM, JR.
Attorneys for Plaintiff
Rita A. Roberts

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

GARY W. LEITCH,

Plaintiff,

v.

PIZZA HUT, INC., a Delaware
corporation and, PIZZA HUT OF
AMERICA, INC., an Oklahoma
corporation,

Defendant.

CIVIL ACTION NO.
87-C-115B

STIPULATION OF DISMISSAL

COME NOW all parties hereto, by and through their attorneys of record, and pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii), hereby stipulate that this action should be, and hereby is, dismissed with prejudice. Each party is to bear his or its own costs and attorney fees.

GARY W. LEITCH

PIZZA HUT, INC.
PIZZA HUT OF AMERICA, INC.



Thomas R. Gann
2121 South Columbia
Suite 600
Tulsa, Oklahoma 74114
(918) 743-4717



Thomas D. Robertson
Suite 400, Old City Hall Bldg.
124 East Fourth Street
Tulsa, Oklahoma 74103
(918) 584-5182
Attorney for Defendants

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

MELVIN EDWARDS,

Plaintiff,

v.

TULSA COUNTY SHERIFF, Frank
Thurman, and TULSA COUNTY
PROSECUTION ATTORNEY, David
Moss,

Defendants.

87-C-659-C

F I L E D

OCT 19 1987

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

ORDER

The Court has for consideration the Report and Recommendation of the Magistrate filed September 15, 1987, in which the Magistrate recommended that the Petition for a Writ of Habeas Corpus be dismissed as being without merit. 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 Petition for a Writ of Habeas Corpus is dismissed as being without merit.

Dated this 19 day of Oct, 1987.

(Signed) H. Dale Cook

H. DALE COOK, CHIEF
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 KENNARD J. FUSELIER; PEBBLES L.)
 FUSELIER; COUNTY TREASURER,)
 Tulsa County, Oklahoma; and)
 BOARD OF COUNTY COMMISSIONERS,)
 Tulsa County, Oklahoma,)
)
 Defendants.)

FILED
OCT 19 1987
U.S. DISTRICT COURT

CIVIL ACTION NO. 87-C-632-C

O R D E R

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

Dated this 14 day of oct, 1987.

(Signed) H. Dale Cook
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

TONY M. GRAHAM
United States Attorney

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

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

MARY BRANHAM,)
)
 Plaintiff,)
)
 vs.)
)
 MUTUAL OF OMAHA INSURANCE)
 COMPANY, a Nebraska)
 insurance corporation,)
)
 Defendant.)

No. 87-C-432-C

FILED

OCT 19 1987

John C. [unclear], Clerk
U.S. DISTRICT COURT

O R D E R

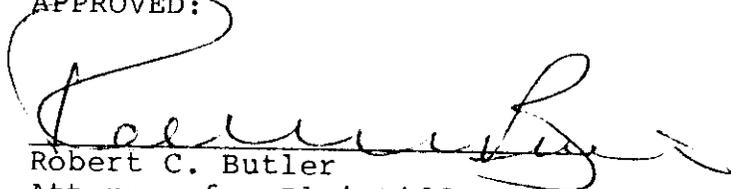
Upon application of the parties, this action is hereby dismissed with prejudice, each party to bear its own costs.

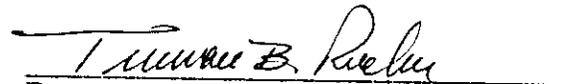
DATED this 14 day of Oct, 1987.

(Signed) H. Dale Cook

United States District Judge

APPROVED:


Robert C. Butler
Attorney for Plaintiff


Truman B. Rucker
Attorney for Defendant

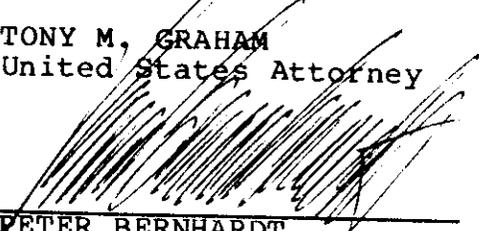
IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Greta F. Smith, in the amount of \$614.13, plus interest at the rate of 9 percent per annum and administrative costs of \$.67 per month from March 25, 1985, \$.63 per month from February 1, 1986, and \$.70 per month from February 1, 1987, until judgment, plus interest thereafter at the current legal rate of 7.88 percent until paid, plus the costs of this action.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

TONY M. GRAHAM
United States Attorney


PETER BERNHARDT
Assistant U.S. Attorney


GRETA F. SMITH

PB/mp

FILED

OCT 19 1987

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

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

TRW, INC.,)	
)	
Plaintiff,)	
)	
v.)	81-C-77-B
)	
S&N PUMP COMPANY,)	
)	
Defendant.)	

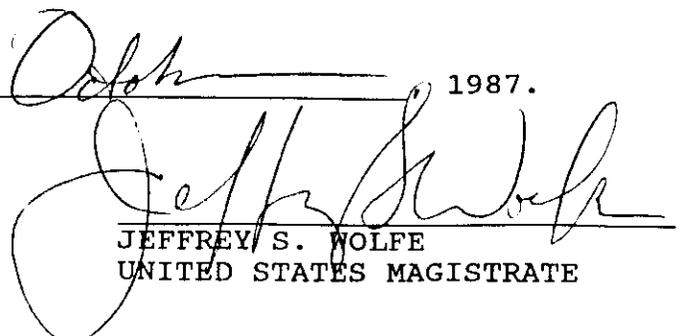
PROTECTIVE ORDER

Pursuant to settlement conference held October 14, 1987 the Magistrate hereby enters the following Protective Order in the foregoing case:

All parties are enjoined and constrained from disclosing or otherwise making available to any person not a party to this action and to any person who has not otherwise agreed to participate and abide by the terms of this Protective Order, all financial information disclosed whether orally or in writing at the settlement conference between S&N Pump Company and TRW, Inc. October 14, 1987 and, further, all parties are hereby ordered to mark any and all such information "confidential" and to inform any persons with whom they speak regarding such information that the information is under the protective order of this Court.

The foregoing protective order is to remain in effect until further order of this Court. Either party may apply to the court to amend same.

Done this 19th day of October 1987.



JEFFREY S. WOLFE
UNITED STATES MAGISTRATE

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

9 1 1 3 1

OCT 19 1987

J. C. ...
U.S. DISTRICT COURT

NATIONAL FOOTBALL SCOUTING, INC.,)
et al.,)
)
Plaintiffs,)
)
vs.)
)
CONTINENTAL ASSURANCE COMPANY,)
et al.,)
)
Defendants.)

Case No. 86-C-843-C

**ORDER DISMISSING MORTON & ASSOCIATES, INC.,
MORTON & COMPANY RETIREMENT DIVISION, INC.,
ACTUARIAL ASSOCIATES OF AMERICA -- LITTLE ROCK, INC.,
and MORTON ADMINISTRATION SYSTEMS, INC. AS DEFENDANTS.**

Upon the motion of Plaintiffs and Defendants Morton & Associates, Inc., Morton & Company Retirement Division, Inc., Actuarial Associates of America -- Little Rock, Inc., and Morton Administration Systems, Inc., the Court hereby finds and ORDERS that aforementioned Defendants should be dismissed herein without prejudice.

(Signed) H. Dale Cook

JUDGE

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

EQUITY BUILDING COMPANY, an)
Oklahoma General Partnership,)
Plaintiff,)

vs.)

SOUTHWESTERN BELL TELEPHONE)
COMPANY, and)
NATKIN SERVICE COMPANY,)
Defendants.)

Case No. 87-C-573-~~CE~~^E

JURY TRIAL DEMANDED

Notice of

DISMISSAL AS BETWEEN EQUITY
BUILDING COMPANY AND NATKIN SERVICE
COMPANY ONLY

NOW, on this 14th day of October, 1987, pursuant to a settlement agreement reached between the plaintiff Equity Building Company ("Equity") and the defendant Natkin Service Company ("Natkin");

IT IS HEREBY STIPULATED between Equity and Natkin, that the above entitled action be, and is hereby, DISMISSED WITH PREJUDICE, insofar and only insofar, as it relates to the claims Equity and Natkin have against the other, with each party to bear its own cost and attorneys fees.

IT IS FURTHER STIPULATED that the causes of action which Equity has asserted against Southwestern Bell Telephone Company, remain intact and are not dismissed, nor otherwise affected by this dismissal.

Respectfully submitted,

DOYLE & HARRIS

By Michael D. Davis
Steven M. Harris
Michael D. Davis
P.O. Box 1679
Tulsa, OK 74101
(918) 582-0090
Attorneys for Plaintiff

NATKIN SERVICE COMPANY

By E. J. Kwiatkowski
Position PRESIDENT

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

JOHN DEERE INDUSTRIAL)
EQUIPMENT COMPANY,)
)
Plaintiff,)
)
Vs.)
)
STEVEN B. PARKHURST and DAN)
T. STEFANOFF, d/b/a S & P)
INVESTMENTS,)
)
Defendants.)

Case No. 87-C-634 B

JOURNAL ENTRY OF JUDGMENT

NOW ON THIS 15th day of October, 1987, this matter comes on for hearing before the undersigned United States District Judge, the Plaintiff appears by its attorney, O. Clifton Gooding of the law firm of Derryberry, Quigley, Parrish, & Gooding, and the Defendant, S & P Investments, an Oklahoma General Partnership consisting of Dan L. Stefanoff and Steven B. Parkhurst, appear by its counsel, Mark A. Edmiston of the firm Doyle & Harris. Thereupon, the Court, after examining the pleadings and instruments on file herein, having reviewed all of the evidence and being fully advised in the premises, finds the parties enter in to the following agreed to Order:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT as follows:

1. That Plaintiff holds a first, valid, paramount and superior security interest in certain personal property, to-wit:

One (1) John Deere 750 Crawler Dozer, Serial #384922 pursuant to the security agreement and financing statement attached to Plaintiff's Complaint.

2. That the allegations of Plaintiff's Complaint are true as set forth therein; that the Defendant S & P Investments, an Oklahoma Partnership consisting of Dan L. Stefanoff and Steven B. Parkhurst, is indebted to Plaintiff in the sum of \$23,240.84, as of July 14, 1987, including interest to said date according to the terms of the Promissory Note which is the subject of Plaintiff's Complaint.

3. That the Plaintiff is entitled to a reasonable attorney's fee in this action and that a reasonable fee in this matter is \$2,057.50 and costs incurred in the sum of \$566.27.

4. That the Plaintiff shall have and recover judgment against the Defendant S & P Investments, an Oklahoma Partnership consisting of Dan L. Stefanoff and Steven B. Parkhurst, for possession of the collateral described in Plaintiff's Complaint for the purpose of exercising its right thereto under its Security Agreement and the Uniform Commercial Code, and Plaintiff is directed to foreclose or otherwise enforce its security interest in said collateral in compliance with the Oklahoma Uniform Commercial Code.

4. That Plaintiff have and recover from the Defendant S & P Investments, an Oklahoma General Partnership consisting of Dan L. Stefanoff and Steven B. Parkhurst, costs of this action and future accruing costs; provided, however, that execution shall not issue for the money judgment rendered in Paragraphs 2 and 3 above,

against the Defendant S & P Investments, an Oklahoma General Partnership consisting of Dan L. Stefanoff and Steven B. Parkhurst, unless and until the Plaintiff, its successors or assigns, have sold, leased, or otherwise disposed of the collateral hereinabove described in a manner provided for by the Security Agreement and Oklahoma Uniform Commercial Code and an accounting of the proceeds therefrom is made by sworn affidavit and filed with the Court. Execution on the money judgment rendered in Paragraphs 2 and 3 above, may thereafter issue for any deficiency so established, should Defendant default on any terms herein.

Except as expressly provided herein, let execution issue.

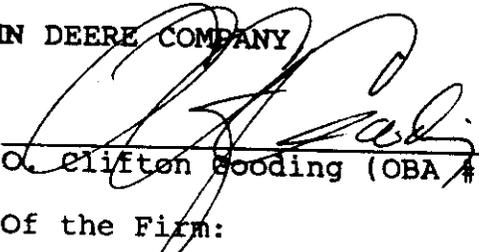
S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED:

JOHN DEERE COMPANY

By:


Clifton Gooding (OBA #10315)

Of the Firm:

DERRYBERRY, QUIGLEY, PARRISH,
& GOODING
4800 N. Lincoln Blvd.
Oklahoma City, OK 73105
(405) 528-6569

Attorney(s) for Plaintiff
JOHN DEERE COMPANY

S & P INVESTMENTS, an
Oklahoma General Partnership
consisting of DAN L. STEFANOFF
and STEVEN B. PARKHURST

By: 
Mark A. Edmiston

Of the Firm:

DOYLE & HARRIS
1414 South Galveston
P.O. Box 1679
Tulsa, OK 74101
(918) 582-0090

Attorney(s) for
STEVEN B. PARKHURST and
DAN L. STEFANOFF, d/b/a
S & P INVESTMENTS

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

FILED
OCT 15 1987
U.S. DISTRICT COURT

SHELTER MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Plaintiff,

vs.

ALICE M. SPEARS, Administratrix
of the Estate of Marty F. Spears,
deceased, JOHN R. HENDERSON,
LORETTA J. FORD, a minor, by
Diane Taylor, her next friend,

Defendants.

No. 87-C-743 B

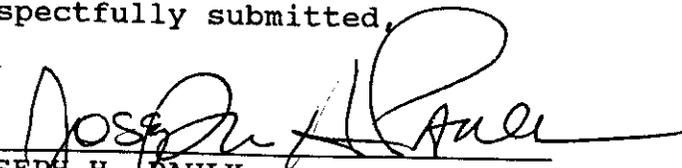
STIPULATION OF DISMISSAL

Comes now the plaintiff in the above-entitled action and does hereby agree with all other parties to dismiss the above-styled cause of action with prejudice. All other counsel to this matter have agreed to the dismissal and additionally agree not to pursue any costs or attorney fees due to the dismissal.

WHEREFORE, premises considered, this plaintiff does hereby agree with all other counsel of record to dismiss, with prejudice, the above-styled matter.

Respectfully submitted,

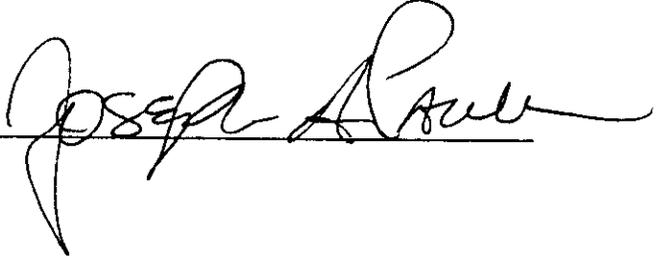
By:


JOSEPH H. PAULK
Oklahoma Bar No. 10110
2021 South Lewis, Suite 250
Tulsa, Oklahoma 74104
Telephone: (918) 749-5749

Attorney for Plaintiff

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the foregoing was deposited in the U. S. Mail this 15th day of October, 1987, addressed to defendants' attorneys, Mr. David Gambill, P. O. Box 567, Bristow, Oklahoma 74010, Mr. Jack B. Sellers, P. O. Box 730, Sapulpa, Oklahoma 74067, and Linda Alcorn, Route 4, Box 483, Bristow, Oklahoma 74010, with proper postage thereon fully prepaid.



11-4-87.
no objects fld
phoned Karen
for Aldeu

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

E. L. POWELL AND SONS)
TRUCKING CO., INC.,)
)
Plaintiff,)
)
v.)
)
JIM LONG and B-LINE WEST,)
INC.,)
)
Defendants.)

87-C-496-B

FILED
NOV 14 1987
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

FINDINGS AND RECOMMENDATIONS OF U. S. MAGISTRATE

Defendant, B-Line West, Inc.'s motion to dismiss is now before the Magistrate for findings and recommendations. Having considered the motion, submitted briefs, oral arguments of the parties, and relevant legal authority, the Magistrate makes the following findings and recommendations:

Plaintiff brought this action pursuant to the Interstate Commerce Act, 49 U.S.C. §§10101, et seq., to recover unpaid freight charges under a bill of lading executed in the State of Washington. Plaintiff alleges that defendant B-Line West, Inc. ("B-Line") was the consignor of certain items which were shipped and transported under a bill of lading from Spokane, Washington, to San Marcos, Texas, where they were delivered to defendant Jim Long, the consignee. Plaintiff claims that under the bill of lading both the consignor and consignee are liable for the freight charges, which at this time remain unpaid.

In its motion to dismiss B-Line contends that it does not have minimum contacts with the State of Oklahoma such that it may be subjected to suit in Oklahoma.

Plaintiff attempted to serve defendant B-Line under Oklahoma's long arm statutes which allow an Oklahoma court to "... exercise jurisdiction on any basis consistent with the Constitution of this state and the Constitution of the United States." 12 O.S. §2004F.

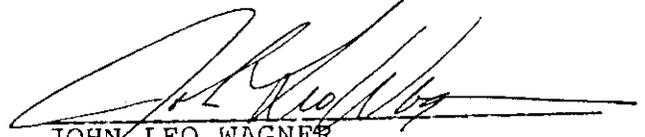
The constitutional standard for the exercise of in personam jurisdiction over non-resident defendants is set forth in International Shoe Co. v. Washington, 326 U.S. 310, 66 S.Ct. 154, 90 L.Ed. 95 (1945). There, the Court held that before a non-resident defendant can be made to defend a suit in the court of another state, it must be found that the non-resident had "minimum contacts" with the forum state "such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'" 326 U.S. at 316, 66 S.Ct. at 158, 90 L.Ed. at 102.

Defendant B-Line is a Washington corporation with its principal place of business in Washington. It is not qualified to do business in Oklahoma. The only contact B-Line is alleged to have had with Oklahoma was one telephone call to plaintiff in Oklahoma from an individual that B-Line denies is its agent or employee.

The Magistrate finds that B-Line West has not had minimum contacts with Oklahoma as required by International Shoe, supra. Nothing in the record indicates that B-Line "purposefully avail[ed] itself of the privilege of conducting activities within the forum state." Hanson v. Denkla, 357 U.S. 235, 253, 78 S.Ct. 1228, 1240, 2 L.Ed.2d 1283, 1298 (1958).

It is, therefore, the Magistrate's recommendation that defendant B-Line West, Inc.'s motion to dismiss be granted.

Dated this 13th day of October, 1987.


JOHN LEO WAGNER
UNITED STATES MAGISTRATE

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

OCT 14 1987

J. CHRISTOPHER HASTINGS,)
)
 Plaintiff,)
)
 vs.)
)
 INDUSTRIAL UNDERWRITERS)
 INSURANCE COMPANY,)
)
 Defendant.)

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

Case No. 87-C-260-B

ORDER OF DISMISSAL

The Court has for consideration Plaintiff's Application To Dismiss On Stipulation of Parties. The Court having considered the application finds that this action should be and is hereby dismissed with prejudice.

IT IS SO ORDERED this 14 day of October, 1987



Thomas R. Brett
United States District Judge

Entered

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.

DISMISSAL BY
REASON OF SETTLEMENT

On this 9th day of October, 1987, Plaintiff's Motion to Dismiss
comes before this Court. In accordance with the settlement agreement,
the judgment has been paid. This action is hereby dismissed with
prejudice.

(Signed) H. Dale Cook

H. DALE COOK
United States District Judge

FILED

OCT 13 1987

U.S. DISTRICT COURT

Entered

FILED

OCT 13 1987

JAMES C. ...
U.S. DISTRICT COURT

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

NATIONAL FOOTBALL SCOUTING, INC., et al.,)
)
Plaintiffs,)
)
v.)
)
CONTINENTAL ASSURANCE COMPANY, an Illinois)
corporation, et al.,)
)
Defendants.)

Case No. 86-C-843-C ✓

**ORDER ALLOWING DISMISSAL OF
DEFENDANT GEORGE B. MORTON**

Upon Plaintiffs' motion to dismiss their claims against the Defendant George B. Morton, it is ordered that the Complaint be dismissed as to the Defendant George B. Morton only, without prejudice.

W. J. Cook
U. S. DISTRICT JUDGE

29

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

F I L E D

OCT 13 1987

WAYNE E. WELLS,)
)
 Plaintiff,)
)
 vs.)
)
 UNITED STATES, ROBERT GREENWOOD,)
 Internal Revenue Officer,)
 INTERNAL REVENUE SERVICE,)
)
 Respondents,)
)
 CASUALTY RECIPROCAL EXCHANGE,)
 a Missouri corporation)
)
 Third Party Defendant.)

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

Case No. 86-C-316-B

JUDGMENT

This matter, having come on for hearing before this Court on the 8th day of October, 1987, pursuant to the Order and Judgment of the Tenth Circuit Court of Appeals filed on August 25, 1987, and in accordance with said Order and Judgment of the Tenth Circuit Court of Appeals, Judgment is hereby entered against the Plaintiff, Wayne E. Wells, as follows:

1. Against the Plaintiff and in favor of the Defendant, Casualty Reciprocal Exchange, for attorney fees in the amount of \$2,093.75 and double costs in the amount of \$840.84, for a total judgment in favor of said Defendant in the amount of Two Thousand Nine Hundred Thirty-four and 59/100 Dollars (\$2,934.59), with post-judgment interest to run on said sum at the rate of 7.88 percent per annum.

2. Against the Plaintiff and in favor of the Defendant, United States, for double costs in the total amount of One Hundred Forty-nine and 04/100 Dollars (\$149.04), with post-judgment interest to run on said sum at the rate of 7.88 percent per annum.

DATED this ¹³th day of October, 1987.

S/ THOMAS R. BRETT

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

GRAYBAR ELECTRIC COMPANY,)
INC.,)
)
Plaintiff,)
)
v.)
)
AETNA INSURANCE COMPANY,)
)
Defendant.)
_____)

Case No. 87-C-164-B

JUDGMENT

Upon the Order entered by the Court this date, IT IS
ORDERED, ADJUDGED AND DECREED that Judgment be and is hereby
rendered in favor of Graybar Electric Company, Inc. against Aetna
Insurance Company for the amount of \$20,758.87.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties
shall pay their respective costs of this litigation, including
their own respective attorneys' fees.

DATED this 13th day of October, 1987.

S/ THOMAS R. BRETT

THOMAS R. BRETT, U.S. DISTRICT JUDGE

Sidney K. Swinson
JARBOE, SWINSON & STOERMER
1810 Mid-Continent Tower
Tulsa, OK 74103

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

F I L E D

OCT 13 1987

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

BILLY LEE SMITH,)
)
 Plaintiff,)
)
 v.)
)
 BARBARA CUBITT, Records)
 Administrator, Hominy,)
 Oklahoma,)
)
 Defendant.)

86-C-1003-B

ORDER

Plaintiff brought this action under Title 42 U.S.C. §1983 for the alleged violation of his civil rights. Plaintiff claims that on March 13, 1984, while he was in the custody of the Oklahoma Department of Corrections, he filed "an Interstate Compact Agreement on Detainers in the states Nebraska and Kansas"; that Kansas and Nebraska then had one hundred eighty (180) days from March 13th to prosecute plaintiff for charges pending in those states; and that Nebraska did not "come after" plaintiff until the one hundred eighty days had expired.

Plaintiff further claims that on October 17, 1984, he filed a request with defendant Conner Correctional records keeper Barbara Cubitt that all outstanding detainers be removed from his records and that he be protected from extradition to Nebraska. Plaintiff alleges that defendant Cubitt violated his due process and equal protection rights under the Constitution by failing to take the Nebraska detainer from his records; by "conspiring with Nebraska to kidnap [plaintiff] by force"; and by causing defendant to lose good time credits and to incur over \$10,000.00 in attorney fees.

Defendant seeks dismissal of the complaint on several grounds. First, defendant asserts that this action is barred by a two-year statute of limitations. Congress has not enacted a statute of limitations specifically for §1983; therefore, courts must adopt the most analogous state statute of limitations. See, 42 U.S.C. §1988 (1976); Board of Regents v. Tomanio, 446 U.S. 478, 100 S.Ct. 1790, 64 L.Ed.2d 440 (1980). In this situation, the most analogous Oklahoma statute of limitations is the two-year limitations period for actions to redress the injury to the rights of another. 12 O.S. 1981 §95(2)(3); see, Abbitt v. Franklin, 731 F.2d 661 (10th Cir. 1984).

Plaintiff was informed on or about October 22, 1984, that his request for removal of the Nebraska detainer was denied and on October 24, 1984, plaintiff was released to the Nebraska authorities. This action was not filed until November 17, 1986, more than two years from the date his cause of action arose. Therefore, the court could properly dismiss plaintiff's complaint as being time-barred. However, notwithstanding the statute of limitations problem, dismissal of the complaint is warranted for additional reasons.

Plaintiff has not established that his rights under the Interstate Agreement on Detainers Act ("the Act") were violated by defendant Cubitt. Article VI of the Act provides that the 180-day period for disposition of outstanding detainers shall be tolled "whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction over the matter." While the Act does not specify whether the court

having jurisdiction is that of the sending or receiving state, the Court finds, and the cases dealing with these situations concur, that the decision on tolling the 180-day period rests with the receiving state. See, People v. Quintana, 682 P.2d 1226, 1230 (Colo. App. 1984) (and cases cited therein). In this case, the receiving state is Nebraska.

It appears from the special report, submitted pursuant to court order, that defendant Cubitt was advised by Assistant Attorney General Hugh Manning that under the Act she was not authorized to remove the Nebraska detainer. Manning told Cubitt that plaintiff's proper remedy for attacking the detainer had to be sought in the Nebraska court "having jurisdiction over the matter." The Court finds that this advice was correct and that by refusing to remove plaintiff's detainer, defendant Cubitt did not violate the Interstate Agreement on Detainers Act. There being no violation of plaintiff's civil rights, defendant's conduct cannot give rise to liability under Title 42 U.S.C. §1983.

It is, therefore, Ordered that plaintiff's civil rights complaint be and is hereby dismissed.

Dated this 13 day of October, 1987.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

CONTINENTAL CARBONIC PRODUCTS,
INC., a Delaware corporation,

Plaintiff,

vs.

TULSA DRY ICE, INC., an Oklahoma
corporation, and HODGES QUALITY
MEATS, INC., an Oklahoma
corporation,

Defendants.

Case No. 87-C-513-E

JAN 16 1988
U.S. DISTRICT COURT

STIPULATION OF DISMISSAL WITHOUT PREJUDICE
AS TO DEFENDANT HODGES QUALITY MEATS, INC. ONLY

COME NOW Plaintiff Continental Carbonic Products, Inc., and
Hodges Quality Meats, Inc., and Defendant Tulsa Dry Ice, Inc.,
pursuant to Federal Rule of Civil Procedure 41, and hereby stipu-
late as to the dismissal without prejudice of all claims in this
action against Defendant Hodges Quality Meats, Inc. only. The
Plaintiff hereby reserves all of its claims in this action against
Defendant Tulsa Dry Ice, Inc.

DOERNER, STUART, SAUNDERS,
DANIEL & ANDERSON

By: Richard H. Foster

Richard P. Hix
Richard H. Foster
1000 Atlas Life Building
Tulsa, Oklahoma 74103
(918) 582-1211

Attorneys for Plaintiff
Continental Carbonic Products,
Inc.

Jim D. Shofner
4143 East 31st
Tulsa, Oklahoma 74135
(918) 749-8891

Attorney for Defendant Tulsa Dry
Ice, Inc. and Hodges Quality
Meats, Inc.

~~CONFIDENTIAL~~

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

FILED

OCT 8 1987

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

THE FIRST STATE BANK,
FAIRFAX, OKLAHOMA,
a State Banking Association,

Plaintiff,

vs.

F. BROWNING PIPESTEM, Administrator
of the Estate of Rose Kirk
Pipestem, Deceased.

Defendant.

Case No. 87-C-544 B

STIPULATION OF DISMISSAL

The Plaintiff, The First State Bank of Fairfax, Oklahoma, the Defendant, F. Browning Pipestem, Administrator of the Estate of Rose Kirk Pipestem, Deceased, pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, stipulate as follows:

1. The parties have entered into a settlement agreement and pursuant to the terms thereof, the Plaintiff hereby dismisses this action with prejudice and each party shall bear its own attorney's fees and court costs.

DATED this 2nd day of October, 1987.

NEWTON & O'CONNOR

By: Thomas M. Klenda
Thomas M. Klenda, OBA #5071
1400 Boston Building
Suite 600
1412 South Boston Avenue
Tulsa, Oklahoma 74119
(918) 587-0101

Attorneys for Plaintiff,
First State Bank,
Fairfax, Oklahoma

FILED
10-9-87

By: 
F. Browning Pipestem
Pipestem & Rice
111 North Peters
Suite 200
Norman, Oklahoma 73069

Attorneys for Defendant

150.3.6/15

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

JAMES E. CLAYTON, ET AL.,
Plaintiffs,

vs.

FRANK THURMAN, Sheriff of
Tulsa County, Oklahoma,
ET AL.,

Defendants.

Case No. 79-C-723-BT

F I L E D

OGF - 8 1997

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

JUDGMENT

In accordance with the settlement agreement reached by the parties regarding attorney fees and expenses filed herein and approved by the Court, the Court hereby enters judgment in favor of Plaintiffs' attorney, Louis W. Bullock, against Defendants' in the amount of \$100,000.00 for attorney fees and expenses, with post-judgment interest in the amount of 10% per annum from the date of this judgment.

IT IS ORDERED that Defendants shall pay out of the sinking funds of the County, this attorney fees and expenses judgment pursuant to 51 O.S. §159 within one year from the time of the next ad valorem tax levy. In the event there are currently excess funds available in the sinking fund, the County is ordered to pay said excess funds immediately to the Plaintiffs to satisfy this judgment.

APPROVED AS TO FORM AND CONTENT:

DAVID MOSS, District Attorney for
the Fourteenth Judicial District
of the State of Oklahoma

BY:


M. DENISE GRAHAM
ASSISTANT DISTRICT ATTORNEY
Attorney for Defendant


LOUIS W. BULLOCK
Attorney for Plaintiffs

ENTERED this 8th day of October, 1987.

S/ THOMAS R. BRETT

THOMAS R. BRETT
UNITED STATES DISTRICT COURT

JKS/sc

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

F I L E D

OCT 8 1987

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

CHERYL ANN HOWARD,)
)
 Plaintiff,)
)
 vs.)
)
 STATE FARM MUTUAL AUTOMOBILE)
 INSURANCE,)
)
 Defendant.)

NO. 86-C-828-E

ORDER OF DISMISSAL

Upon the application of the plaintiff and for good cause shown, this action is dismissed with prejudice.

S/ JAMES O. ELISON

UNITED STATES DISTRICT JUDGE

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

OCT -8 1987

JAMES W. ... CLERK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA for)
the use and benefit of)
GRAYBAR ELECTRIC COMPANY,)
INC.,)
)
Plaintiff,)
)
v.)
)
INSURANCE COMPANY OF NORTH)
AMERICA,)
)
Defendant.)
)

Case No. 87-C-138-E

STIPULATION OF DISMISSAL WITH PREJUDICE

Graybar Electric Company, Inc., Plaintiff, and Insurance Company of North America, Defendant, pursuant to a Settlement Agreement reached by the parties, hereby stipulate to the dismissal of this case, with prejudice.

DATED at Tulsa, Oklahoma, this 7th day of ~~September~~ October, 1987.

JARBOE, SWINSON & STOERMER

By Sidney K. Swinson
Sidney K. Swinson
1810 Mid-Continent Tower
Tulsa, Oklahoma 74103
(918) 582-6131

ATTORNEYS FOR PLAINTIFF

JONES, GIVENS, GOTCHER,
BOGAN & HILBORNE

By



Michael J. Gibbens
3800 First National Tower
Tulsa, Oklahoma 74103
(918) 581-8200

ATTORNEYS FOR DEFENDANT

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

Physicians Health Plan of)
Oklahoma, Inc.,)
)
Plaintiff,)
)
vs.)
)
Charter Med, Inc.,)
)
Defendant.)

1987
U.S.D. DISTRICT COURT

Case No. 87-C-390-B

NOTICE OF DISMISSAL

Pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, the plaintiff dismisses this action.

Dated October 7, 1987.

PHYSICIANS HEALTH PLAN OF
OKLAHOMA, INC.

By 
A. F. Ringold
J. Douglas Mann

ROSENSTEIN, FIST & RINGOLD
525 So. Main, Suite 300
Tulsa, OK 74103
(918) 585-9211

Attorneys for Plaintiff

CERTIFICATE OF MAILING

I hereby certify that on this 7 day of October, 1987, I mailed a true, correct and exact copy of the foregoing document to the following, with proper postage thereon fully prepaid:

Kevin Dooley
Rider, Bennett, Egan & Arundel
2500 First Bank Place West
Minneapolis, MN 55402

Donald L. Kahl
Hall, Estill, Hardwick, Gable,
Collingsworth & Nelson, P.C.
4100 Bank of Oklahoma Tower
Tulsa, OK 74172

By



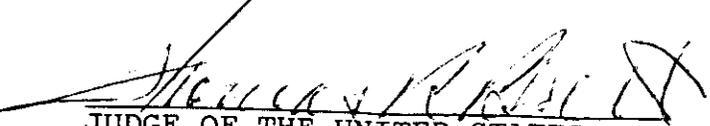
A. F. Ringold

business in this judicial district. Venue as to the defendant, Leonard L. Hood, is proper in this judicial district pursuant to the provisions of 28 U.S.C. Section 1392(a).

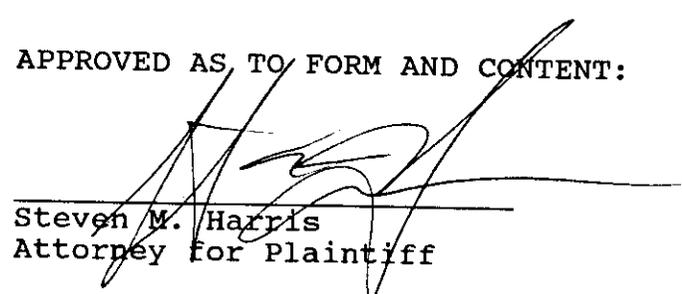
4. The parties by stipulation have agreed that the allegations contained in the Complaint filed by the plaintiff on the 17th day of July, 1987, shall be taken as true.

5. There are no facts left to be determined in this matter and, as a matter of law, the plaintiff is entitled to judgment against the defendants, Quality Home Center, Inc. and Leonard L. Hood, in the principal amount of \$31,147.41, plus interest in the amount of \$2,015.79 as of June 30, 1987 and accruing at the rate of \$14.97 per day thereafter, until paid, plus an attorney's fee of \$2,000.00 and all costs of the action.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the plaintiff, ITT Commercial Finance Corporation, have and recover judgment against the defendants, Quality Home Center, Inc. and Leonard L. Hood, for the principal amount of \$31,147.41, plus interest in the amount of \$2,015.79 as of June 30, 1987 and accruing at the rate of \$14.97 per day thereafter, until paid, plus an attorney's fee of \$2,000.00 and all costs of the action.

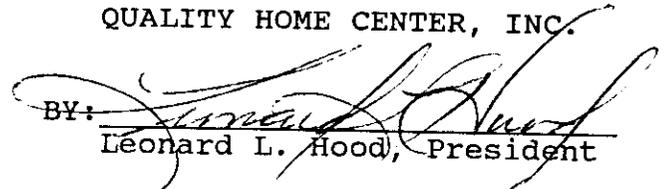

JUDGE OF THE UNITED STATES
DISTRICT COURT

APPROVED AS TO FORM AND CONTENT:

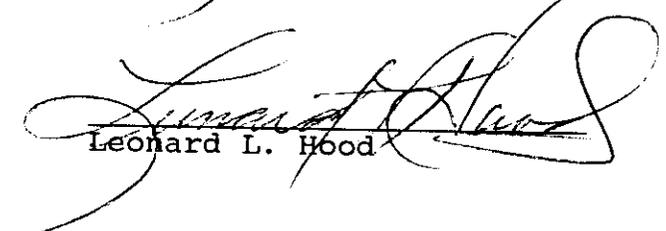


Steven M. Harris
Attorney for Plaintiff

QUALITY HOME CENTER, INC.

BY: 

Leonard L. Hood, President



Leonard L. Hood

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

OCT 7 1987

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
HOWARD M. MOTE II; SUSAN)
JACKSON MOTE, a/k/a SUSAN J.)
MOTE, who is now SUSAN JACKSON;)
COUNTY TREASURER, Tulsa County,)
Oklahoma; and BOARD OF COUNTY)
COMMISSIONERS, Tulsa County,)
Oklahoma,)
)
Defendants.)

CIVIL ACTION NO. 86-C-1012-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 7th day
of October, 1987. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Peter Bernhardt, 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, Howard M.
Mote II and Susan Jackson Mote, a/k/a Susan J. Mote, who is now
Susan Jackson, appear not, but make default.

The Court being fully advised and having examined the
file herein finds that the Defendant, Howard M. Mote II,
acknowledged receipt of Summons and Complaint on November 18,
1986; that Defendant, County Treasurer, Tulsa County, Oklahoma,

acknowledged receipt of Summons and Complaint on November 19, 1986; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on November 19, 1986.

The Court further finds that the Defendant, Susan Jackson Mote, a/k/a Susan J. Mote, who is now Susan Jackson, was served by publishing notice of this action in the Tulsa Daily Business Journal & Legal Record, a newspaper of general circulation in Tulsa County, Oklahoma, once a week for six (6) consecutive weeks beginning May 14, 1987, and continuing to June 18, 1987, as more fully appears from the verified proof of publication duly filed herein; and that this action is one in which service by publication is authorized by 12 O.S. Section 2004(C)(3)(c). Since counsel for the Plaintiff does not know and with due diligence cannot ascertain the whereabouts of the Defendant, Susan Jackson Mote, a/k/a Susan J. Mote, who is now Susan Jackson, and service cannot be made upon said Defendant within the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, or upon said Defendant without the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, as more fully appears from the evidentiary affidavit of a bonded abstractor filed herein with respect to the last known address of the Defendant, Susan Jackson Mote, a/k/a Susan J. Mote, who is now Susan Jackson. The Court conducted an inquiry into the sufficiency of the service by publication to comply with due process of law and based upon the evidence presented together with affidavit and documentary evidence finds

that the Plaintiff, United States of America, acting on behalf of the Administrator of Veterans Affairs, and its attorneys, Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, fully exercised due diligence in ascertaining the true name and identity of the party served by publication with respect to her present or last known place of residence and/or mailing address. The Court accordingly approves and confirms that the service by publication is sufficient to confer jurisdiction upon this Court to enter the relief sought by the Plaintiff, both as the subject matter and the Defendant served by publication.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers herein on December 9, 1986; and that the Defendants, Howard M. Mote II and Susan Jackson Mote, a/k/a Susan J. Mote, who is now Susan Jackson, 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:

Building 13236, Unit D and 0.34 undivided interest in and to the common elements appertaining thereto in EAGLE RIDGE CONDOMINIUMS, as designated by DECLARATION OF UNIT OWNERSHIP ESTATES FOR EAGLE RIDGE CONDOMINIUMS, recorded in the office of the County Clerk of Tulsa

County, Oklahoma, on August 17, 1983 at 10:52 a.m., in Book 4718, Page 268, situated on the following described land to-wit:

All that part of Block Fourteen (14), EASTPARK, an Addition in the City of Tulsa, Tulsa County, Oklahoma, according to the official recorded Plat, more particularly described as follows to-wit:

Lot Thirteen (13) less the East 10.0 feet; all of Lots Fourteen (14) thru Twenty-two (22); the East 3.0 feet of Lot Twenty-three (23); the West 17.0 feet of Lot Twenty-five (25); all of Lots Twenty-six (26) thru Thirty-four (34); and All that part of Block Fifteen (15), EASTPARK, an Addition in the City of Tulsa, Tulsa County, Oklahoma, according to the official recorded Plat, more particularly described as follows, to-wit:

The South 13.0 feet of Lot Forty-five (45), all of Lots Forty-six (46) thru Sixty-two (62), containing 84,721 square feet or 1.94492 acres.

The Court further finds that on May 23, 1985, the Defendants, Howard M. Mote II and Susan Jackson Mote, 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 \$46,900.00, payable in monthly installments, with interest thereon at the rate of twelve and one-half percent (12.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Howard M. Mote II and Susan Jackson Mote, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated May 23, 1985, covering the above-described property. Said mortgage was recorded on May 24, 1985, in Book 4865, Page 669, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Howard M. Mote II and Susan Jackson Mote, a/k/a Susan J. Mote, who is now Susan Jackson, 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, Howard M. Mote II and Susan Jackson Mote, a/k/a Susan J. Mote, who is now Susan Jackson, are indebted to the Plaintiff in the principal sum of \$47,130.42, plus interest at the rate of twelve and one-half percent (12.5%) per annum from December 1, 1985 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

The Court further finds that the Defendant, County Treasurer, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of ad valorem taxes in the amount of \$577.00, plus penalties and interest, for the year of 1986. Said lien is superior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, does not claim any 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, Howard M. Mote II and Susan Jackson Mote, a/k/a Susan J. Mote, who is now Susan Jackson, in the principal sum of \$47,130.42, plus interest at the rate of twelve and one-half percent (12.5%) per annum from December 1, 1985 until judgment, plus interest

thereafter at the current legal rate of 2.88 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 Defendant, County Treasurer, Tulsa County, Oklahoma, have and recover judgment in the amount of \$577.00, plus penalties and interest, for ad valorem taxes for the year of 1986, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, has no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Howard M. Mote II and Susan Jackson Mote, a/k/a Susan J. Mote, who is now Susan Jackson, 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 appraisalment 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 Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of \$577.00, plus penalties and interest, for ad valorem taxes which are presently due and owing on said real property;

Third:

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

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

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

S/ JAMES C. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney

for Thomas Deslitt Blum
PETER BERNHARDT
Assistant United States Attorney

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

PB/css

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA OCT -7 1987

JAMES E. ... CLERK
U.S. DISTRICT COURT

LAWRENCE SLADE,)
)
 Plaintiff,)
)
 vs.) No. 87-C-192-C
)
 UNITED STATES POSTAL SERVICE,)
)
 Defendant.)

O R D E R

Now before the Court for its consideration is the objection of plaintiff Lawrence Slade to the Report and Recommendation of the Magistrate. The Magistrate has recommended that defendant's motion to dismiss be granted.

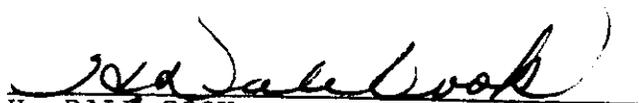
Plaintiff brought this action on an appeal from final decision of the Equal Employment Opportunity Commission pursuant to 42 U.S.C. §2000e-16(c). Plaintiff filed his complaint on March 18, 1987 naming the "United States Postal Service" as defendant. Plaintiff served the U. S. Attorney's office on March 20, 1987 and the Attorney General's office on March 23, 1987. Although plaintiff's action was timely filed under §2000e-16(c), service of notice of the suit occurred beyond the 30-day statute of limitation period. Defendant moved to dismiss the action since plaintiff failed to properly name the defendant in this case; and the time limitation for allowing amendments to pleadings had run.

In agreeing with defendant, the Magistrate found that the United States Postal Service is an improper party defendant and that under the directives of Schiavone v. Fortune, 106 S.Ct. 2379 (1986) an amendment naming the proper party cannot relate back if service of notice of the suit occurred beyond the 30-day statute of limitation period.

The Court has independently reviewed the parties' pleadings, briefs, applicable case authority and federal rules of procedure and concludes that the Report and Recommendations of the Magistrate should be and hereby are affirmed and adopted as the Findings and Conclusions of this Court.

It is therefore Ordered that the motion to dismiss brought by the defendant, through the United States Attorney for the Northern District of Oklahoma, is hereby GRANTED.

IT IS SO ORDERED this 7th day of October, 1987.


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

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

OCT -7 1987

JAMES W. HENNING CLERK
U.S. DISTRICT COURT

WILLIAM E. YARBROUGH and)
CYNTHIA YARBROUGH,)
)
Plaintiffs,)
)
vs.)
)
BRIERCROFT SAVINGS ASSOCIATION,)
)
Defendant.)

No. 87-C-714-C

O R D E R

Before the Court for its consideration are the motions of plaintiffs to remand, to stay discovery and to file amendments to the complaint.

Plaintiffs commenced this action in the District Court for Tulsa County, Oklahoma. Defendant timely petitioned for removal on August 27, 1987 asserting diversity jurisdiction. Plaintiffs filed a motion to remand raising three objections to the Court assuming jurisdiction: that plaintiff did not receive prompt notice of the petition for removal, lack of diversity of citizenship and failure to meet the jurisdictional amount in controversy.

As their first argument, plaintiffs state that defendant's petition for removal was filed with this Court on August 27, 1987 but that they did not receive notice of the removal petition until September 2, 1987. Plaintiffs argue that the removal

petition is ineffective since it was not "promptly" mailed to plaintiffs as required under 28 U.S.C. §1446(e). The Court finds plaintiffs' argument to be without merit. Plaintiffs' action was filed in the state court on August 3, 1987, defendant timely filed its petition for removal and plaintiffs received notice within the 30-day period set forth in 28 U.S.C. §1446(b). Further plaintiffs failed to allege any prejudice resulting from the alleged untimely notice.

Plaintiffs next assert the Court lacks jurisdiction in that there is not diversity between the citizenship of the parties. Plaintiffs contend they obtained a copy of the Articles of Incorporation of the defendant filed with the Secretary of State, State of Oklahoma, indicating that defendant is a corporation which has been domesticated in the State of Oklahoma and hence its citizenship lies in this State.

The Court finds plaintiffs' second argument without merit. Plaintiff is confusing the legal terms "incorporation" and "domestication". The verified petition for removal indicates that defendant is incorporated in the State of Texas. It is undisputed that plaintiffs are citizens of the State of Oklahoma, thus diversity of citizenship is established.

Finally, plaintiffs argue that the jurisdictional amount in controversy is not satisfied. In their state court petition plaintiffs requested monetary relief in the amount of \$23,765.83 and cancellation of a mortgage contract having a value of approximately \$10,000. Plaintiffs now contend that they misconstrued the statute under which they seek monetary relief,

the Oklahoma Consumer Credit Code, and that properly construed plaintiffs are only entitled to a civil penalty which is less than the \$10,000 statutory requirement. Plaintiffs' argument fails since plaintiffs are also requesting cancellation of a mortgage contract which, combined with the monetary relief requested, satisfies the jurisdictional amount. In Beacon Construction Co., Inc. v. Matco Electric Co., Inc., 521 F.2d 392 (2nd Cir. 1975), the court held that the amount in controversy is not necessarily the money judgment sought or recovered, but rather the value of the consequences which may result from the litigation. 521 F.2d at 399. The court determined that in a declaratory judgment action involving the validity of a contract, a situation somewhat analogous to this case, the court looks to the entire value of the contract to determine the amount in controversy rather than installments under the contract or possible damages. Id. See also, Duderwicz v. Sweetwater Savings Assoc., 595 F.2d 1008 (5th Cir. 1979).

In this action plaintiffs allege that defendant fraudulently induced them into entering a contract to purchase a solar hot water system. The solar system was to be purchased in installments of \$166.41 a month for 120 months. Plaintiffs also allege defendant fraudulently procured a second mortgage on their residence as security for the loan.

In their complaint, plaintiffs are attacking the validity and enforceability of the contract, thus putting into controversy the entire value of the contract. Plaintiff is also seeking

monetary relief under the Oklahoma Consumer Credit Code, thus the jurisdictional amount in controversy is clearly met.

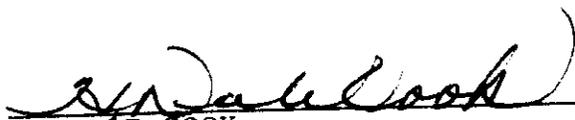
The Court finds and concludes that removal jurisdiction has been properly conferred on this Court.

It is therefore the Order of the Court that plaintiffs' motion to remand is DENIED.

It is further Ordered that plaintiffs' motion to stay discovery is DENIED.

It is further Ordered that plaintiffs' motion to amend their complaint is GRANTED. Plaintiffs are granted leave of ten days to file their amendment.

IT IS SO ORDERED this 7th day of October, 1987.


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

WHEREFORE, as the plaintiff has failed to participate in discovery, the Court pursuant to Rule 37, herein enters its Order compelling the plaintiff to submit to discovery. This Order shall serve as notice to the plaintiff that he shall present himself in the offices of Knowles & King, located at 2431 East 51st Street, Suite 603, Tulsa, Oklahoma at 2:00 p.m. on the afternoon of October 15, 1987 for the purpose of submitting to a deposition. Additionally, the Court orders that the plaintiff bring with him each of the documents requested on June 29, 1987.

IT IS FURTHER ORDERED by this Court, that in the event the plaintiff fails to appear on said date sanctions shall automatically be entered as follows:

The defendant herein has asserted as its defense, that the plaintiff has made certain fraudulent misrepresentations with regard to the fire loss in question. Said fraudulent misrepresentations could void the entire policy. Therefore, if compliance with the Order compelling discovery as set forth above, is not complied with by the plaintiff, it is ordered that pursuant to Rule 37 B, the plaintiff shall be denied the right to present any evidence which would disprove the defendants' assertion of fraud.

This Order shall serve as proper notice to the plaintiff of the action pending and shall be mailed to him by first class mail at 2200 West Quincy, Broken Arrow, Oklahoma 74012 and another copy to Jim Conatser, 415 South Dewey, Suite 205,

Bartlesville, Oklahoma 74003.

UNITED STATES DISTRICT JUDGE

KNOWLES & KING
Dennis King
2431 East 51st Street
Suite 603
Tulsa, OK 74105
(918) 749-5566

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

FILED

OCT - 7 1987

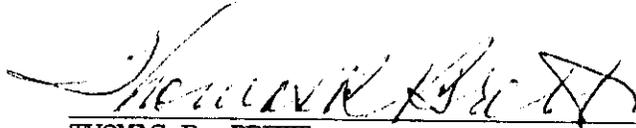
Jack C. Silver, Clerk
U.S. DISTRICT COURT

AMERICAN MOTORISTS INSURANCE COMPANY,)
)
Plaintiff,)
)
vs.)
)
SIMMONS INDUSTRIES, INC., an)
Arkansas corporation, and)
DALE LAMPHEAR, JR.,)
)
Defendants.)

Case No. 87-C-148-B ✓

ORDER

Upon application by the plaintiff, it appearing to the Court that defendant Dale Lamphear, Jr. is no longer a necessary party to said litigation, he is dismissed from said case without prejudice.



THOMAS R. BRETT
UNITED STATES DISTRICT COURT

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

FILED
SEP 23 1987
U.S. DISTRICT COURT

SHEFFIELD STEEL CORPORATION,
a Delaware corporation,

Plaintiff,

vs.

WESTINGHOUSE ELECTRIC CORPORATION,
a Pennsylvania corporation,

Defendant.

No. 86-C-45-E

STIPULATION OF DISMISSAL

It is hereby stipulated that the above-entitled action may
be dismissed with prejudice, each party to bear his own costs.

Dated: September 23, 1987.

RHODES, HIERONYMUS, JONES, TUCKER & GABLE

By: William B. Selman
WILLIAM B. SELMAN, OBA #8072

2800 Fourth National Bank Building
Tulsa, Oklahoma 74119
(918) 582-1173

Attorneys for the Plaintiff

CONNER & WINTERS

By: David J. Hyman
DAVID J. HYMAN, OBA # 11360

2400 First National Tower
Tulsa, Oklahoma 74103
(918) 586-5711

Attorneys for the Defendant

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Entered

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 RALPH A. ELLIOTT; CAROLYN SUE)
 ELLIOTT; COUNTY TREASURER,)
 Tulsa County, Oklahoma; BOARD)
 OF COUNTY COMMISSIONERS, Tulsa)
 County, Oklahoma,)
)
 Defendants.)

FILED

OCT 6 - 1987

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

CIVIL ACTION NO. 86-C-733-C

DEFICIENCY JUDGMENT

Now on this 5th day of Oct, 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 the 2nd day of September, 1987, and a copy of said Motion being mailed to Ralph A. Elliott and Carolyn Sue Elliott, 535 East 58th Street North, Tulsa, Oklahoma 74126, and all counsel of record. 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 Phil Pinnell, Assistant United States Attorney, and the Defendants, Ralph A. Elliott and Carolyn Sue Elliott, appeared neither in person nor by counsel.

The Court upon consideration of said Motion finds that the amount of the Judgment rendered herein on February 10, 1987, in favor of the Plaintiff United States of America, and against the Defendants, Ralph A. Elliott and Carolyn Sue Elliott, with interest and costs to date of sale is \$60,395.99.

The Court further finds that the appraised value of the real property at the time of sale was \$26,700.00.

The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Judgment of this Court entered February 10, 1987, for the sum of \$23,649.00 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 30th day of September, 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, Ralph A. Elliott and Carolyn Sue Elliott, as follows:

Principal Balance as of 06/16/87	\$49,139.66
Interest	10,456.54
Late Charges	318.76
Management Broker Fees	240.00
U.S. Attorney Costs	<u>241.03</u>
TOTAL	\$60,395.99
Less Credit of Appraised Value	- <u>26,700.00</u>
DEFICIENCY	\$33,695.99

plus interest on said deficiency judgment at the legal rate of 7.88 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, Ralph A. Elliott and Carolyn Sue Elliott, a deficiency judgment in the amount of \$33,695.99, plus interest at the legal rate of 7.88 percent per annum on said deficiency judgment from date of judgment until paid.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

PP/css

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

BETH ISRAEL V'DAMESEK)
ELIEZER, INC. and)
DAVID DRUMMER,)
)
Plaintiffs,)
)
v.)
)
HEDWIG DRUMMER and)
UNION NATIONAL BANK,)
)
Defendants.)

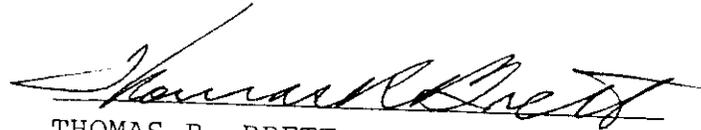
No. 86-C-488-B

FILED
OCT - 3 1987
Jack C. Silver, Clerk
U.S. DISTRICT COURT

J U D G M E N T

In accordance with the Order sustaining the Defendants' Motion for Summary Judgment entered this date, Judgment is hereby entered in favor of the defendants, Hedwig Drummer and Union National Bank, and against the Plaintiffs, Beth Israel V'Damesek Eliezer, Inc. and David Drummer. Costs are hereby assessed against the Plaintiffs if timely applied for pursuant to local rule. The parties are to pay their own respective attorney fees.

DATED this 6th day of Oct., 1987.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

OCT 6 1987

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

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

LARRY DEAN JESZENKA,)
)
 Plaintiff,)
)
 vs.)
)
 DEPARTMENT OF CORRECTIONS,)
 et al.,)
)
 Defendants.)

No. 86-C-696-E ✓

O R D E R

The Court has for consideration the Findings and Recommendations of the Magistrate filed May 15, 1987. After careful consideration of the record and the issues, including the briefs and memoranda filed herein by the parties, the Court has concluded that the Findings and Recommendations of the Magistrate should be and hereby are affirmed and adopted by the Court.

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


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

7/8

Entered

FILED

OCT 6 1987

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

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

FRED SHAFFER AND MURRIEL M.)
SHAFFER,)
)
 Plaintiffs,)
)
 vs.)
)
 ST. LOUIS-SAN FRANCISCO)
 RAILWAY, now BURLINGTON)
 RAILROAD,)
)
 Defendant.)

No. 85-C-297-E

✓

O R D E R

There being no response to the Court's Order that the case would be dismissed unless new counsel for Plaintiffs was obtained within fifteen (15) days and more than fifteen (15) days having passed since the filing of the Order and no extension of time having been sought by the Plaintiffs, the Court, pursuant to Local Rule 14(a), as amended effective March 1, 1981, concludes that the Plaintiffs have therefore waived any objection or opposition to the Notice of Dismissal. See Woods Constr. Co. v. Atlas Chemical Indus., Inc., 337 F.2d 888, 890 (10th Cir. 1964).

Dismissal for failure to prosecute is hereby ordered.

Defendant is given ten (10) days to submit an Order of judgment to the Court for its approval.

ORDERED this 10th day of October, 1987.

James P. Ellison

JAMES P. ELLISON
UNITED STATES DISTRICT JUDGE

24

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

BETH ISRAEL V'DAMESEK)
ELIEZER, INC. and)
DAVID DRUMMER,)
)
) Plaintiffs,)
)
v.)
)
HEDWIG DRUMMER and)
UNION NATIONAL BANK,)
)
) Defendants.)

No. 86-C-488-B

FILED
OCT - 5 1987
Jack C. Silver, Clerk
U.S. DISTRICT COURT

O R D E R

This matter comes before the Court on the Plaintiffs' Objection to a Report and Recommendation of U.S. Magistrate John Leo Wagner. In his Report and Recommendation the Magistrate stated that the Plaintiff's Motion for Summary Judgment would be denied and that the Defendants' Motion for Partial Summary Judgment as to breach of a fiduciary duty would be granted.

In their objection the Plaintiffs raise both procedural and substantive matters they claim as error. Plaintiffs first assert that the Magistrate may only make recommendations pursuant to 28 U.S.C. §636 and Fed.R.Civ.P. 72(b). Plaintiffs note, however, that the Magistrate's report references Local Rule 32(c)(2) which concerns nondispositive trial matters and specifically does not include motions for summary judgment. Plaintiffs' objection apparently concerns the timing of an objection as the parties are allowed ten (10) days after the filing of a Report and Recommendation by the Magistrate under Local Rule 32(c)(2) and

are allowed ten (10) days after being served with a copy of the recommended disposition under Fed.R.Civ.P. 72(b); Local Rule 32(d). The Court agrees with the Plaintiffs' interpretation of the time periods allowed to object to the Magistrate's Findings and Recommendations and finds that the Plaintiffs' objection herein was timely filed.

FACTUAL BACKGROUND

This is a diversity action which satisfies the jurisdictional amount requirement of this court. The Plaintiffs, a Brooklyn charity and an Israeli resident, are beneficiaries of a testamentary trust. Defendants are co-trustees of the trust. Plaintiffs here seek recovery for breach of the Defendants' fiduciary duties as trustees and for an accounting. The trust was established under the following circumstances: Elias Drummer married Defendant Hedwig Drummer on February 28, 1974. On March 4, 1974, Elias Drummer executed a Last Will and Testament. On April 25, 1974, Elias Drummer died and his wife filed his Last Will and Testament for probate on April 26, 1974. An order granting probate of the will was entered May 9, 1974.

In general, Elias Drummer provided that the assets of his estate would be put in a trust created by Articles III, IV and V of the will. Ninety percent (90%) of the net income from the trust was to be distributed to Hedwig Drummer during her lifetime and ten percent (10%) to Plaintiff, Beth Israel. Defendant wife and Defendant Union National Bank were named as co-trustees of

the testamentary trust. The trust provisions provided that at the wife's death the trustees were instructed "as soon as economically possible, to sell all of the remaining portion of the trust estate and convert same into cash" and distribute seventy percent (70%) to Plaintiff Beth Israel, ten percent (10%) to Plaintiff David Drummer, and five percent (5%) each to Sima Davidovitz, Lily Rosenberg, Ella Ehrman and Szuri Heilbraun. David Drummer is a nephew and the other individual remaindermen are nieces of Elias Drummer.

On or about July 8, 1977, some three years after the filing of the will for probate, Hedwig Drummer elected to take her marital share under Oklahoma law, 84 Okl.St. Ann. §44, and not under the terms of the will.

The widow's decision to take against the will a considerable time after the probate was filed, while not critical to the Court's ultimate decision herein, is important to show the Defendants' motivation and purpose in performing as trustees.

In the fall of 1975, during the probate of the decedent's will, the Internal Revenue Service questioned the estate's claim for a charitable estate tax deduction. In an effort to reduce the estate's tax liability, counsel for the estate, Jesse Worten, suggested a possible alternative judicial construction of the decedent's will to Plaintiff Beth Israel's counsel, Emmanuel Quint. (See, Exhibit 22, Letter to Mr. Quint, Def. Brief for S.J.). Counsel for Beth Israel did not comment on the action proposed by Mr. Worten but did acknowledge receipt of the

correspondence. (See, Exhibits 23, 24 and 25 to Def. Cross-Motion for S.J.).

On June 29, 1979, Worten forwarded to Quint a copy of the Final Account, Petition for Determination of Heirs, and for Construction of Will, Etc. Worten also furnished to Beth Israel and David Drummer a copy of the Order for Hearing and Notice of Final Settlement. (See, Exhibits 27, 28 and 29, Def.Motion for S.J.).

The July 29, 1979 letter to Beth Israel counsel explained the widow's election and the proposed construction to be placed on the will as follows:

"... As I have heretofore advised you, by reason of the refusal of the Internal Revenue Service to allow the charitable deduction for estate tax purposes, and to avoid the necessity of selling real estate to raise an additional approximately \$65,000.00, Mrs. Drummer was compelled to elect to take under the law rather than the Will, thus enabling her to claim the full marital deduction for estate tax purposes and to offset the increased estate tax burden caused by disallowance of the charitable deduction. Mrs. Drummer, however, intends to carry out the full intent of Elias Drummer's Will by an annual contribution to your charitable client of ten percent of the net income from the one-half interest which she takes under the law and has made provisions in her Will that the land interest which she takes through the estate of Elias Drummer, shall be sold upon her death and the proceeds of the sale distributed in accordance with the terms of Will of Elias Drummer.

The Decree of Distribution in the Elias Drummer estate will distribute the assets in accordance with numbered paragraph four and the prayer of page six of the enclosed Final Account and Petition for Distribution." (Exhibit 27, Def. Brief in Support of S.J.).

A hearing was held with respect to the Petition and Final

Account, etc., on July 27, 1979. Neither Beth Israel nor David Drummer attended the hearing nor appealed the resulting order of the District Court.

On July 27, 1979, the Probate Court entered an order allowing the final account and decreeing that "Hedwig Drummer, surviving spouse, and Hedwig Drummer and Union Bank and Trust, as co-trustees, are the sole and only beneficiaries under the election by the surviving spouse to take under the law and under the terms of the last will and testament of the said Elias Drummer, Deceased, as modified by the election to take by surviving spouse." Pursuant to the wife's election, she was given one-half of the estate outright. The other one-half was given to the trust and Hedwig Drummer has received ninety percent (90%) of the annual net income of the trust since that time.

On September 24, 1986, the Plaintiffs moved for partial summary judgment on the issue of the Defendants' liability for an alleged breach of a fiduciary duty. In their motion for partial summary judgment, the Plaintiffs claimed that the Defendants had breached their fiduciary duty as trustees of the Elias Drummer estate by not promptly converting the trust assets to cash and distributing the same to the Plaintiffs in 1979 after Hedwig Drummer had elected to take against the will. Plaintiffs claim that the trustees failed to properly construe the July 27, 1979 order to treat Hedwig Drummer as if she had died for purposes of distribution of the testamentary trust corpus. The Magistrate

denied the Plaintiffs' motion for partial summary judgment finding no breach of fiduciary duty as there was no known duty on the part of the Defendants to be breached. The Magistrate found the Probate Court's final order of July 27, 1979, was subject to more than one interpretation and concluded that the trustees had not breached their fiduciary duty. The Magistrate granted the Defendants' motion for summary judgment as to the breach of fiduciary duty as requested in the Defendants' October 17, 1986 cross motion for summary judgment.

The Court in its de novo review of this case following the objections to the Magistrate's Report and Recommendation pursuant to Fed.R.Civ.P. 72(b), affirms the Magistrate's result and grants the Defendants' motion for summary judgment for different reasons as outlined below.

Defendants' cross motion for summary judgment urges that the instant lawsuit is a collateral attack of a final decree entered in the probate proceeding. On July 27, 1979, the District Court of Washington County, Oklahoma, entered an Order Allowing the Final Account of Executrix, Determining Heirs, Construing Decedent's Will, and Ordering Distribution of the Estate, which states in pertinent part:

"IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the court, that the said Hedwig Drummer, surviving spouse, and Hedwig Drummer and Union Bank and Trust, as Co-Trustees, are the sole and only beneficiaries under the election by the surviving spouse to take under the law and under the terms of the Last Will and Testament of the said Elias Drummer, deceased (as modified by the election to take by the surviving spouse) and are

the sole and only persons or parties or heirs of said deceased entitled to share in said estate, ..."

The terms of the will creating the testamentary trust and its provisions for administration as referenced in the above paragraph provide as follows:

"ARTICLE III. All of the rest, residue and remainder of my estate, whether real, personal, or mixed, of whatsoever kind or character and wheresoever situate, I give, devise and bequeath IN TRUST to Hedwig Drummer and Union National Bank in Bartlesville, Oklahoma, for the uses and purposes and subject to the terms and conditions hereinafter set forth.

"ARTICLE IV. The Trustees shall manage and operate the trust property as hereinafter later provided and during the lifetime of my wife, Hedwig Drummer, pay ten (10) per cent of the annual net income (gross income less all expense including periodic mortgage payments, if any, due and payable) from said trust estate to Beth Israel V'Damesek Eliezer, Inc. and the remaining ninety (90) per cent of the annual net income shall be paid quarterly or more often if necessary, to my wife, Hedwig Drummer.

* * *

B. Upon the death of my wife, Hedwig Drummer, the surviving Trustee shall as soon as economically possible, sell all of the remaining portion of the trust estate and convert same into cash and after deducting the cost of sale, distribute the remaining cash as follows to wit: (will then recites the beneficiaries and respective percentages for each beneficiary)"

The Court finds the Final Decree of July 27, 1979, as clearly stating that the trust was to be administered according to the "terms of the Last Will and Testament of said Elias Drummer."

58 Okl.St. Ann. §632 provides that an order or decree of a court in a probate matter "... is conclusive as to the rights

of the heirs, legatees or devisees, subject only to be reversed, set aside, or modified on appeal." It is undisputed here that the Plaintiffs have not appealed the final order of the Probate Court. Further, plaintiffs do not deny receiving notice of the probate court's action in construing the will.¹

Plaintiffs state that they have patently accepted, for purposes of this lawsuit, the regularity, legality and appropriateness of all that was done in the Probate Court of Washington County. The Plaintiffs contend that their challenge here is predicated solely upon the Defendants' failure to perform the fiduciary duties imposed by their appointment as Co-Trustees of the Elias Drummer trust. Plaintiffs, while admitting the legality of the probate decree, state that it must be interpreted as written to mean that Hedwig Drummer's election to take against the will makes the provisions of the will invalid and nonexistent as to the electing spouse, citing Dixon v. Dixon, 126 P.2d 1020, 1023 (Okla. 1942), and Crane v. Howard, 243 P.2d 988, 1002 (Okla. 1952). Regardless of how the Plaintiffs seek to describe the instant attack on the final order, the court finds that it is an

¹ During the hearing held by the Magistrate, Mr. Metsch, counsel for the Plaintiffs, stated:

"MR. METSCH: If I had to do it all over again, and if I were the lawyer for the -- for Mr. Drummer, our client, and for Beth Israel at the time, I certainly would have taken those checks and just sent them right back. But I wasn't the lawyer. There was other counsel, and there was a exchange of correspondence, and I respectfully -- I don't apologetically admit that my predecessor counsel may not have handled this in the most dedicated and aggressive manner." (TR 29)

improper collateral attack of the Washington County District Court decree. The Probate Court's final order clearly states that the "Co-Trustees, are the sole and only beneficiaries under the election by the surviving spouse to take under the law and under the terms of the Last will and Testament of said Elias Drummer." (Emphasis added) As previously quoted, the terms of the will clearly allow the decedent's spouse ninety (90) percent of the income from the trust for life. See, Article IV, Paragraph A. Assuming, arguendo, that the Plaintiffs' assertion as to the legal effect of the wife's election is correct, the district court order must stand. The court finds that even if the district court erred in the construction it placed on the will and reached an erroneous decision, its judgment is not now subject to collateral attack. See, Cloyd v. Dawson, 569 P.2d 534 (Okl.App. 1977).

The Plaintiffs herein admit that they had notice of the probate proceedings and at no time took issue with the final order or appealed said order. The court finds that the construction placed on the will by the state district court following the widow's election should be given conclusive effect in this court. The court finds that the construction placed upon the will and acquiesced in by all parties for nearly six years² is not subject to collateral attack and must be

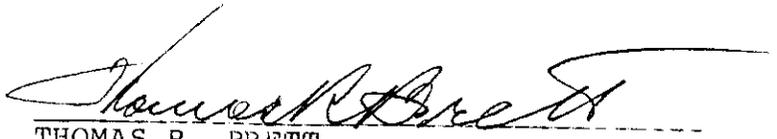
² The record indicates that Plaintiff Beth Israel received and accepted \$16,149.30 from the Defendant Bank as corporate Co-Trustee during the period of time from July 27, 1979, through December 31, 1985. Such payments represent 10% of the net income derived from the Trust assets during that time period. (See, Affidavit of Robinett, Exhibit E, Def. Brief for S.J.).

maintained regardless of how Oklahoma law treats a spousal election. See, Lee v. Harvey, 156 P.2d 134 (Okla. 1945); Mid-Continent v. Seminole County Excise Board, 146 P.2d 996 (Okla. 1944). Where, as here, an issue has been decided in a former action, the Plaintiffs cannot escape the estoppel effect of the judgment by advancing new arguments with respect to an issue that has already been judicially determined. See, Commissioner v. Sunnen, 333 U.S. 591 (1948).

The court therefore finds that the instant action is an improper collateral attack of the 1979 probate proceeding and therefore grants the Defendants' motion for summary judgment on the Plaintiffs' Complaint.

A separate Judgment in keeping with this order is filed contemporaneously herewith. The Defendants are entitled to costs of this action.

IT IS SO ORDERED this 6th day of October, 1987.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

7016P

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

KEY FINANCIAL SERVICES, INC., a)
corporation,)
)
Plaintiff,)
)
-vs-)
)
EQUITY GROUP PARTNERSHIP, an)
Oklahoma partnership; HARRIS J.)
MORELAND, an individual;)
FREDERICK H. NORTHROP, an)
individual; CHRISTOPHER D.)
GRISEL, an individual; FIRST)
INTERSTATE BANK OF OKLAHOMA,)
N.A., administrator of the)
Estate of Glenn C. Ball,)
)
Defendants.)

Case no. 87-C-30-B

STIPULATION OF
DISMISSAL WITH PREJUDICE

COMES NOW the Plaintiff, Key Financial Services, Inc., and, pursuant to Federal Rule of Civil Procedure 41(a)(1), hereby dismisses with prejudice the cause of action asserted against the Defendant, The First Interstate Bank of Oklahoma, N.A., Administrator of the Estate of Glenn C. Ball, on January 14, 1987.

Dated this 6th day of October, 1987.

Approved:


Linda G. Scoggins
SPRADLING, ALPERN, FRIOT & GUM
101 Park Avenue, Suite 700
Oklahoma City, Oklahoma 73102
Telephone: 405/272-0211

Attorneys for Defendant,
Interstate Bank of Oklahoma,
N.A., former Administrator of
the Estate of Glenn C. Ball

Respectfully submitted,


Benjamin C. Faulkner
ENGLISH, JONES & FAULKNER
1700 Fourth National Bank Bldg.
Tulsa, Oklahoma 74119
Telephone: 918/582-1564

Attorneys for Plaintiff,
Key Financial Services, Inc.

CERTIFICATE OF MAILING

I hereby certify that on this 10th day of October, 1987, I mailed a full, true and correct copy of the above and foregoing instrument, with proper postage thereon, addressed to:

Thornton, Wagner & Thornton
525 South Main, Suite 660
Tulsa, Oklahoma 74103
ATTORNEYS FOR DEFENDANTS,
EQUITY GROUP PARTNERSHIP,
FREDERICK H. NORTHROP, and
HARRIS J. MORELAND

Russell W. Wallace
1875 East 71st Street
Tulsa, Oklahoma 74136
ATTORNEY FOR DEFENDANT,
CHRISTOPHER GRISEL



Benjamin C. Faulkner

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

entered

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 HAROLD DEAN JONES; BERTHA A.)
 JONES; COUNTY TREASURER, Tulsa)
 County, Oklahoma; and BOARD OF)
 COUNTY COMMISSIONERS, Tulsa)
 County, Oklahoma,)
)
 Defendants.)

FILED

OCT 6 - 1987

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

CIVIL ACTION NO. 87-C-105-C

DEFICIENCY JUDGMENT

Now on this 5th day of Oct, 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 the 2nd day of September, 1987, and a copy of said Motion being mailed to Harold Dean Jones and Bertha A. Jones, 6231 North 67th Avenue #148, Glendale, Arizona 85301-4355, and all counsel of record. 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 Peter Bernhardt, Assistant United States Attorney, and the Defendants, Harold Dean Jones and Bertha A. Jones, appeared neither in person nor by counsel.

The Court upon consideration of said Motion finds that the amount of the Judgment rendered herein on April 15, 1987, in favor of the Plaintiff United States of America, and against the Defendants, Harold Dean Jones and Bertha A. Jones, with interest and costs to date of sale is \$38,775.35.

The Court further finds that the appraised value of the real property at the time of sale was \$25,600.00.

The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Judgment of this Court entered April 15, 1987, for the sum of \$22,751.00 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 30th day of September, 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, Harold Dean Jones and Bertha A. Jones, as follows:

Principal Balance as of 06/16/87	\$32,045.77
Interest	6,249.46
Late Charges	175.12
Appraisal	125.00
Management Broker Fees	<u>180.00</u>
TOTAL	\$38,775.35
Less Credit of Appraised Value	- <u>25,600.00</u>
DEFICIENCY	\$13,175.35

plus interest on said deficiency judgment at the legal rate of 7.88 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, Harold Dean Jones and Bertha A. Jones, a deficiency judgment in the amount of \$13,175.35, plus interest at the legal rate of 7.88 percent per annum on said deficiency judgment from date of judgment until paid.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

PB/css

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Entered

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
 vs.)
)
 GARY W. GATES, JR.;)
 MELISSA V. GATES;)
 MINNIE PEARL WARD;)
 JOHN DOE, Tenant; and)
 DIVERSIFIED PROPERTY)
 INVESTMENTS, an Oklahoma)
 limited partnership,)
)
 Defendants.)

FILED

OCT 6 - 1987

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

CIVIL ACTION NO. 85-C-797-C

DEFICIENCY JUDGMENT

Now on this 5th day of Oct, 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 the 2nd day of September, 1987, and a copy of said Motion being mailed to Gary W. Gates, Jr. and Melissa V. Gates, P.O. Box 1667, Claremore, Oklahoma 74018. 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, Gary W. Gates, Jr. and Melissa V. Gates, appeared neither in person nor by counsel.

The Court upon consideration of said Motion finds that the amount of the Judgment rendered herein on February 25, 1986, in favor of the Plaintiff United States of America, and against the Defendants, Gary W. Gates, Jr. and Melissa V. Gates, with interest and costs to date of sale is \$47,790.31.

The Court further finds that the appraised value of the real property at the time of sale was \$19,565.00.

The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Judgment of this Court entered February 25, 1986, and the Order amending the judgment entered September 25, 1986, for the sum of \$17,364.00 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 30th day of September, 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, Gary W. Gates, Jr. and Melissa V. Gates, as follows:

Principal Balance as of 06/16/87	\$35,572.12
Interest	11,079.24
Late Charges	497.52
Appraisal	125.00
Management Broker Fees	380.00
Court Costs	<u>136.43</u>
TOTAL	\$47,790.31
Less Credit of Appraised Value	- <u>19,565.00</u>
DEFICIENCY	\$28,225.31

plus interest on said deficiency judgment at the legal rate of 7.88 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, Gary W. Gates, Jr. and Melissa V. Gates, a deficiency judgment in the amount of \$28,225.31, plus interest at the legal rate of 7.88 percent per annum on said deficiency judgment from date of judgment until paid.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

NNB/css

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

01-5-1987
CLERK
COURT

POZOS DRILLING LTD/81,)
)
Plaintiff,)
)
v.) Case No. 82-C-1023-B
)
NORTHWEST EXPLORATION)
COMPANY, TEXAS INTERNATIONAL)
PETROLEUM CORPORATION,)
and ROBINSON BROTHERS)
DRILLING COMPANY,)
)
Defendants.)

STIPULATION

Plaintiff, Pozos Drilling Ltd/81, ("Pozos"), and Defendant, Texas International Petroleum Corporation, ("Tipco"), pursuant to their settlement of the above-styled and numbered cause, hereby stipulate as follows:

1. Plaintiff, Pozos, hereby dismisses with prejudice to refiling, without cost to either party, all claims it has or may have in the above-styled and numbered cause against the Defendant, Tipco.

2. Plaintiff specifically reserves any claims it may possess in the above-referenced matter against the Defendant, Northwest Exploration Company. Further, in consideration of the settlement between Pozos and Tipco, Pozos has assigned any rights it may possess against Northwest Exploration Company, and further assigns any rights it may possess against Northwest Exploration Company in the above-styled and numbered cause to Tipco.

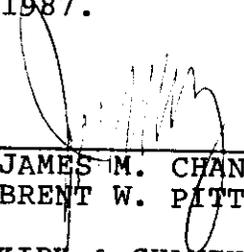
3. Defendant, Tipco, hereby specifically reserves all rights against Northwest Exploration Company in this action, or otherwise, and the herein contained stipulations are in no way

intended to release Northwest Exploration Company from any obligations or liabilities owed to either Pozos or Tipco.

4. Northwest Exploration Company has filed bankruptcy proceedings in the United States Bankruptcy Court for the Northern District of Oklahoma styled In re: Northwest Exploration Company, Debtor, Case No. 82-01534. The automatic stay imposed by virtue of Northwest Exploration Company's bankruptcy proceedings prevents Tipco from proceeding against Northwest Exploration Company in the above-styled and numbered cause at this time. Therefore, this matter may be administratively closed pending resolution of such matters in the Bankruptcy Court, or a lifting of the stay of execution imposed by the Bankruptcy Code.

IT IS SO STIPULATED this 2nd day of October, 1987,

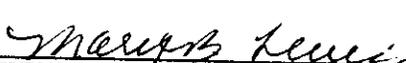
1987.



JAMES M. CHANEY
BRENT W. PITT

KIRK & CHANEY
134 Robert S. Kerr Ave.
Oklahoma City, Oklahoma 73102
(405) 235-1333

Attorneys for Defendant, Texas
International Petroleum
Corporation



KENNETH L. BRUNE
MARY B. LEWIS

700 Sinclair Building
Six East Fifth Street
Tulsa, Oklahoma 74103
(918) 584-0506

Attorneys for Plaintiff, Pozos
Drilling Ltd/81

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document was mailed this 5th day of October, 1987, to:

Mr. Thomas E. English
English, Jones and Faulkner

1701 Fourth National Building
Tulsa, Oklahoma 74119

Attorney for Northwest Exploration
Company Creditors Trust

Mary B Lewis

MARY B. LEWIS

#14a Stipulation
BWP:sac

FILED

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

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

VERN R. PELIEGER,)
)
Plaintiff,)
)
-vs-)
)
ALL AMERICAN LIFE INSURANCE)
COMPANY, an Illinois)
Insurance Company, et al,)
)
Defendants.)

No. 86-C-693-E

ORDER OF DISMISSAL

Upon consideration of the Stipulation for Dismissal by Reason of Settlement as signed by the parties and filed herein the Court finds that the case has been finalized and settled and should now be dismissed with prejudice.

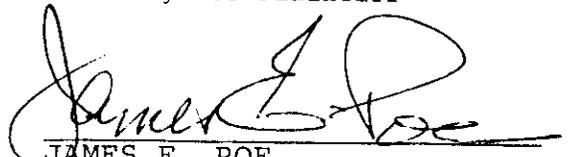
IT IS THEREFORE ORDERED AND DECREED that the within styled and numbered cause of action be and the same is hereby dismissed with prejudice.

Dated the 2^d day of October, 1987.


U.S. DISTRICT JUDGE

APPROVED:

RICHARD L. PEASTER
Attorney for Plaintiff


JAMES E. POE
Attorney for Defendant, All
American Life Insurance Co.

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

FILED

OCT 2 1987

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

EDWARD A. BERMAN,
EDWARD EDELSTEIN,
and ALAN HAMMERMAN,

Plaintiffs,

vs.

Case No. 86-C-161-E

UNIVERSAL ENERGY CORPORATION,
ROBERT A. ALEXANDER, JR.,
MICHAEL F. ROGERS,
LEO C. STITH,
MINGO VALLEY INDUSTRIES, INC.,
ARMSTRONG ROYALTY CORPORATION,
ROBERT J. HERALD,
RONALD D. KELSEY,
JERRY L. GENTRY,
JAMES L. DIAMOND,
CHARLES M. BLAIR,
CHARLES M. BLAIR & CO., INC.,
and JAMES P. CONGLETON,

Defendants.

^{OF}
STIPULATION FOR DISMISSAL WITH PREJUDICE

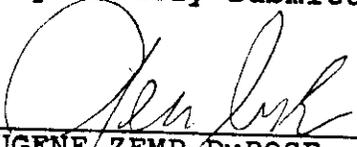
COME NOW the parties hereto, by their respective counsel, and hereby stipulate and agree that the above-captioned cause should be dismissed, with prejudice, each party to pay their own costs, pursuant to an agreed settlement entered into between the parties.

WHEREFORE, the parties hereto respectfully request that the Court enter its order dismissing the above-captioned

cause, with prejudice, each party to pay their own costs.

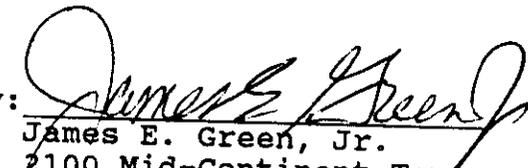
DATED this 2nd day of October, 1987.

Respectfully submitted,

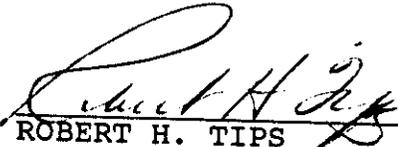

EUGENE ZEMP DuBOSE
3710 Rawlins, Suite 1117
Dallas, Texas 75219
(214) 520-2983

ATTORNEY FOR PLAINTIFFS

COMFORT, LIPE & GREEN, P.C.

By: 
James E. Green, Jr.
2100 Mid-Continent Tower
401 South Boston Avenue
(918) 599-9400

ATTORNEYS FOR DEFENDANTS
CHARLES M. BLAIR AND
CHARLES M. BLAIR & CO., INC.


ROBERT H. TIPS
525 S. Main, Suite 210
Tulsa, Oklahoma 74103
(918) 585-1181

ATTORNEY FOR DEFENDANTS
ORS CORPORATION (formerly
Universal Energy Corporation)
AND MICHAEL F. ROGERS

CRAWFORD, CROWE &
BAINBRIDGE, P.A.

By: 
B. Hayden Crawford
1714 First National Bldg.
Tulsa, Oklahoma 74103
(918) 587-1128

ATTORNEYS FOR DEFENDANTS
ROBERT A. ALEXANDER, JR.
AND MINGO VALLEY INDUSTRIES,
INC.

FILED

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

1987

J. I. CASE CREDIT CORPORATION,)
)
 Plaintiff,)
)
 vs.)
)
 TRANSWESTERN MINING COMPANY,)
 d/b/a TRAMCO,)
)
 Defendant.)

NO. 87-C-267E

ORDER OF DISMISSAL

On this 1st day of September, 1987 the above matter came on for consideration upon the Stipulation of the parties for an Order of Dismissal. The Court being fully advised in the premises and for good cause being shown finds and

IT IS ORDERED that the Complaint filed by the Plaintiff against Defendant Transwestern Mining Company, d/b/a Tramco be and the same is hereby dismissed with prejudice to the bringing of any future action, each party to bear its own costs and attorney's fees incurred herein.

/s/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED:



JAMES H. BELLINGHAM
of the firm of
McCLELLAND, COLLINS, BAILEY,
BAILEY & BELLINGHAM
11th Floor, Colcord Building
Oklahoma City, Oklahoma 73102
(405) 235-9371
Attorney for Plaintiff

L. DRU McQUEEN
of the firm of
DOERNER, STUART, SAUNDERS,
DANIEL & ANDERSON
1000 Atlas Life Building
Tulsa, Oklahoma 74103
918/582-1211
Attorneys for Defendant

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

FEDERAL DEPOSIT INSURANCE CORPORATION,)
in its corporate capacity,)

Plaintiff,)

-vs-)

DUNJON, INC., an Oklahoma corporation;)
MICHAEL A. DUNDEE; and JARRY M. JONES,)

Defendants.)

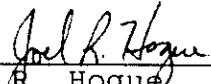
No. 87-C-653-B

OCT -2 1987
JACKSONVILLE
U.S. DISTRICT COURT

NOTICE OF DISMISSAL

COMES NOW the Plaintiff, the Federal Deposit Insurance Corpora-
tion, in its corporate capacity, and pursuant to Rule 41(a)(1) of
the Federal Rules of Civil Procedure dismisses its Complaint filed
herein on August 10, 1987, against all defendants.

DATED October 2, 1987.



Joel R. Hogue
GABLE & GOTWALS
2000 Fourth National Bank Bldg.
Tulsa, OK 74119-1217
918/582-9201
ATTORNEY FOR PLAINTIFF

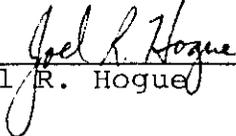
Certificate of Mailing

I hereby certify that on the 2nd day of October, 1987, a true
and correct copy of the above and foregoing instrument was mailed,
postage prepaid, to the following:

Dunjon, Inc.
c/o Rosenstein, Fist
& Ringold
Registered Service Agent
525 S. Main, Suite 300
Tulsa, OK 74104

Michael A. Dundee
4709 S. Victor
Tulsa, OK 74105

Jarry M. Jones
3936 E. 99th Place
Tulsa, OK 74136



Joel R. Hogue

IN THE UNITED STATES COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

BANK OF COMMERCE AND TRUST
COMPANY, et al.,

Plaintiffs,

v.

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH,
PENNSYLVANIA,

Defendant.

No. 84-C-932-B

FILED

OCT - 2 1987

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

ORDER OF DISMISSAL WITH PREJUDICE

There comes on for consideration on the Motion to Dismiss pursuant to Rule 41(a)(2), Federal Rules of Civil Procedure, of Remaining Plaintiffs, E. M. BEHNKEN, GLENN E. BRUMBAUGH, JR., CHARLES R. CARROLL, STAN P. GOLESKY, JAMES K. GREGORY, PHILIP B. HASKELL, JR., and ED MCKAY, and Defendant, NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PENNSYLVANIA. The Court being fully advised and for good cause shown finds that the Complaint of Remaining Plaintiffs, E. M. BEHNKEN, GLENN E. BRUMBAUGH, JR., CHARLES R. CARROLL, STAN P. GOLESKY, JAMES K. GREGORY, PHILIP B. HASKELL, JR., and ED MCKAY, as against NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PENNSYLVANIA, should be dismissed with prejudice, each party to bear respective costs and attorney's fees.

IT IS SO ORDERED.

DATED this 2nd day of October, 1987.

S/ THOMAS R. BRETT

Thomas R. Brett
UNITED STATES DISTRICT JUDGE

Mike Barkley

Mike Barkley
Attorney for Plaintiffs

John R. Woodard, III

John R. woodard, III
Attorney for Defendant

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

LIBERTY MUTUAL INSURANCE COMPANY,)
)
 Plaintiff,)
)
 v.)
)
 KIMBERLY DAWN MALHAM, PATRICIA MALHAM,)
 TERRY MALHAM, WANDA PARENT, individually)
 and as Personal Representative of the)
 Estate of Clyde Wayne Parent and as legal)
 guardian and next friend of Erik Parent,)
)
 Defendants.)

No. 87-C-68-C ✓

FILED

FILED

OCT 1 - 1987 A

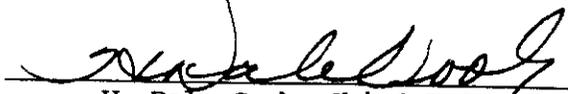
Jack C. Silver, Clerk
U.S. DISTRICT COURT

ORDER

NOW ON this 1 day of oct, 1987, comes on to be heard the Motion For Summary Judgment submitted by the Plaintiff, Liberty Mutual Insurance Company. Plaintiff appears by and through its attorney of record, Walter D. Haskins, of the law firm of Best, Sharp, Thomas, Glass & Atkinson. Defendant, Wanda Parent, is represented by her attorney of record, Lynn A. Mundell. Defendants, Kimberly Dawn Malham, Patricia Malham, and Terry Malham, appear pro se. There are no other Defendants in this cause of action.

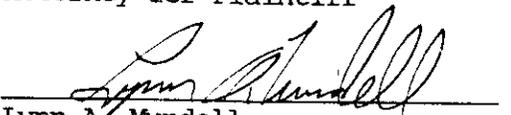
IT IS THE ORDER OF THE COURT that the Plaintiff's Motion For Summary Judgment is hereby granted.

IT IS SO ORDERED this 1st day of october, 1987.


H. Dale Cook, Chief Judge
United States District Court

APPROVED AS TO FORM AND CONTENT:


Walter D. Haskins
Attorney for Plaintiff


Lynn A. Mundell
Attorney for Defendant Parent

Kimberly Dawn Malham
Kimberly Dawn Malham, Pro Se

Patricia Malham
Patricia Malham, Pro Se

Terry Malham
Terry Malham, Pro Se

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

FILED

OCT 1 - 1987

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

LIBERTY MUTUAL INSURANCE COMPANY,)
)
 Plaintiff,)
)
 v.)
)
 KIMBERLY DAWN MALHAM, PATRICIA MALHAM,)
 TERRY MALHAM, WANDA PARENT, individually)
 and as Personal Representative of the)
 Estate of Clyde Wayne Parent and as legal)
 guardian and next friend of Erik Parent,)
)
 Defendants.)

No. 87-C-68-C ✓

JUDGMENT

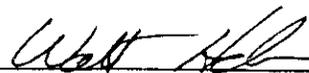
The above-entitled cause came on before the Court on Plaintiff's Motion For Summary Judgment, and the issues having been duly heard and a decision having been rendered,

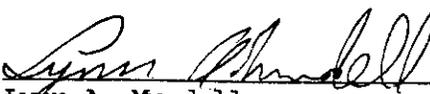
IT IS THE ORDER, JUDGMENT AND DECREE of this Court that Plaintiff receive the relief prayed for in the Complaint, and it is declared that Plaintiff had no insurance coverage for the accident of June 18, 1986.

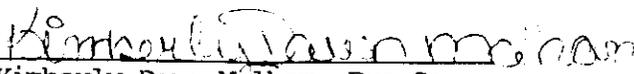
Dated this 1st day of October ~~September~~, 1987.

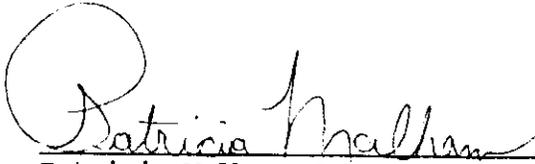

H. Dale Cook, Chief Judge
United States District Court

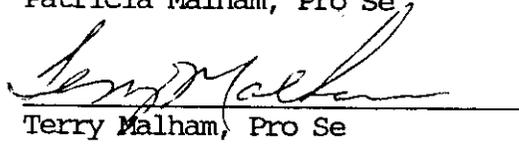
APPROVED AS TO FORM AND CONTENT:


Walter D. Haskins
Attorney for Plaintiff


Lynn A. Mundell
Attorney for Defendant Parent


Kimberly Dawn Malham, Pro Se


Patricia Malham, Pro Se


Terry Malham, Pro Se

FILED

OCT 1 1987

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

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

PEDIATRIC & ADOLESCENT CARE,)
)
Plaintiff,)
)
vs.)
)
HARTFORD FIRE INSURANCE CO.,)
a Connecticut corporation,)
)
Defendant.)

No. 86-C-479-E

ORDER

The Court has before it for its consideration Defendant's Objection to Report and Recommendation of the Magistrate that summary judgment be granted in favor of the Plaintiff, as to liability only, on Plaintiff's first cause of action for breach of contract. This case involves a suit brought by the Plaintiff against its insurer for breach of the insurer's duty to defend a lawsuit brought against the Plaintiff for, among other claims, the tort of false light. As a defense to the Plaintiff's claim in this action, the insurer raised two exclusions under the terms of the policy, and the Magistrate found them to be inapplicable. In its objection to the Magistrate's Report and Recommendation the insurer contends that there are issues of fact in controversy which preclude summary judgment.

One basis on which the insurer denied coverage under the claim was that there were previously publications or utterances of the matter for which the Plaintiff was sued in the state court action. The basis of the state court suit was a letter written by the Plaintiff, a group of physicians, announcing that three

physicians were leaving the group which they had been associated with previously and forming their own group. In the body of the letter announcing the formation of the new medical group the physician stated "Please accept our apologies for the sudden change. We had planned a smooth transition for your convenience, but circumstances have made that impossible." The insurer contends that statements made by the physicians to other members of the group and to the staff of the group that they were leaving to form their own practice constitute prior publication. However, it is obvious that the publication that the physicians were breaking off to form their own group was not the publication which motivated the lawsuit. Thus, the exclusion argued by the insurer is inapplicable.

The second basis argued by the insurer is that its policy excluded coverage for statements made at the direction of the insured with knowledge of the falsity thereof and excluded advertising injury committed by the insured with actual malice. The insurer argues that these statements made by the Plaintiff were intentionally malicious, and it did not have a duty to defend. However, in Conner v. Transamerica Insurance Co., 496 P.2d 770 (Okla. 1972) the Oklahoma Supreme Court held that an insurance company has a duty to defend actions in which it is alleged that the insured acted maliciously, and liability is excluded only for an act that is actually malicious and not merely claimed to be malicious by the opposing party. Here, the allegations of malicious action by the Plaintiff were resolved in their favor. The statement itself does not justify the insurer's

refusal to defend on the basis of malice. Therefore the Court is in agreement with the recommendation of the Magistrate.

Accordingly, the Plaintiff's Motion for Partial Summary Judgment as to liability of the Defendant under Plaintiff's claim for breach of contract is granted.

ORDERED this 12th day of October, 1987.



JAMES C. ELLISON
UNITED STATES DISTRICT JUDGE

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

F I L E D

LOIS E. SHEELER,)
)
 Plaintiff,)
)
 v.)
)
 GARY W. KAZRAGIS,)
)
 Defendant.)

OCT -1 1987

No. 87-C-316-B

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

O R D E R

This matter comes before the Court on Defendant's motion to dismiss for lack of personal jurisdiction, filed pursuant to Fed.R.Civ.P. 12(b)(2). Plaintiff has objected to the motion. Plaintiff has failed to comply with Fed.R.Civ.P. 8(a) which requires a statement in the complaint of the Court's jurisdiction. For the reasons set out below, defendant's motion to dismiss is granted.

This is a diversity action for attorney malpractice, breach of contract, and negligence. Plaintiff retained Defendant in Iowa in June 1979, to represent her as legal counsel in a divorce proceeding in Iowa. In January 1980, the Iowa court awarded Plaintiff a divorce, ordering her husband to pay alimony and child support. The Iowa divorce decree ordered Plaintiff to pay her former husband \$25,000, representing his share of equity in the family home.

In the summer of 1980, Plaintiff's former husband was incarcerated for child abuse. During that time, the Iowa family home was sold and \$25,000 was placed in an escrow account to satisfy the divorce decree.

Also, while incarcerated, Plaintiff's former husband made no alimony or child support payments. In an effort to obtain these payments, Plaintiff continued to employ Defendant as legal counsel in Iowa. Plaintiff, however, had moved to Oklahoma in October 1980.

When released from incarceration, Plaintiff's former husband was allowed to withdraw the \$25,000 being held in escrow despite the arrearages of approximately \$12,000 in alimony and child support payments. Plaintiff now sues her Iowa attorney in Oklahoma contending that through his negligence and malpractice in Iowa, Plaintiff did not and has not received the alimony and child support.

Defendant has filed a motion to dismiss for lack of personal jurisdiction. In a diversity action, a federal district court sitting in Oklahoma looks to the Oklahoma Statutes to determine when it has in personam jurisdiction over nonresidents. Wilshire Oil Co. of Texas v. Ritte, 409 F.2d 1277, 1279 (10th Cir. 1969); Wegerer v. First Commodity Corp. of Boston, 744 F.2d 719, 727 (10th Cir. 1984). The applicable statute, therefore, is found at 12 O.S. 2004(f), and provides:

"A court of this state may exercise jurisdiction on any basis consistent with the Constitution of this state and with the Constitution of the United States."

The United States Supreme Court held that before jurisdiction can be exercised, the Due Process Clause of the Fourteenth Amendment requires minimum contacts between the state exercising personal jurisdiction and the defendant.

International Shoe Co. v. State of Washington, et al., 326 U.S. 310, 66 S.Ct. 154, 90 L.Ed. 95 (1945).

It is critical to due process that "defendant's conduct and connection with the forum state are such that he should reasonably anticipate being haled into court there." World-Wide Volkswagen Corp., 444 U.S. 286, 100 S.Ct. 559, 62 L.Ed.2d 490 (1980). Further, the United States Supreme Court has said:

"The unilateral activity of those who claim some relationship with a nonresident defendant cannot satisfy the requirement of contact with the forum state. . . . [I]t is essential in each case that there be some act by which the defendant purposefully avails [him]self of the privilege of conducting activities within the forum state...."

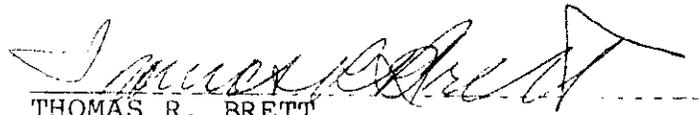
Henson v. Denckla, 357 U.S. 235, 78 S.Ct. 1228, 2 L.Ed.2d 1283 (1958); Kulko v. Superior Court of California, et al., 436 U.S. 84, 98 S.Ct. 1690, 56 L.Ed.2d 132 (1977).

Defendant's contacts with the State of Oklahoma are not sufficient to satisfy due process and thus enable this court to obtain personal jurisdiction. Plaintiff employed Defendant in the State of Iowa. Plaintiff later moved to Oklahoma and continued to use Defendant as her legal counsel in Iowa. Defendant's only contacts with the State of Oklahoma are telephone and mail correspondence with Plaintiff concerning her Iowa litigation. It cannot be said with these contacts Defendant has purposefully availed himself to the laws and protection of the State of Oklahoma. As stated above, the United States Supreme Court has held contacts resulting from unilateral activity to be insufficient to cause personal jurisdiction to

exist. It is uncontroverted Defendant's only contacts with the State of Oklahoma is the fact Plaintiff moved here. Defendant does not solicit nor conduct any other business in the State of Oklahoma.

The Court has reviewed the facts and concludes Defendant lacks "minimum contacts" with the State of Oklahoma to warrant application of the long-arm statutes. Therefore, the Court concludes in personam jurisdiction is lacking and Defendant's motion to dismiss is hereby granted.

IT IS SO ORDERED this 1st day of October, 1987.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

SHONDEAN GOSCINSKI,)
)
 Plaintiff,)
)
 vs.)
)
 MIC LIFE INSURANCE)
 CORPORATION,)
)
 Defendant.)

OCT 1 1987

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

No. 87-C-459-E

ORDER OF DISMISSAL

On this 1st day of October, 1987, the above matter comes on for hearing upon the written Application to Dismiss Without Prejudice of the Plaintiff herein. The Court having examined said Application, and being fully advised in the premises, finds that said cause of action should be dismissed pursuant to said Application.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Court that the above-entitled cause of action be and the same is hereby dismissed without prejudice.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

lkm (87-236)