

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

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

Plaintiff, )

vs. )

No. 87-C-920-E )

LEN CASON, and MARK DICKEY )  
Co-Trustees, et al., )

Defendants. )

*Notice of*  
DISMISSAL WITHOUT PREJUDICE

COMES NOW the Plaintiff Federal Deposit Insurance Corporation, in its corporate capacity and pursuant to Fed. R. Civ. P. 41(a)(1) hereby dismisses the Defendant Union Bank and Trust Company from this action without prejudice.

  
\_\_\_\_\_  
Lance Stockwell  
R. Kevin Layton  
of BOESCHE, McDERMOTT & ESKRIDGE  
800 Oneok Plaza, 100 W. 5th St.  
Tulsa, OK 74103  
(918) 583-1777

ATTORNEYS FOR FEDERAL DEPOSIT  
INSURANCE CORPORATION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the 30<sup>th</sup> day of November, 1987.

  
\_\_\_\_\_

FILED  
NOV 27 1987  
DISTRICT COURT

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

SHEET METAL JAC TRAINING )  
SCHOOL, INC. et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
Brian P. Seratte, )  
 )  
Defendant. )

Case No. 86-C-1014-E

ORDER

This matter coming on to be heard, and it appearing that the defendant has failed to respond in any way to plaintiffs' Motion for Summary Judgment for Lack of Material Dispute filed herein on August 19, 1987, it is:

Ordered pursuant to Rule 14 (a) of the Rules of Civil Procedure of United States District Court for the Northern District of Oklahoma that judgment be entered for the plaintiffs for such damages as they have sustained as alleged in the complaint, to-wit: The sum of \$3,035.23 with interest thereon at the rate of 8.50 percent from June 20, 1986, until paid, attorney's fees ~~in~~ **UPON APPLICATION AND ORDER** ~~the amount of \$ 1,043.87~~ and costs of this action.

Further Ordered that defendant is to return any and all training materials received by him while a participant in the training programs established by the plaintiffs.

DATED this 25<sup>th</sup> day of November, 1987.

  
JUDGE OF THE UNITED STATES  
DISTRICT COURT.

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

1987

STEVE W. DITTMAN,  
  
Plaintiff,  
  
v.  
  
GENERAL SIGNAL,  
  
Defendant.

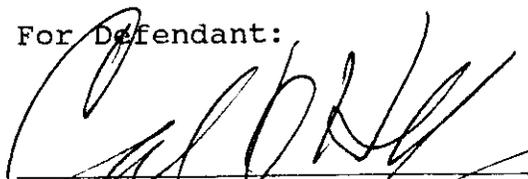
U.S. DISTRICT COURT

Case No. 87-C-498 E

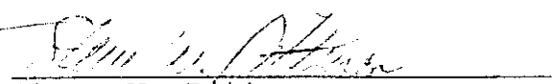
STIPULATION OF DISMISSAL  
WITH PREJUDICE

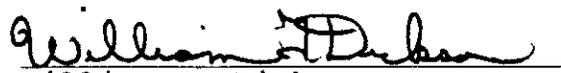
COME NOW Steve W. Dittman, Plaintiff herein, and General Signal, Defendant herein, and pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii), do hereby stipulate that this action is dismissed, with prejudice. Each party is to bear his or its own costs and expenses, including attorney fees.

For Defendant:

  
Carl D. Hall, Jr.  
Attorney for Defendant  
Nichols, Wolfe, Stamper,  
Nally & Fallis, Inc.  
400 Old City Hall Building  
124 East Fourth Street  
Tulsa, Oklahoma 74103

For Plaintiff:

  
Steve W. Dittman  
Plaintiff

  
William T. Dickson  
Attorney for Plaintiff  
Post Office Drawer T  
Catoosa, Oklahoma 74015



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

NOV 30 1987

ATOKA GAS GATHERING SYSTEM, )  
et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
WILLIAM J. COLLIER, et al., )  
 )  
Defendants. )

No. 86-C-154-E

ORDER OF DISMISSAL

Pursuant to Rule 36(a) of the Local Court Rules of the Northern District of Oklahoma, notice was previously given on October 22, 1987 that this case would be dismissed for lack of prosecution if no action was taken within thirty (30) days of the date of the Notice. No action having been taken and the requisite thirty (30) days having passed,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this case should be and is hereby dismissed for lack of prosecution, with prejudice to any subsequent refiling.

DATED this 30<sup>th</sup> day of November, 1987.

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

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

NOV 30 1987

DONALD D. FELLHAUER,

Plaintiff,

vs.

No. 85-C-246-E

DON WOOD, Deputy Sheriff of  
Creek County and BOB J.  
WHITWORTH, Sheriff of Creek  
County,

Defendants.

JUDGMENT

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

IT IS ORDERED AND ADJUDGED that the Plaintiff Donald D. Fellhauer take nothing from the Defendants Don Wood and Bob J. Whitworth, that the action be dismissed on the merits, and that the Defendants Don Wood and Bob J. Whitworth recover of the Plaintiff Donald Fellhauer their costs of action.

DATED at Tulsa, Oklahoma this 30<sup>th</sup> day of ~~September~~ <sup>November</sup>, 1987.

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

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

NOV 30 1987

OKLAHOMA CARPENTERS HEALTH AND )  
WELFARE FUND by and through its )  
Trustees, ROBERT L. LIPPERT, )  
Chairman, and GERALD BEAM, )  
Vice President, )

Plaintiff, )

vs. )

No. 83-C-183-E

ROY J. HANNAFORD COMPANY, INC. )  
an Oklahoma corporation, )

Defendant. )

JOURNAL ENTRY OF JUDGMENT

COMES NOW before me, the undersigned Judge of the United States District Court for the Northern District of Oklahoma, Plaintiff's Motion for Summary 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.

The Court further finds that venue is proper and that this action arose within the Northern Judicial District of Oklahoma. The Court further finds that Plaintiff Carpenters Health & Welfare Fund filed a Motion for Summary Judgment in this action on September 4, 1987, and that Defendant Roy J. Hannaford Company, Inc., has, by its failure to respond or object, waived any objection or opposition to the Motion for Summary Judgment. Based thereon, the Court finds that Plaintiff Oklahoma Carpenters Health & Welfare Fund is entitled to judgment in the amount of \$31,174.95 as a

LAW OFFICES

UNGERMAN,  
CONNER &  
LITTLE

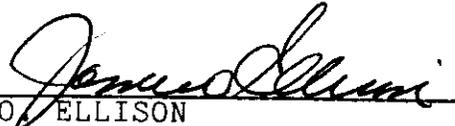
MIDWAY BLDG.  
2727 EAST 21 ST.  
SUITE 400

P. O. BOX 2099  
TULSA, OKLAHOMA  
74101

result of Hannaford's non-payment of health and welfare contributions between January, 1981 and February 1983. Further, the Court finds that Plaintiff is entitled to interest in the amount of 18% per annum from the date said contributions became due, until November 30, 1987, then in the amount of 6.93% per annum from November 30, 1987 until paid.

IT IS THEREFORE ORDERED by the Court that the Plaintiff, Oklahoma Carpenters Health & Welfare Fund, have as against Defendant, Roy J. Hannaford Company, Inc., a money judgment for the principal sum of \$31,174.95, together with interest thereon at the rate of 18% per annum from date of indebtedness until November 30, 1987, then in the amount of 6.93% per annum from November 30, 1987 until paid plus court costs and attorney fees to be determined by separate application.

DATED this 30<sup>th</sup> day of November, 1987.

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

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

KIP W.L. SYLVESTER, )  
 )  
 Plaintiff, )  
 )  
 v. ) 86-C-570-B  
 )  
 TULSA POLICE DEPARTMENT, )  
 )  
 Defendant. )

FILED  
MAY 1987  
JACK O. [unclear]  
U.S. DISTRICT COURT

ORDER

Plaintiff filed this action on June 10, 1986, pursuant to 42 U.S.C. §1983. Defendant was served with summons on February 23, 1987 and filed its Motion to Dismiss thereafter on March 26, 1987. There being no response by the Plaintiff, the United States Magistrate advised Plaintiff of Local Rule 14(a) and allowed Plaintiff an additional thirty (30) days to respond to Defendant's Motion. Plaintiff has not filed a response. Therefore, the Court will proceed to consider the merits of Defendant's Motion.

Defendant "Tulsa Police Department", pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, moves the Court to dismiss Plaintiff's action for failure to state a claim. In his Complaint, Plaintiff alleges that he was subjected to illegal search and seizure by an unnamed police officer from an unidentified jurisdiction. In particular, Plaintiff alleges that the police officer (1) lied about the location of a stop sign; (2) falsified a police report to show probable cause; and (3) committed perjury at Plaintiff's preliminary hearing.

Plaintiff has not named the individual officer or officers

who allegedly took the above actions. Instead, Plaintiff has named the "Tulsa Police Department" as Defendant. Assuming arguendo that the officer or officers whose actions caused Plaintiff's alleged illegal search and seizure were Tulsa Police Officers, respondent superior may not be used as the basis for liability under 42 U.S.C. §1983. There must be direct involvement in the conduct which caused Plaintiff's alleged deprivation of constitutional rights. Thus the proper Defendant is the officer or officers who (1) "lied about ... the location of the stop sign"; (2) "falsified his police report to show probable cause"; and (3) committed "perjury under oath at [Plaintiff's] Preliminary Hearing".

There being no allegation that the Defendant, Tulsa Police Department, took part in the above alleged conduct, the complaint fails to state a claim upon which relief can be granted. Therefore, it is the Order of the Court that this action be dismissed.

It is so ORDERED this 25 day of November, 1987.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

1987

CURTIS RICHISON, d/b/a CURTIS )  
RICHISON AND ASSOCIATES, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
TERRA RESOURCES, INC., )  
 )  
Defendant. )

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

No. 87-C-554-B

O R D E R

This matter comes before the Court on Defendant's motion to dismiss for lack of subject matter jurisdiction, filed pursuant to Fed.R.Civ.P. 12(b)(1). For the reasons set forth below, the Defendant's motion is granted.

This is a suit for alleged breach of contract. Jurisdiction is based on diversity of citizenship, 28 U.S.C. §1331. Plaintiff is a resident and citizen of Tulsa, Oklahoma. Defendant is a corporation duly incorporated under the laws of the State of Delaware with its principal place of business in Tulsa, Oklahoma.

The citizenship of a corporation, in order to determine diversity, is determined by 28 U.S.C. §1332(c), which states in pertinent part:

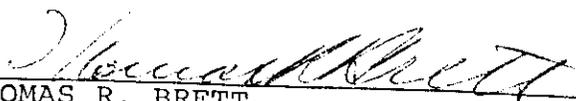
" . . . a corporation shall be deemed a citizen of any state by which it has been incorporated and the state where it has its principal place of business. . . ."

Defendant has asserted, by uncontraverted affidavit, that it is duly domesticated and authorized to do business in the State of Oklahoma. The executive offices of Defendant are located in Tulsa, Oklahoma. All six of the corporate officers are residents of Tulsa County, Oklahoma, and work at the corporate headquarters in Tulsa, Oklahoma. Of 427 employees, 213 live and work in Oklahoma, with 137 living and working in Tulsa, Oklahoma. All corporate record keeping functions are performed in Tulsa, Oklahoma. All banking transactions are performed in Tulsa, Oklahoma. All of the daily activities are diverted and controlled from the corporate headquarters in Tulsa, Oklahoma. Applying the law to the facts, Defendant is a citizen of Tulsa, Oklahoma.

Since there is no diversity of citizenship between the parties, both being Oklahoma citizens, the only other applicable subject matter jurisdiction would be a federal question, 28 U.S.C. §1331. The Plaintiff, however, has alleged no violation of his federal constitutional rights or any statutory rights afforded him by an act of Congress.

This Court finds that it lacks subject matter jurisdiction and thereby grants Defendant's motion to dismiss pursuant to Fed.R.Civ.P. 12(b)(1).

IT IS SO ORDERED, this 25<sup>th</sup> day of November, 1987.

  
\_\_\_\_\_  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

CLARK ALLEN DAVIS, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 TED WALLMAN and the STATE )  
 OF OKLAHOMA, et al., )  
 )  
 Respondents. )

87-C-2-B

FILED  
1987  
JACK O. SMITH  
U. S. DISTRICT COURT

ORDER

Petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. §2254 is now before the court for consideration. On June 13, 1973, petitioner pled guilty to the charge of Possession of Controlled Substances and two counts of Grand Larceny in Tulsa County District Court Case Nos. CRF-72-1672, CRF-73-1006, and CRF=73-533.

Petitioner now seeks federal habeas corpus relief alleging that his guilty plea was involuntary and that he was denied effective assistance of counsel.

Because of the prejudice brought about by Petitioner's fourteen year delay in seeking relief, Respondents urge this court to dismiss Petitioner's application under Rule 9(a) of the Rules Governing §2254 cases.

Under the standards set out in Bowen v. Murphy, 698 F.2d 381 (10th Cir. 1983), delay alone is not sufficient to dismiss a petition. The state must make a particularized showing of prejudice in its ability to respond. Bowen, 698 F.2d at 383.

In the case at bar, the State of Oklahoma has made a

particularized showing of prejudice. No transcript of petitioner's guilty plea exists. The court reporter has died. The court reporter's notes have been misplaced or lost. The petitioner's trial attorney is no longer in practice and his whereabouts are unknown.

In an earlier order, this court determined that the State of Oklahoma has clearly demonstrated prejudice in its ability to respond, and gave petitioner an opportunity to rebut the showing of prejudice and explain his delay.

In his reply, petitioner makes four principal arguments. First, neither the trial court nor his counsel advised him of his right to appeal, and that although trial court's docket sheet indicates that petitioner was so advised, the docket sheet is inadequate, and insufficient to resolve this dispute. Therefore, the petitioner is entitled to have his petition heard by this court.

Petitioner's first argument, rather than rebutting the state's showing of prejudice, reinforces it. Petitioner is correct that the trial court's docket sheet is insufficient to resolve the dispute. A transcript of the guilty plea hearing would have been much better evidence, but is no longer available due to the fourteen year delay. In Bowen, (supra) the petitioner had waited sixteen years to challenge the voluntariness of his guilty pleas, during which time transcripts became unavailable and the petitioner's attorney died. Bowen, 698 F.2d at 383. In Bowen, the Tenth Circuit Court of Appeals found that had the

petition not been delayed the attorney's testimony would have been available. The same is true in the case at bar, had petitioner Davis not waited fourteen years, a transcript could have been created and petitioner's attorney could have been available to testify.

Second, petitioner argues that because he is a layman with little ability to read, he had no prior knowledge of the claims he now brings. Petitioner's argument is not persuasive. Petitioner had knowledge, at the time the guilty pleas were entered, of whether the court advised of the right to appeal. Petitioner has cited no authority for his argument.

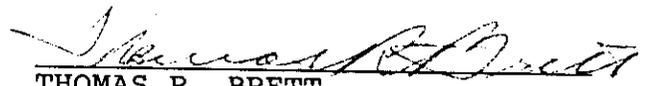
Third, petitioner notes that Rule 9(a) is not a statute of limitations but is based upon the equitable doctrine of laches. Petitioner is correct. Bowen, 698 F.2d at 382. Dismissal is not mandatory. "However the privileges of the writ of habeas corpus are not unlimited .... Claims presented by way of habeas corpus petitions many years after conviction impose especially heavy burdens on the prison system, on society; and on the administration of justice." Spalding v. Aiken, 460 U.S. 1093, 76 L.Ed.2d 361 (1983) (statement of Chief Justice Burger concerning the denial of certiorari.) Consequently, equitable considerations weigh in favor of dismissing the long-delayed petition at bar.

In his final argument, Petitioner asserts that Rule 8 Federal Rules Civil Procedure requires a Rule 9(a) defense to be set forth affirmatively. This, respondents have done in their

motion to dismiss. Petitioner's argument is of no consequence as a result.

Therefore, the State of Oklahoma having previously shown prejudice in its ability to respond to the petition for a writ of habeas corpus, and the petitioner having failed to rebut the state's showing or explain his delay, the petition for a writ of habeas corpus will be dismissed with prejudice.

It is so ORDERED this 25<sup>th</sup> day of November, 1987.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

FILED

OCT 21 1987

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

MELVIN EDWARDS, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 FRANK THURMAN, Tulsa County )  
 Sheriff and DAVID MOSS, Tulsa )  
 County Prosecuting Attorney, )  
 )  
 Defendants. )

87-C-851-B ✓

ORDER

Petitioner's Motion to Proceed in forma pauperis was granted and filed on the 15th day of October, 1987. Petitioner brings this action pursuant to 28 U.S.C. §2254.

The Petition is now to be tested under the standard set forth in 28 U.S.C. Section 1915(d). If the Petition is found to be obviously without merit, it is subject to summary dismissal. Henriksen v. Bentley, 644 F.2d 852, 853 (10th Cir. 1981). The test to be applied is whether or not the Petitioner can make a rational argument on the law or the facts to support his claim. Van Sickle v. Holloway, 791 F.2d 1431, 1434 (10th Cir. 1986). Applying the test to Petitioner's claims, the Court finds that the instant action should be dismissed as obviously without merit for the following reasons.

A writ of habeas corpus application shall not be granted "unless it appears that the applicant has exhausted the remedies available in the courts of the State ..." 28 U.S.C. §2254(b). Subsection (c) of §2254 explains:

An applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meaning of this section, if he has the right under the law of the State to raise, by any available procedure, the question presented. (emphasis added).

A review of the Petition reveals that Edwards has not yet appealed his conviction to the Oklahoma Court of Criminal Appeals, although he may still do so under 22 O.S. §§1051, et seq. Neither has Edwards sought relief under the Oklahoma Post-Conviction Procedure Act, 22 O.S. §§1080-1088, a remedy which remains available.

Because Petitioner has yet to exhaust the remedies available in the courts of Oklahoma, he fails to meet the requirement of 28 U.S.C. §2254(b). Rose v. Lundy, 455 U.S. 509, 518, 71 L.Ed.2d 379, 102 S.Ct. 1198 (1982). Consequently, Petitioner can make no rational argument on the law and facts to support his claim for federal habeas relief. Therefore, it is the order of this court that the Petition be summarily dismissed as without merit pursuant to 28 U.S.C. §1915(d).

Dated this 24 day of November, 1987.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

LIBERTY MUTUAL FIRE INSURANCE )  
COMPANY, )

Plaintiff, )

vs. )

No. 86-C-974-E

ALEX BREITBART, YURI & EKATERINA )  
BREITBART, WALLACE EUGENE LEDFORD, )  
Deceased, and COETA LEDFORD, )

Defendants. )

VOLUNTARY DISMISSAL WITHOUT PREJUDICE

Defendants Breitbart voluntarily dismiss their  
Counterclaims and Count I and Count II thereof against Plaintiff  
without prejudice.

  
\_\_\_\_\_  
John R. Caslavka, OBA #1552  
RICHARDS, PAUL & WOOD  
9 East Fourth Street, Suite 400  
Tulsa, OK 74103

CERTIFICATE OF MAILING

I, John R. Caslavka, do hereby certify that on this 20th  
day of November, 1987, I mailed a true and correct copy of the  
within and foregoing VOLUNTARY DISMISSAL WITHOUT PREJUDICE to:  
J. A. Deaton, Rhodes, Hieronymus, Jones, Tucker and Gable, 2800  
Fourth National Bank Building, Tulsa, Oklahoma 74119 and Andrew  
T. Dalton, Jr., 1437 S. Main, #302, Tulsa, Oklahoma 74119, with  
postage prepaid thereon.

  
\_\_\_\_\_  
John R. Caslavka

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

FILED  
NOV 19 1987  
THOMAS R. BRETT, JUDGE  
U.S. DISTRICT COURT

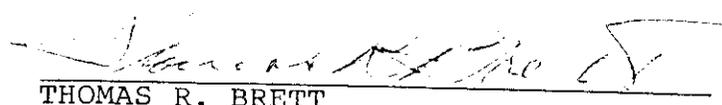
PENTECO CORP LIMITED )  
PARTNERSHIP-1985 A, )  
an Oklahoma limited )  
partnership, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
UNION GAS SYSTEM, )  
INCORPORATED, a Kansas )  
corporation, )  
 )  
Defendant. )

No. 85-C-1076-B

JUDGMENT - ATTORNEY'S FEES

In keeping with the Findings of Fact and Conclusions of Law of the Court entered this date, Judgment is hereby entered in favor of the Plaintiff, Penteco Corp Limited Partnership - 1985 A, an Oklahoma limited partnership, in the amount of Eighty Two Thousand Nine Hundred Thirty Seven and 50/100 Dollars (\$82,937.50), against the Defendant, Union Gas System, Incorporated, a Kansas corporation, as and for attorney's fees, plus interest at the rate of 6.93% per annum from this date.

DATED this 25<sup>th</sup> day of November, 1987.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

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. )

No. 86-C-461-B

JANE PHILLIPS EPISCOPAL )  
HOSPITAL, INC., a )  
corporation, )

Defendant. )

FILED  
1987  
Jack D. [unclear]  
U.S. DISTRICT COURT

O R D E R

This matter comes before the Court on Defendant Jane Phillips Episcopal Hospital, Inc.'s motion to award attorney's fees and expenses, Plaintiffs' objection to Court Clerk's action in taxing costs and the Defendant's motion to review taxation of costs.

Defendant asserts it is entitled to recover attorney fees in the amount of \$1125.00 for Plaintiffs' unjustified refusal to cooperate in discovery pursuant to Fed.R.Civ.P. 37(a)(4). Defendant's claim arises from a motion to compel Plaintiffs to waive their medical privilege filed March 10, 1987.

The parties agree upon the following recitation of facts which led to the instant motion:

- (1) On March 10, 1987, Defendant Hospital filed with this Court a Motion to Compel Plaintiffs to waive their medical privilege.

- (2) On the 20th day of March, 1987, Plaintiffs replied to Defendant Hospital's motion to waive their medical privilege.
- (3) On the 24th day of March, 1987, Defendant Hospital responded to Plaintiffs' Reply Memorandum.
- (4) On the 2nd day of April, 1987, the United States Magistrate granted Defendant's Motion and declared Plaintiffs' medical privilege to be waived. In its original Order, the United States Magistrate narrowly defined the scope of Plaintiffs' waiver to exclude information and ex parte interviews of Plaintiffs' health care providers by counsel for Defendant Hospital.
- (5) On the 8th day of April, 1987, Defendant Hospital submitted a Motion and Brief to reconsider the narrow interpretation of the medical waiver ordered by the United States Magistrate.
- (6) On the 16th day of April, 1987, the United States Magistrate amended his Order of April 2, 1987 to permit the ex parte interviews of Plaintiffs' health care providers by counsel for Defendant Hospital.

Fed.R.Civ.P. 37(a)(4) provides that:

"If the motion (motion to compel here) is granted, the court shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust."

The Court has reviewed in detail the factual background which led to the Defendant's motion to compel Plaintiffs' waiver of their medical privilege and finds that Plaintiffs' conduct during the discovery in this instance does not merit an award of attorney's fees and expenses. While not ultimately successful in opposing the motion to compel, there are no facts which indicate

that the Plaintiffs acted unjustifiably or in bad faith. The United States Magistrate's order of April 2, 1987, limiting the scope of the Plaintiffs' medical waiver, indicates that the Plaintiffs' position regarding the medical waiver was advanced in good faith. Therefore, the Defendant's motion to award attorney's fees is denied.

DEFENDANT'S MOTION TO REVIEW  
TAXATION OF COSTS

Defendant's motion to review taxation of costs stems from the clerk's disallowance of some \$3124.38 incurred by the Defendant for original deposition transcripts and for deposition transcript copies. Jack Silver, United States Court Clerk, awarded the Defendant Hospital \$1407.04 in costs for seven deposition transcripts which were actually used by Defendant Hospital during the trial. Defendant Hospital admits that of the fifty-two depositions taken in this case only seven were actually read into the record during trial but seeks costs for three additional transcripts in the amount of \$330.00.

The test to determine whether there should be recovery for the costs of original deposition transcripts was set forth as follows by the court in Semke v. Enid Automobile Dealers Association, 52 F.R.D. 518 (W.D. Okla. 1971):

"The general test for recovery of these costs (applied by most courts according to the reported cases) is a showing and finding in the discretion of the court that the taking of said depositions was reasonably necessary under the circumstances at the time of taking."

Id. at 519. And:

"[A]nd it is not absolutely necessary that such depositions or parts thereof be actually used at the trial before their cost may be recovered."

Id. at 519-20. 4 Moore, Federal Practice, ¶26.36 at p. 1207; Pearlman v. Feldman, 116 F.Supp. 102 (Conn. 1953).

The Court has reviewed the Defendant's original bill of costs and brief in support and the Plaintiffs' brief in support of motion to review taxation of costs and finds nothing which satisfies the above articulated test that the taking of the depositions was reasonably necessary under the circumstances at the time of the taking of the deposition. Defendant Hospital offers no facts or circumstances which would justify the award of costs for the original transcripts of the depositions of Lewis Fouts, Peggy Fouts and Uleta Castoe. Absent a clear showing by the Defendant Hospital that the three original deposition transcripts were reasonably necessary, although not actually used at the trial, the Court in its discretion affirms the Court Clerk's disallowance of the original transcript fees in the amount of \$330.00.

Defendant Hospital also seeks the award of \$2794.38 for the cost of deposition copies. Defendant Hospital contends that a copy of each of the depositions taken by both parties was necessary for purposes of preparing for the defense of this action involving complex medical issues. The court in Semke, supra, noted that in order to recover the cost of copies of depositions, a showing of necessity is required and mere convenience would be insufficient to merit such an award.

The court in Frigiquip Corp. v. Parker-Hannifin Corp., 75 F.R.D. 605 (W.D. Okla. 1977), found that the expense of deposition copies was not recoverable as costs where the original depositions were available to the party seeking to review the depositions. Although the Court recognizes that the issues involved in this case were complex and that copies of all depositions would be useful for preparation of witnesses for direct and cross-examination, the Court concludes that the Defendant's purchase of deposition copies was not absolutely necessary given the availability of the original deposition transcripts. Therefore, the Court finds that the Clerk's taxation of costs was proper in this regard and that the Defendant Hospital is not entitled to the sum of \$2794.38 for the cost of deposition copies.

PLAINTIFFS' OBJECTION TO COURT  
CLERK'S ACTION IN TAXING COSTS

The Plaintiffs object to the Court Clerk's taxation of certain experts' consultation fees pursuant to Fed.R.Civ.P. 26(b)(4)(C). Defendant Hospital in its original bill of costs sought the taxation of one-half of the costs expended by the Defendant Hospital in obtaining facts and opinions from its expert witnesses. The hospital contended that the 50% division of the costs was an equitable apportionment and merited where the Plaintiffs were to benefit from the Defendant's experts' opinions and work. Defendant bases its application for costs on Fed.R.Civ.P. 26(b)(4)(C) which states:

"Unless manifest injustice would result, (i) the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under subdivisions (b)(4)(A)(ii) and (b)(4)(B) of this rule; and (ii) with respect to discovery obtained under subdivision (b)(4)(A)(ii) of this rule the court may require, and with respect to discovery obtained under subdivision (b)(4)(B) of this rule the court shall require, the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert."

The Court finds that the Defendant Hospital is entitled to recover the expenses incurred in responding to the Plaintiffs' requested discovery pursuant to 26(b)(4)(A)(ii) and further finds that the Court Clerk's award of 50% of the total expenses is reasonable and should be affirmed. In upholding the Clerk's taxation of costs, the Court is interpreting Fed.R.Civ.P. 26(b)(4)(C) as suggested by Advisory Committee notes.

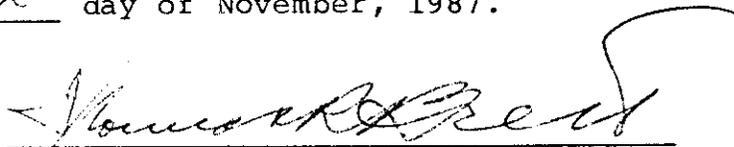
"The Court may issue the latter order as a condition of discovery, or it may delay the order until after discovery is completed. These provisions for fees and expenses meet the objection that it is unfair to permit one side to obtain without cost the benefit of an expert's work for which the other side has paid, often a substantial sum."

Advisory Committee Notes to the 1970 Amendments to Fed.R.Civ.P. 26. E.g., Lewis v. United Airlines Transportation Corp., 32 F.Supp. 21 (W.D.Pa. 1940).

For the reasons set forth above, the Court hereby overrules the Defendant's motion for attorney's fees and Defendant's objection to the Court Clerk's action taxing costs. The Plaintiffs' objection to taxation of costs is also overruled and

the Court Clerk's award of costs in the amount of \$5,826.80 entered September 11, 1987, shall stand.

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

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

THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

FILED

1987

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

ORVELL GLYNN HITCHYE, )  
 )  
Plaintiff, )  
 )  
v. ) No. 87-C-526-B  
 )  
CONSOLIDATED FREIGHTWAYS, INC., )  
 )  
Defendant. )

ORDER

This matter comes before the Court on Defendant's motion for summary judgment pursuant to Fed.R.Civ.P. 56. Plaintiff has objected to the motion. This suit involves two claims based on wrongful discharge and breach of contract. The Court has reviewed the factual record developed herein and finds as follows:

Plaintiff was employed as a city driver by Defendant from November 12, 1984 to November 14, 1986, when Plaintiff was terminated for positive results in a drug test.

Plaintiff was a member of the bargaining unit represented by Tulsa General Drivers, Warehousemen and Helpers, Teamsters Local 523 which is affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. The Unions were Plaintiff's exclusive bargaining agents.

The terms and conditions of Plaintiff's employment were established by the Collective Bargaining Agreements of the "National Master Freight Agreement" and the "South Conference Area Local Freight, Forwarding, Pickup and Delivery Supplemental Agreement."

The Collective Bargaining Agreements provided that Defendant could terminate Plaintiff for just cause. The agreements provided a grievance procedure to contest a termination alleged to be without just cause.

The Collective Bargaining Agreements incorporated the decision of the National Grievance Committee relating to illegal drug-induced toxication. The drug testing procedure adopted states: ". . . examination test results . . . immunochemical quantitation of thirty (30) or more nanograms cross-reactive cannabinoids/mL, the employee shall be subject to discharge."

On November 11, 1986, Plaintiff gave a urine sample to be tested for drug content. Drug Scan, Inc., determined that Plaintiff's urine contained 75 nanograms/mL cannabinoids.

Based on the report of Drug Scan, Inc., the Defendant determined it had just cause and terminated Plaintiff's employment.

Plaintiff, with Union representation, filed a grievance with respect to his termination in accordance with both Collective Bargaining Agreements. The grievance was heard by the South Multi-State Grievance Committee and was resolved adversely to Plaintiff.

Under the Collective Bargaining Agreements, resolution of a grievance is final and binding on the Defendant, the Plaintiff, and the Union.

As a result of the above findings, the Court concludes:

As a result of the unfavorable grievance finding, Plaintiff has brought this suit with two claims for relief. Plaintiff's first claim for relief is based on breach of contract of employment. The second claim for relief is for tortious breach of contract based on the violation of the implied covenant of good faith. Both claims are in response to Plaintiff's discharge.

As stated supra, this dispute was heard by a grievance board (binding under the Collective Bargaining Agreement). "The general rule is that a fairly represented employee may not attack an arbitration decision made in the context of a collective bargaining agreement." Bell v. IML Freight, Inc., 589 F.2d 502, 504 (10th Cir. 1979). In addition, final and binding decisions made by joint employer-union grievance panels must be enforced under §301 of the Labor Management Relations Act of 1947, 29 U.S.C. §185. Teamsters Freight Employees v. Bowling Green Express, Inc., 707 F.2d 255, 256 (6th Cir. 1983).

Plaintiff's first claim for relief is pre-empted by federal law. Allis-Chalmers Corp. v. Lueck, 471 U.S. 202, 85 L.Ed.2d 206, 105 S.Ct. 1904 (1985). Plaintiff was terminated for the presence of cannabinoids in his urine found during a drug test. The validity of the circumstances of the drug test, the test results, and the termination resulting from the test were grievable under the Collective Bargaining Agreements governing Plaintiff's employment. The Collective Bargaining Agreements provided the exclusive remedy for Plaintiff. Plaintiff offers no

persuasive law in support of avoiding pre-emption, and this Court can find none. See e.g., Peabody Galion v. Dollar, 666 F.2d 1309 (10th Cir. 1982), and Dority v. Green Country Castings Corp., 727 P.2d 1355 (Okla. 1986). "We do hold that when resolution of a state law claim is substantially dependent upon analysis of the terms of an agreement made between the parties in a labor contract that claim must be treated as a §301 claim, (see supra) ... or dismissed as pre-empted by federal labor contract law." Allis-Chalmers, 471 U.S. at 220.

In regard to the second claim for relief, Plaintiff has failed to state a claim. Plaintiff exclusively relies on Hinson v. Cameron, \_\_\_ P.2d \_\_\_, 58 O.B.J. 1666 (June 8, 1987), to propose a claim for wrongful discharge based on public policy grounds. This Court finds Plaintiff's argument unpersuasive. At the outset, Hinson is distinguishable because it involves an at-will employee.

Plaintiff asserts that his constitutional right of privacy was infringed by the Defendant's alleged coercion and intimidation to compel him to submit to the drug test.

Plaintiff's allegations of coercion and intimidation find no support in the record. The unopposed affidavits of Defendant supervisors Bobby J. Cloud and B. L. Tilton clearly show that Plaintiff was given the "thirty-day notice" to provide a urine sample and then volunteered to take the test, waiving the thirty-day waiting period.

The futility of Plaintiff's public policy argument is further demonstrated by page 2 of the Uniform Testing Procedure which supplements the National Master Freight Agreement and states:

"Where a mistake occurs and the Employer is unable to give at least 30 days written notice prior to the expiration of the employee's D.O.T. medical certificate, the Employer may still give at least a 30 days written notice of a proposed drug screen. The employee shall then take the recurrent D.O.T. examination, with the exception of a drug screen, and return to the hospital or clinic for the drug screen specimen after 30 days from such written notification. Conversely, where the employee is properly given 30 to 60 day notice and elects to take the physical examination prior to the passage of 30 days, the Employer shall not be barred from taking disciplinary action based upon a positive finding." (Emphasis added)

Absent facts or evidence to contradict the consent and waiver clearly shown by the Defendant's affidavits, the Court finds no issue of material fact remains on the alleged privacy violation. A party moving for summary judgment has the burden of showing there are no genuine issues of fact regarding the legal dispute, but the party opposing a properly supported motion for summary judgment may not rest upon the mere allegations or denials contained in his pleading. The nonmovant must set forth specific facts with supporting material showing that there is a genuine issue for trial. Celotex Corporation v. Catrett, 477 U.S. \_\_\_\_\_, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986); Anderson v. Liberty Lobby, Inc., 477 U.S. \_\_\_\_\_, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986); Windon Third Oil and Gas v. F.D.I.C., 805 F.2d 342 (10th Cir. 1986), cert. denied, 107 S.Ct. 1605 (1987).

The Court concludes that since Plaintiff's first claim is pre-empted by federal law, and the second claim fails to state a claim, Defendant's motion for summary judgment is hereby granted as no material issue of fact remains.

IT IS SO ORDERED, this 25 day of November, 1987.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

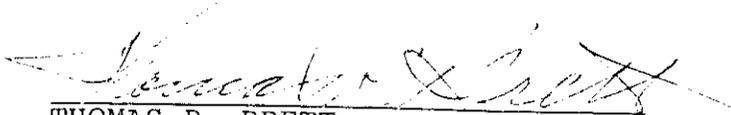
ORVELL GLYNN HITCHYE, )  
 )  
 Plaintiff, )  
 )  
 v. ) No. 87-C-526-B  
 )  
 CONSOLIDATED FREIGHTWAYS, INC., )  
 )  
 Defendant. )

1987  
JAN 11 1988  
U.S. DISTRICT COURT

J U D G M E N T

In accord with the Order entered this date granting the Defendant Consolidated Freightways, Inc.'s motion for summary judgment on all counts of the Complaint, the Court hereby enters judgment in favor of Consolidated Freightways, Inc., and against the Plaintiff, Orvell Glynn Hitchye. The Defendant is entitled to the costs of this action and each party is entitled to the costs of this action and each party shall pay their own respective attorney's fees.

ENTERED this 25 day of November, 1987.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

JEFFERY A. DEAN,

Plaintiff,

vs.

SEARS, ROEBUCK AND COMPANY  
and JOHNSON CONTROLS, INC.,

Defendants.

NO. 87-C-752-B

FILED

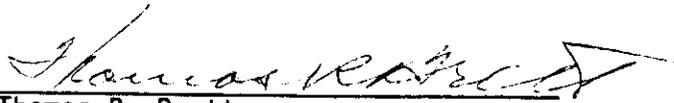
NOV 21 1987

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

ORDER

Upon application and stipulation of plaintiff Jeffrey A. Dean, it is hereby ordered that this cause be dismissed by this Court with prejudice to the plaintiff's rights to refile this cause.

Ordered this 25 day of November, 1987.

  
Thomas R. Brett  
United States District Court Judge

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

FILED

Nov 5 1987

HOUSEHOLD BANK, a Federal Savings Bank,  
Plaintiff,  
vs.  
HELMUT MAYER and ERNI MAYER,  
husband and wife,  
Defendants.

Case No. 87-C-458 E

JUDGMENT AND DECREE OF FORECLOSURE

NOW on this \_\_\_\_ day of \_\_\_\_\_, 1987, the above-entitled cause comes on for hearing before the undersigned United States District Judge pursuant to agreement of the parties. The plaintiff, Household Bank, f.s.b. ("Household"), appearing by and through its attorneys, Doerner, Stuart, Saunders, Daniel & Anderson, by William E. Hughes; the defendants, Helmut and Erni Mayer ("Mayer"), appearing by and through their attorney, Thomas L. Vogt of Jones, Givens, Gotcher, Bogan & Hilborne.

The Court, having examined the pleadings, process and files in this cause and being fully advised in the premises, FINDS that due and regular service of summons has been made upon all defendants and each of them.

The Court FURTHER FINDS that the debts which are the subject of this action were contracted in Tulsa County, Oklahoma, and the property which is the subject of this action is located in Tulsa County, Oklahoma, thereby vesting this Court with jurisdiction over the action and making venue proper.

Upon review of the pleadings in this case, including the Affidavit of Fred Schimel filed herein and the Motion for Partial Summary Judgment and Brief in support thereof filed by Household, the Court FURTHER FINDS that there is no issue as to any material fact and that the Motion for Partial Summary Judgment of Household should be granted.

The Court FURTHER FINDS that defendants Helmut and Erni Mayer duly executed and delivered a promissory note to Household's assignor as more particularly described in the Petition and Affidavit of Fred Schimel filed herein, and that as a result of defendants' default in the performance of the terms and conditions of said promissory note, said note as of May 11, 1987, is in default in the principal amount of \$2,700,000.00, plus accrued interest in the amount of \$712,534.93 through said date, plus interest accruing thereafter, until paid in full, plus the costs of this action, abstracting costs and including a reasonable attorney's fee of \$15,000.00.

The Court FURTHER FINDS that Household has a good, valid and perfected security interest in the personal property collateral described in Exhibit A attached hereto and that by reason of the default described above should have judgment foreclosing Household's security interest and lien in and to said personal property and ordering that it be sold with the real property described below.

The Court FURTHER FINDS that Household has a good and valid first lien superior to the interests and claims of all others on the real estate and premises described by virtue of the mortgage

executed by defendants Mayer and recorded on the 28th day of December, 1982, and in Book 4659 at Page 1812-1847 in the records of the County Clerk of Tulsa County, State of Oklahoma, which mortgage secures the above-described indebtedness.

The Court FURTHER FINDS that the real estate which is subject to the above-described lien, as described in defendants' mortgage herein sued upon, is situated in Tulsa County, Oklahoma, and is more particularly described as follows, to-wit:

A part of Lot 1, Block 1 of the AMENDED PLAT OF SANDERS-ENGLAND FIRST ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof, more particularly described as follows, to-wit: BEGINNING at the Southeast Corner of Lot 1, Block 1 of the AMENDED PLAT OF SANDERS-ENGLAND FIRST ADDITION; thence North  $01^{\circ}06'53''$  West along the East line of Lot 1, a distance of 249.96 feet; thence North  $46^{\circ}15'46''$  West a distance of 21.16 feet; thence South  $88^{\circ}53'07''$  West a distance of 125.88 feet; thence North  $01^{\circ}06'53''$  West a distance of 132.37 feet; thence North  $80^{\circ}04'47''$  East a distance of 0.00 feet; thence along a curve to the right, with a central angle of  $8^{\circ}48'20''$  and a radius of 230.00 feet a distance of 35.35 feet; thence North  $88^{\circ}53'07''$  East a distance of 105.65 feet to a point; thence North  $01^{\circ}06'53''$  West a distance of 40.00 feet to a point; thence South  $88^{\circ}53'07''$  West a distance of 105.65 feet; thence along a curve to the left, with a Central Angle of  $22^{\circ}20'00''$  and a radius of 270.00 feet a distance of 105.24 feet; thence South  $66^{\circ}33'07''$  West a distance of 218.91 feet; thence North  $56^{\circ}06'54''$  West a distance of 15.05 feet; thence North  $01^{\circ}06'28''$  West a distance of 445.78 feet; thence South  $80^{\circ}13'05''$  West along the North line of Lot 1, a distance of 356.11 feet to the Northwest corner of Lot 1; thence South  $01^{\circ}06'28''$  East along the West line of Lot 1, a distance of 673.28 feet; thence North  $88^{\circ}44'46''$  East a distance of 165.03 feet; thence South  $01^{\circ}06'28''$  East a distance of 65.98 feet to a point on the South line of Lot 1; thence North  $88^{\circ}44'46''$  East along the South line of Lot 1,

a distance of 610.12 feet to the POINT OF BEGINNING.

The Court FURTHER FINDS that the mortgage of the plaintiff Household should be foreclosed and the real estate described above sold according to law, to satisfy the indebtedness hereinabove set forth, that the proceeds of such sale, after payment of the costs of the sale, should be distributed to the plaintiff.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the plaintiff have and recover in rem judgment against the defendants Helmut and Erni Mayer in the principal amount of \$2,700,000.00, and accrued interest through May 11, 1987, in the amount of \$712,534.93, and interest accruing thereafter, plus the costs of this action, accrued and accruing herein, including a reasonable attorney's fee in the amount of \$15,000.00.

IT IS FURTHER ORDERED ADJUDGED AND DECREED that the above-described mortgage of plaintiff is a valid first mortgage superior to the interests of all others on the real property and premises hereinbefore described.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the mortgage in favor of Household Bank, as assignee of mortgagee A.H. Woodcreek, Inc., be, and the same is, hereby foreclosed, on the following described real estate and premises, and are hereby ordered to be sold subject to unpaid ad valorem real property taxes, if any, to satisfy the mortgages herein:

A part of Lot 1, Block 1 of the AMENDED PLAT OF SANDERS-ENGLAND FIRST ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof, more particularly described as follows, to-wit: BEGINNING at the Southeast Corner of Lot 1, Block 1 of the AMENDED PLAT OF SANDERS-ENGLAND

FIRST ADDITION; thence North 01°06'53" West along the East line of Lot 1, a distance of 249.96 feet; thence North 46°15'46" West a distance of 21.16 feet; thence South 88°53'07" West a distance of 125.88 feet; thence North 01°06'53" West a distance of 132.37 feet; thence North 80°04'47" East a distance of 0.00 feet; thence along a curve to the right, with a central angle of 8°48'20" and a radius of 230.00 feet a distance of 35.35 feet; thence North 88°53'07" East a distance of 105.65 feet to a point; thence North 01°06'53" West a distance of 40.00 feet to a point; thence South 88°53'07" West a distance of 105.65 feet; thence along a curve to the left, with a Central Angle of 22°20'00" and a radius of 270.00 feet a distance of 105.24 feet; thence South 66°33'07" West a distance of 218.91 feet; thence North 56°06'54" West a distance of 15.05 feet; thence North 01°06'28" West a distance of 445.78 feet; thence South 80°13'05" West along the North line of Lot 1, a distance of 356.11 feet to the Northwest corner of Lot 1; thence South 01°06'28" East along the West line of Lot 1, a distance of 673.28 feet; thence North 88°44'46" East a distance of 165.03 feet; thence South 01°06'28" East a distance of 65.98 feet to a point on the South line of Lot 1; thence North 88°44'46" East along the South line of Lot 1, a distance of 610.12 feet to the POINT OF BEGINNING,

and that a special execution and order of sale and foreclosure shall issue, commanding the U.S. Marshal to levy upon the above-described real estate and upon the personal property described in Exhibit A, and after having the same appraised as provided by law, shall proceed to advertise and sell the same real and personal property together as provided by law, subject to unpaid ad valorem real property taxes, if any, and such Marshal shall apply the proceeds arising from such sale as follows:

1. In payment of the costs of such sale and of this action;
2. In satisfaction of the judgment against defendants.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that from and after the sale of the above-described real estate and personal property and after the confirmation of such sale by the Court, the defendants, and each of them, shall be forever barred and foreclosed of and from any claim or lien upon or adverse to the right and title of the purchaser of such sale; and the defendants herein, and all persons claiming by, through or under them since the commencement of this action are hereby perpetually enjoined and restrained from ever setting up or asserting any lien upon the right, title, equity or interest in and to the above-described real estate adverse to the right or title of the purchaser at such sale if, as to the sale of the above-described real property, the same be had and confirmed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment on Household's third cause of action is hereby dismissed without prejudice to its being refiled.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that except as otherwise specifically provided hereinabove each party shall bear its own costs and attorneys fees.

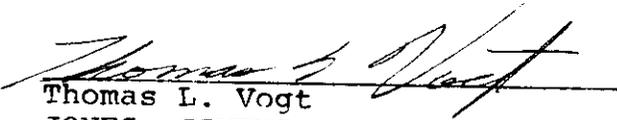
UNITED STATES DISTRICT JUDGE

APPROVED BY:



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DANIEL & ANDERSON  
1000 Atlas Life Building  
Tulsa, Oklahoma 74103  
(918) 582-1211

Attorneys for Household  
Bank, f.s.b.



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

Attorneys for Helmut and  
Erni Mayer

WOOD CREEK PERSONAL PROPERTY

Coffee Maker  
Vacuum Cleaner  
Stereo (Console cabinet only)  
T.V. for clubroom  
Olympia Calculator  
Olivetti Calculator  
Pocket Calculator  
Pencil Sharpener (Electric)  
Typewriter  
160 Refrigerators (157 in use - 3 stored)  
160 Electric Ranges  
Key machine stand  
2 Roladex  
Christmas tree and decorations  
1 - Curtis Keymatic 2000 key machine  
1 - Roberts carpet iron  
1 - B & G sprayer  
1 Pyrethrum Hose assembly.  
1 - Sears Craftsman wet Vac  
1 - Advance carpet shampooer  
1 - Refrigerator dolly  
1 - 32' aluminum extension ladder  
1 - Wheel barrow  
1 - 4 ft. Aluminum step ladder  
1 - 10 ft. wood step ladder  
1 - ceramic tile cutter  
1 - rigid sewer anger  
1 - a/c vacuum pump  
4 - 50 ft. garden hose  
1 - lawn rake  
1 - grain shovel  
1 - oxy-acetilene torch assembly  
6 - lawn sprinklers  
1 - 50 ft. perforated sprinkler hose  
1 - 10 ft. aluminum step ladder  
1 - portable electric heater

EXHIBIT "A"

- 1 - key machine cabinet
- 1 - pool vacuum attachment
- 1 - 25 ft pool vac hose
- 2 - pool side tables
- 6 - pool lounge chairs
- 7 - reg. pool chairs
- 1 - 16ft shepards hook
- 2 - key boxes
- 2 - 9 lb fire extinguishers
- 1 - 16 lb. fire extinguishers
- 1 - water cooler fountain

Entered

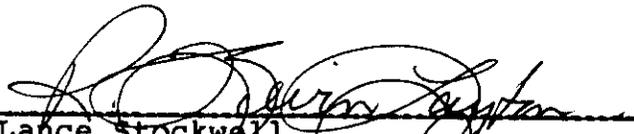
UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FEDERAL DEPOSIT INSURANCE )  
CORPORATION, in its corporate )  
capacity, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
LEN CASON, and MARK DICKEY )  
Co-Trustees, et al., )  
 )  
Defendants. )

No. 87-C-920-E

NOTICE DISMISSAL WITHOUT PREJUDICE

COMES NOW the Plaintiff Federal Deposit Insurance Corporation, in its corporate capacity and pursuant to Fed. R. Civ. P. 41(a)(1) dismisses Defendants Len Cason and Mark Dickey, Co-Trustees from this action without prejudice.

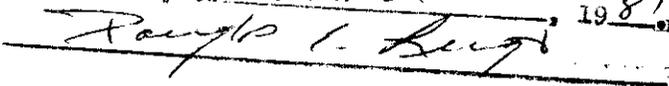
  
Lance Stockwell  
R. Kevin Layton  
of BOESCHE, McDERMOTT & ESKRIDGE  
800 Oneok Plaza, 100 W. 5th St.  
Tulsa, OK 74103  
(918) 583-1777

ATTORNEYS FOR FEDERAL DEPOSIT INSURANCE CORPORATION

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing complaint was filed to each of the parties and a copy of the same to them or to their attorneys of record on the

24<sup>th</sup> day of November, 1987



UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 vs. )  
 )  
 BILLY R. SIMPSON a/k/a BILLY )  
 RAY SIMPSON; SHAIRON K. SIMPSON )  
 a/k/a SHARION KAY SIMPSON; )  
 FIDELITY FINANCIAL SERVICES, )  
 INC., an Oklahoma Corporation; )  
 COUNTY TREASURER, Tulsa County, )  
 Oklahoma; and BOARD OF COUNTY )  
 COMMISSIONERS, Tulsa County, )  
 Oklahoma, )  
 Defendants. )

FILED

NOV 24 1987

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

CIVIL ACTION NO. 87-C-80-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 23 day  
of Nov, 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; the Defendant, Fidelity  
Financial Services, Inc., an Oklahoma Corporation, appears by its  
attorney Don E. Gasaway; and the Defendants, Billy R. Simpson  
a/k/a Billy Ray Simpson and Shairon K. Simpson a/k/a Sharion Kay  
Simpson, appear not, but make default.

The Court being fully advised and having examined the  
file herein finds that the Defendant, Billy R. Simpson a/k/a  
Billy Ray Simpson, acknowledged receipt of Summons and Complaint

on February 18, 1987; that Defendant, Fidelity Financial Services, Inc., an Oklahoma Corporation, acknowledged receipt of Summons and Complaint on February 20, 1987; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on February 6, 1987; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on February 6, 1987.

The Court further finds that the Defendant, Shairon K. Simpson a/k/a Sharion Kay Simpson, 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 July 17, 1987, and continuing to August 21, 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). Counsel for the Plaintiff does not know and with due diligence cannot ascertain the whereabouts of the Defendant, Shairon K. Simpson a/k/a Sharion Kay Simpson, 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, Shairon K. Simpson a/k/a Sharion Kay Simpson. 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 February 25, 1987; that Defendant, Fidelity Financial Services, Inc., an Oklahoma Corporation, filed its Answer and Cross-Complaint on March 11, 1987 and its Amended Cross-Complaint on June 29, 1987; that the Defendant, Billy R. Simpson a/k/a Billy Ray Simpson has failed to answer and his default has been entered by the Clerk of this Court on April 28, 1987; and that the Defendant, Shairon K. Simpson a/k/a Sharion Kay Simpson, has failed to answer and her default has been entered by the Clerk of this Court on October 26, 1987.

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:

Lot Two (2), SUBURBAN HEIGHTS ADDITION to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof.

The Court further finds that on October 12, 1976, the Defendants, Billy R. Simpson and Shairon K. Simpson, 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 \$9,300.00, payable in monthly installments, with interest thereon at the rate of nine percent (9%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Billy R. Simpson and Shairon K. Simpson, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated October 12, 1976, covering the above-described property. Said mortgage was recorded on October 18, 1976, in Book 4235, Page 2785, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Billy R. Simpson a/k/a Billy Ray Simpson and Shairon K. Simpson a/k/a Sharion Kay Simpson, 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, Billy R.

Simpson a/k/a Billy Ray Simpson and Shairon K. Simpson a/k/a Sharion Kay Simpson, are indebted to the Plaintiff in the principal sum of \$8,874.08, plus interest at the rate of nine percent (9%) per annum from September 1, 1985 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

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

The Court further finds that the Defendant, Fidelity Financial Services, Inc., an Oklahoma Corporation, claims some interest in the property which is the subject matter of this action by virtue of a realty mortgage dated October 21, 1985 and recorded on October 23, 1985, in Book 4900, Page 3124 in the office of the County Clerk of Tulsa County, Oklahoma. Unpaid balance on said mortgage is \$8,158.01, with interest thereon at the rate of 21 percent per annum from February 15, 1986 until paid, plus an attorney's fee of \$1,223.70. Said lien is inferior to the interest of the Plaintiff, United States of America.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants, Billy R. Simpson a/k/a Billy Ray Simpson and Shairon K. Simpson a/k/a Sharion Kay Simpson, in the principal sum of \$8,874.08, plus interest at the rate of nine percent (9%) per annum from September 1, 1985 until judgment, plus interest thereafter at the current legal rate of 6.93 percent per annum until paid, plus

the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

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

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, Fidelity Financial Services, Inc., an Oklahoma Corporation, have and recover judgment in rem in the amount of \$8,158.01 with interest thereon at the rate of 21 percent per annum from February 15, 1986 until paid, plus an attorney's fee of \$1,223.70.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Billy R. Simpson a/k/a Billy Ray Simpson and Shairon K. Simpson a/k/a Sharion Kay Simpson, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

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

Second:

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

Third:

In payment of the Defendant, Fidelity Financial Services, Inc., an Oklahoma Corporation, in the amount of \$8,158.01, with interest thereon at the rate of 21 percent per annum from February 15, 1986 until paid, plus an attorney's fee of \$1,223.70.

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.

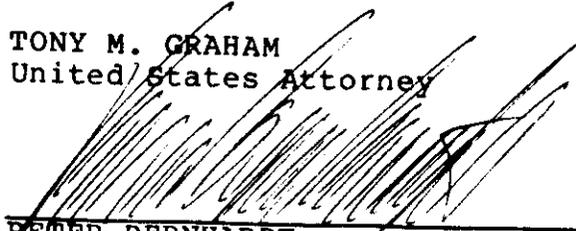
S/ JAMES O. ELLISON

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UNITED STATES DISTRICT JUDGE

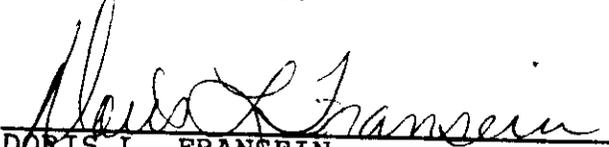
APPROVED:

TONY M. GRAHAM  
United States Attorney



~~PETER BERNHARDT~~  
Assistant United States Attorney  
3600 United States Courthouse  
Tulsa, OK 74103

  
DON E. GASAWAY  
Attorney for Defendant,  
Fidelity Financial Services, Inc.  
P.O. Box 14070  
Tulsa, OK 74159

  
DORIS L. FRANSEIN  
Assistant District Attorney  
Attorney for Defendants,  
County Treasurer and  
Board of County Commissioners,  
Tulsa County, Oklahoma  
406 Tulsa County Courthouse  
Tulsa, OK 74103

PB/css

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

LANDSING DIVERSIFIED  
PROPERTIES-II, a California  
limited partnership,

Plaintiff,

vs.

URBAN PROPERTIES, LTD.,  
an Oklahoma limited  
partnership, and JAMES W. DILL,  
an individual,

Defendants.

Case No. 85-C-634-E

ORDER

NOW on this 24<sup>th</sup> day of November, 1987, the  
above-styled cause comes on for consideration before me, the under-  
signed Judge of the United States District Court, upon the parties'  
agreed Motion for Dismissal With Prejudice. The Court finds that  
the Motion is made for good cause and that the same should be and  
is hereby granted.

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

JAMES O. ELLISON  
JAMES O. ELLISON  
JUDGE OF THE UNITED STATES  
DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

G. Steven Stidham  
Sneed, Lang, Adams,  
Hamilton & Barnett  
Sixth Floor  
114 East Eighth Street  
Tulsa, Oklahoma 74119  
(918) 583-3145  
Attorneys for Plaintiff

Charles W. Shipley  
Stephen E. Schneider  
Stephen J. Greubel  
Shipley & Schneider  
3401 First National Tower  
Tulsa, Oklahoma 74103  
(918) 582-1720  
Attorneys for Defendants

*Entered*

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

NOV 23 1987

JAC. J. ... CLERK  
U.S. DISTRICT COURT

KAISER ALUMINUM &  
CHEMICAL CORP.,  
  
Plaintiff,  
  
vs.  
  
STAMICARBON, B.V. and  
BRONSWERK,  
  
Defendants.

No. 86-C-522-C

O R D E R

On September 17, 1987 the Court entered its Order referring this matter to arbitration and staying further proceedings in this Court pending resolution of arbitration.

Defendant has filed a motion requesting the Court to lift the stay to allow all parties to complete any outstanding discovery. Defendant argues that with completion of discovery, arbitration will proceed more expeditiously.

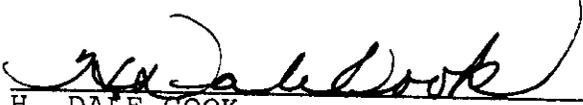
Plaintiff strenuously objects to defendant's request to lift the stay.

The Court has carefully reviewed the arguments proffered by both parties. Under the provisions of 9 U.S.C. §3 the Court is directed to stay its proceedings where matters are refer to arbitration. In that the Court has previously found and concluded that the agreement controlling the rights of the parties specifically contemplated arbitration, the Court will not compel

plaintiff to submit to expensive and time-consuming discovery in federal court prior to arbitration.

Therefore, defendant's motion for clarification, requesting the Court to lift the stay to permit discovery prior to arbitration is hereby denied.

IT IS SO ORDERED this 23<sup>rd</sup> day of November, 1987.

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

FILED  
1987  
Jack G. Smith, Clerk  
U.S. DISTRICT COURT

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

FEDERAL DEPOSIT INSURANCE )  
CORPORATION, )  
 )  
Plaintiff, )  
 )  
vs. ) Case No. 86-C-920-B  
 )  
RAY & SWEENEY EDUCATIONAL TRUST, )  
 )  
Defendant. )

JOURNAL ENTRY OF JUDGMENT

Now before the Court for its consideration is the motion of Plaintiff Federal Deposit Insurance Corporation, in its corporate capacity ("FDIC"), for deficiency judgment, said motion filed herein on July 31, 1987. On August 16, 1987, the trustee for Defendant Ray & Sweeney Educational Trust, Mr. Jimmy Ray, was personally served with a copy of FDIC's Motion for Deficiency Judgment and Brief in Support thereof. Defendant Ray & Sweeney Educational Trust did not file a timely response to said motion. As such Defendant has confessed same pursuant to Local Rule 14(a).

Based upon its review of the pleadings filed herein and the applicable law, this Court hereby finds as follows:

FDIC is a national corporation, organized and existing under the laws of the United States of America. It is authorized to conduct business in the State of Oklahoma.

Ray & Sweeney Educational Trust is an educational trust formed under the laws of the State of Oklahoma.

Jurisdiction lies within this Court pursuant to 12 U.S.C. §1819, and venue is proper within this judicial district.

On February 25, 1987, FDIC obtained a judgment against Defendant for the sum of \$81,657.69, plus interest accruing thereon at the rate of 6.09% per annum. This Court awarded FDIC costs in the amount of \$197.00 on March 24, 1987 and attorney fees in the amount of \$1,852.50, on June 8, 1987.

As of November 17, 1987, Defendant was indebted to Plaintiff in the total sum of \$87,317.20, plus interest accruing from and after November 17, 1987, at the rate of \$13.62 per day.

The real estate covered by FDIC's mortgage was sold at sheriff's sale on May 7, 1987 to Ms. Lynn Pollock for the amount of \$31,000.00, an amount in excess of two-thirds of the appraised value of \$35,000.00. This sale was confirmed by order of this Court dated August 13, 1987. The sale expenses paid by FDIC totalled \$200.00.

After application of the sales proceeds of \$31,000.00, less the sheriff's sale costs of \$200.00, to the amount of the judgment due and owing, the amount of the deficiency totals \$56,517.20, plus post-judgment interest on that sum until fully paid at the applicable statutory rate.

Wherefore, upon consideration of the foregoing, the Court hereby enters its judgment as follows:

IT IS ORDERED, ADJUDGED AND DECREED that a deficiency judgment against Defendant Ray & Sweeney Educational Trust be hereby entered in favor of Federal Deposit Insurance Corporation in the amount of \$56,417.20, plus interest accruing thereon from and after November 17, 1987, at the rate of \$13.62 per day, plus

interest accruing from date of this judgment until paid at the statutory rate of 6.90% per annum until paid in full.

IT IS SO ORDERED this 20<sup>th</sup> day of November, 1987.

S/ THOMAS R. BRETT

---

Thomas R. Brett  
Judge, United States District  
Court

BOESCHE, McDERMOTT & ESKRIDGE  
800 ONEOK Plaza  
100 West Fifth Street  
Tulsa, OK 74103  
(918) 583-1777

ATTORNEYS FOR PLAINTIFF  
FEDERAL DEPOSIT INSURANCE CORPORATION

*Entered*

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

JERRY L. HAYDEN,  
 )  
 )  
 Plaintiff,  
 )  
 )  
 vs. )  
 )  
 PILOT LIFE INSURANCE COMPANY,  
 )  
 )  
 Defendant. )  
 )  
 \_\_\_\_\_ )  
 PILOT LIFE INSURANCE COMPANY,  
 )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JERRY L. HAYDEN, et al., )  
 )  
 )  
 Defendants. )

No. 85-C-1029-C

FILED

NOV 23 1987

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

No. 86-C-687-~~E~~C

ORDER OF DISMISSAL

This matter comes before the Court pursuant to a Stipulation for Dismissal with Prejudice between Pilot Life Insurance Company and Dean Lewis. Pursuant to the Stipulation of parties, it is hereby ORDERED as follows:

1. The claims of Pilot Life against Dean Lewis and the counterclaims of Lewis against Pilot Life are hereby dismissed with prejudice;
2. The terms of the Stipulation for Dismissal with Prejudice signed by Pilot and Lewis are hereby adopted by the Court and incorporated herein by reference;
3. Each party will bear its own costs and attorney's fees.

ENTERED this 23<sup>rd</sup> day of November, 1987.

  
 UNITED STATES DISTRICT JUDGE

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

FILED

NOV 23 1987

CAKS-JR., LTD., )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
RALLY FLAG, INC., et al., )  
 )  
Defendants. )

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

No. 86-C-121-E

JUDGMENT DISMISSING ACTION AGAINST NEVER M. FAIL, JR.  
BY REASON OF SETTLEMENT

The Court has been advised by counsel that Plaintiff has settled, or is in the process of settling, its claims against Defendant Never M. Fail, Jr.

IT IS ORDERED that the action against Never M. Fail, Jr. is dismissed without prejudice. The Court retains jurisdiction to vacate this order and to reopen the action within twenty (20) days upon cause shown that settlement has not been completed and further litigation is necessary.

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

ORDERED this 23<sup>d</sup> day of November, 1987.

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

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

TULSA GENERAL DRIVERS, WAREHOUSEMEN  
AND HELPERS LOCAL UNION 523 and  
PAUL E. LIMERICK,

Plaintiffs,

vs.

McMICHAEL CONCRETE COMPANY, INC.,

Defendant.

Case No. 87-C-437-C

JOINT STIPULATION OF DISMISSAL

COME NOW the parties, by and through their undersigned attorneys of record, and pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure dismiss with prejudice the above-styled cause of action.

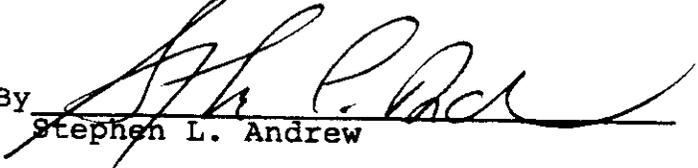
UNGERMAN, CONNER & LITTLE  
P. O. Box 2099  
Tulsa, Oklahoma 74101

By   
Thomas F. Birmingham

ATTORNEYS FOR PLAINTIFFS

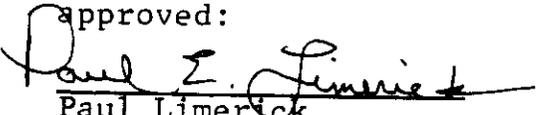
-and-

MCCORMICK, ANDREW & CLARK  
A Professional Corporation  
Suite 100, Tulsa Union Depot  
111 East First Street  
Tulsa, Oklahoma 74103

By   
Stephen L. Andrew

ATTORNEYS FOR DEFENDANT

Read Understood and  
approved:

  
Paul Limerick

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

SAM T. EVANS, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 OTIS R. BOWEN, M.D., )  
 Secretary of the Department )  
 of Health and Human Services, )  
 )  
 Defendant. )

No. 85-C-819-C ✓

FILED

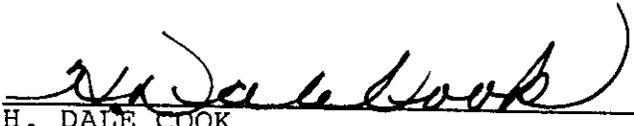
NOV 23 1987

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

ORDER

Pursuant to the mandate issued by the Tenth Circuit Court of Appeals on November 5, 1987, this case is remanded to the Secretary of the Department of Health and Human Services for further proceedings.

IT IS SO ORDERED this 23<sup>rd</sup> day of November, 1987.

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

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

LEWIS D. PRUETT, et al.,

Plaintiffs,

vs.

JIMMY J. KISSEE, et al.,

Defendants.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

No. 85-C-1103-E

NOV 20, 1987

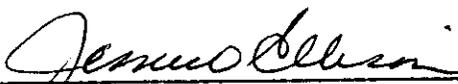
J U D G M E N T

The Motion of Defendant Kisse Motor Company for Summary Judgment comes before the Court upon the Findings and Recommendations of the Magistrate wherein the Magistrate recommended that the Motion for Summary Judgment be sustained.

This Court previously has ordered on November 9, 1987 that the Magistrate's recommendation be adopted and that Kisse Motor Company's motion be sustained.

IT IS THEREFORE ORDERED that judgment is granted in favor of Kisse Motor Company and against the Plaintiffs pursuant to Rule 56 of the Federal Rules of Civil Procedure.

DATED this 20<sup>th</sup> day of November, 1987.

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

Entered

FILED

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

NOV 19 1987

JACK O. SILVER CLECK  
U.S. DISTRICT COURT

JOE L. WHITE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 82-C-755-C
	)	
AMERICAN AIRLINES, INC.,	)	
a Delaware corporation,	)	
	)	
Defendant.	)	

ORDER

Now before the Court for its consideration is the motion of the plaintiff to settle journal entry, and the application of the plaintiff for award of attorney fees and costs.

On October 13, 1987, the jury returned its verdict in the above-styled case following trial. On Count 1, the jury's verdict was in favor of plaintiff in the amount of \$1,516,000. In addition, the jury purported to award plaintiff costs and attorney fees. On Count 2, the verdict was in favor of the defendant. In his pending motion and application, plaintiff seeks (1) prejudgment interest (2) postjudgment interest (3) attorney fees and (4) court costs.

Regarding prejudgment interest, plaintiff relies upon 12 O.S. §727, which states in pertinent part:

When a verdict for damages by reason of personal injuries or injury to personal rights including, but not limited to, injury resulting from bodily restraint, personal

insult, defamation, invasion of privacy, injury to personal relations, or detriment due to an act or omission of another is accepted by the trial court, the court in rendering judgment shall add interest on said verdict at a rate prescribed pursuant to subsection B of this section.

In considering the jury instruction given on damages regarding Count 1, one injury which the jury was instructed was compensable was for "humiliation and mental anguish." Such an award is subject to prejudgment interest. Timmons v. Royal Globe Ins. Co., 713 P.2d 589, 593 (Okla. 1985). However, the jury was also instructed that damages could be awarded for lost income and benefits. The purpose of prejudgment interest is to compensate the plaintiff for the loss of use of his compensatory damages from the time the cause of action accrued until the date of judgment. Fleming v. Baptist General Convention, 742 P.2d 1087, 1096 (Okla. 1987). In the case at bar, plaintiff was apparently awarded damages for future wages and benefits as well. The Court has concluded that such damages are not subject to prejudgment interest. Cf. Barrios v. Louisiana Construction Materials Co., 465 F.2d 1157, 1168 (5th Cir. 1972). When damages "by reason of personal injuries" are shown to have been intermixed with other elements of damage in one general verdict, prejudgment interest is not recoverable. Timmons, supra, 713 P.2d at 593 & n.14. Thus, plaintiff is not entitled to prejudgment interest.

Defendant does not contest an award of post judgment interest under 28 U.S.C. §1961(a) and it shall be so awarded.

Regarding attorney fees, federal courts follow the "American Rule" that, absent a statutory or common law exception, a

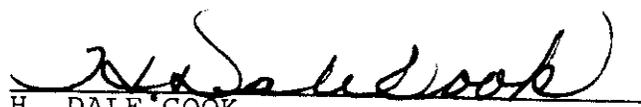
prevailing litigant may not recover his attorney fees from the losing party. Alyeska Pipeline Service Co. v. Wilderness Society, 421 U.S. 240 (1975). 12 O.S. §936 permits recovery of attorney fees in suits on certain types of contracts, or for labor and services. It is inapplicable to a suit in tort for wrongful termination. The plaintiff seeks to invoke the "bad faith" exception to the American rule. See, e.g., Sterling Energy, Ltd. v. Friendly Nat. Bank, 744 F.2d 1433 (10th Cir. 1984). However, plaintiff's argument and evidence is inadequate to support application of the exception. The plaintiff's request for attorney fees is therefore denied.

The Court makes no decision regarding plaintiff's application for costs, as such an application is the initial responsibility of the court clerk.

It is the Order of the Court that the motion of the plaintiff to settle journal entry is hereby granted to the extent that the Court hereby enters judgment simultaneously with this Order.

It is the further Order of the Court that the application of the plaintiff for attorney fees is hereby denied.

IT IS SO ORDERED this 19<sup>th</sup> day of November, 1987.

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

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

NOV 19 1987

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
FARMERS AND RANCHERS LIVESTOCK )  
AUCTION, INC., a corporation; and )  
WAYNE CHIDESTER, d/b/a NATIONAL )  
LIVESTOCK COMMISSION COMPANY, )  
 )  
Defendants. )

Civil Action No. 87-C-333-B

STIPULATION OF DISMISSAL

Plaintiff, United States of America, on behalf of the Farmers Home Administration, by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Phil Pinnell, Assistant United States Attorney, and the Defendants, Farmers and Ranchers Livestock Auction, Inc., a corporation, and Wayne Chidester, d/b/a National Livestock Commission Company, by their attorney of record, Richard D. Wagner, having fully settled all claims asserted by the Plaintiff in this litigation, hereby stipulate to the dismissal of all such claims with prejudice.

DATED this 19th day November, 1987.

Phil Pinnell  
PHIL PINNELL  
Assistant U.S. Attorney  
3600 U.S. Courthouse  
333 West Fourth Street  
Tulsa, Oklahoma 74103  
(918) 581-7463

Richard D. Wagner  
RICHARD D. WAGNER  
P.O. Box 1560  
Tulsa, Oklahoma 74101-1560  
(918) 584-6457

Attorney for Defendants  
Farmers and Ranchers  
Livestock Auction, Inc.,  
a corporation, and  
Wayne Chidester, d/b/a  
National Livestock  
Commission Company

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

FILED

NOV 19 1987

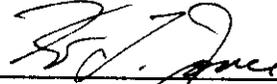
THRIFTY RENT-A-CAR SYSTEM, INC., )  
 )  
Plaintiff, )  
 )  
-against- )  
 )  
GLOBAL INTERMEDIARY, INC., PETER )  
BARKER, and ARGYLE STOUTE, )  
 )  
Defendants. )

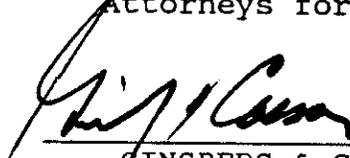
John C. Clark  
U.S. DISTRICT COURT  
Case No.: 86-C-1045-E

STIPULATION

IT IS HEREBY STIPULATED, that the above-entitled action may be dismissed with prejudice, each party to bear his own costs.

Dated: November 13, 1987

  
\_\_\_\_\_  
HALL, ESTILL, HARDWICK,  
GABLE, GOLDEN & NELSON, ESQS.  
Attorneys for Plaintiff

  
\_\_\_\_\_  
GINSBERG & CAESAR, ESQS.  
Attorneys for Defendants



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

TERRY SEALS,  
Plaintiff,  
v.  
HONORABLE JAY DALTON and  
ASST. D.A. MIKE ASHWORTH,  
Defendants.

87-C-337-C FILED

NOV 19 1987

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

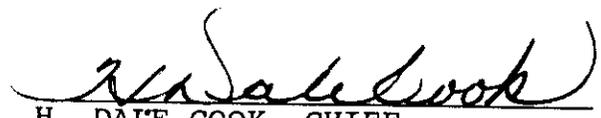
ORDER

The court has for consideration the Findings and Recommendations of the Magistrate filed October 29, 1987, in which the Magistrate recommended that plaintiff's civil rights complaint be dismissed. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

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

It is therefore Ordered that plaintiff's civil rights complaint under 42 U.S.C. §1983 is dismissed and plaintiff is instructed that his proper remedy at this point is to pursue his claim through the state appellate process. Should Mr. Seals exhaust his available state remedies, he may then seek habeas corpus relief under 28 U.S.C. §2254.

Dated this 19<sup>th</sup> day of November, 1987.

  
H. DALE COOK, CHIEF  
UNITED STATES DISTRICT JUDGE

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

PAUL DAVID GARR, an individual  
and citizen of the State of  
Oklahoma,  
Plaintiff,

VS.

BOC GROUP, INC., formerly  
Airco, Inc., a Delaware  
Corporation, doing business  
in the State of Oklahoma,  
Defendant.

No. 86-C-798-C

FILED

NOV 19 1987

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

ORDER OF DISMISSAL WITH PREJUDICE

Upon Application by the parties, and for good cause shown, the Court finds that the above styled and numbered cause of action should be dismissed with prejudice to refiling in the future.

IT IS SO ORDERED this 19 day of November, 1987.

(Signed) H. Dale Cook  
H. DALE COOK, U.S. District Judge

Entered

FILED

NOV 19 1987

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

JOE L. WHITE,
Plaintiff,
vs.
AMERICAN AIRLINES, INC.,
a Delaware corporation,
Defendant.

No. 82-C-755-C

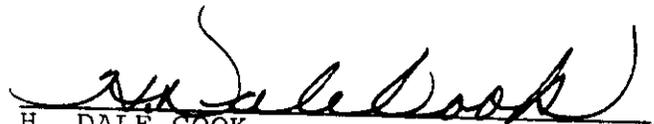
J U D G M E N T

This action came on for trial before the Court and a jury, Honorable H. Dale Cook, Chief United States District Judge presiding, and the issues having been duly tried and the jury having duly rendered its verdict, this Court finds that judgment should be rendered in accordance with Rule 58, F.R.Cv.P. upon said verdict and set forth on this separate document.

IT IS ORDERED AND ADJUDGED that the plaintiff, Joe L. White, have judgment against and recover from the defendant, American Airlines, Inc., on the wrongful discharge claim in the amount of \$1,516,000 with interest at the rate of 6.90% per annum until paid.

IT IS FURTHER ORDERED that the defendant, American Airlines, Inc., have judgment against the plaintiff, Joe L. White on the defamation claim.

IT IS SO ORDERED this ~~19<sup>th</sup>~~ day of November, 1987.

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

Entered

ajbS2

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

RICKY JOE SWIFT, by and )  
through his mother and next )  
friend, KATHRYN LANAE SWIFT, )  
and KATHRYN LANAE SWIFT, )  
Plaintiffs, )  
vs. )  
Q-E MANUFACTURING CO., INC. )  
d/b/a PLAYWORLD SYSTEMS, )  
Defendants. )

Case No: 86-C-712-G

FILED  
NOV 17 1987

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

SUPPLEMENTAL JOURNAL ENTRY

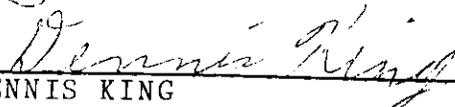
Now on this 12th day of November, 1987, the defendant in this case being the prevailing party, having submitted its Bill of Costs, each of the parties having been represented by counsel, the court finds that the defendants are entitled to a reimbursement of costs in the sum of \$1,718.90.

IT IS THEREFORE ORDERED, that the defendant, Q-E Manufacturing Company, Inc., d/b/a Playworld Systems, as prevailing party and judgement creditor shall take judgement as against the plaintiffs, Ricky Joe Swift, by and through his mother and next friend, Kathryn Lanae Swift, and Kathryn Lanae Swift, individually in the sum of \$1,718.90.

  
JUDGE OF THE DISTRICT COURT

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JOHN NICKS  
Attorney for Plaintiff

  
\_\_\_\_\_  
DENNIS KING  
Attorney for Defendant

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

FILED

NOV 18 1987

John G. Brett, Clerk  
U. S. DISTRICT COURT

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

No. 87-C-148-B

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law filed this date, Plaintiff, American Motorists Insurance Company, is hereby granted a declaratory judgment against the Defendant, Simmons Industries, Inc., to the effect that no coverage concerning the case styled Dale Lamphear v. Simmons Industries, No. 87-C-565-E, United States District Court for the Northern District of Oklahoma, is provided Simmons Industries, Inc., under the insurance policy that is the subject of this declaratory judgment action. Plaintiff is awarded costs of the action and the parties are to pay their own respective attorney's fees.

DATED this 18th day of November, 1987.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

WAL-MART STORES, INC., )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 ALEXANDER & ALEXANDER, INC., )  
 )  
 Defendants. )

✓ 87-C-811-C

FILED

NOV 18 1987

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

ORDER GRANTING IN PART AND DENYING IN PART FRED S.  
JAMES AND COMPANY'S MOTION TO QUASH

Upon notice, Fred S. James and Company's Motion to Quash the deposition notice and subpoena duces tecum served upon A.L. Stamps came on for hearing before Jeffrey S. Wolfe, United States Magistrate. Appearing for the deponent is Mr. Joe Sharp. Appearing for Plaintiff, Wal-Mart Stores, Inc. ("Wal-Mart") is Mr. Mike Vaughn. Appearing for the Defendant Alexander & Alexander, Inc. ("Alexander") is Mr. Carl Zobrist. Upon review of the Order of Magistrate Ralston, together with the pleadings, and following oral argument, the Magistrate makes the following findings and enters the following order.

Fred S. James ("James") issued a replacement comprehensive general liability policy to Plaintiff on October 1, 1984. This policy replaced that of Defendant. Defendant now seeks information from James about the policy and seeks to depose its President, A.L. Stamps.

James, as a non-party, seeks to quash the deposition notice and subpoena duces tecum issued to its President, asserting that the documents sought are confidential and proprietary business

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information. James further asserts that disclosure of such information to its competitor, Alexander, would result in a harmful disadvantage in the insurance market-place.

Wal-Mart, however, now advises the court that it has designated Mr. Stamps as an expert witness in its trial, scheduled to begin November 30, 1987. Defendant, Alexander, in light of the foregoing, reiterates its need to take Stamps' deposition.

Upon inquiry by the Magistrate, Stamps advises the court that there exists certain documents, correspondence, specifications and related materials surrounding the replacement of the comprehensive general liability insurance policy provided to Wal-Mart on October 1, 1984. Stamps further advises the court that this information has not been entirely provided to Defendant. Such information is relevant insofar as pertains to the policy of October 1, 1984. (Rule 26(b)(1), Federal Rules of Civil Procedure and Rule 401, Federal Rules of Evidence).

Accordingly, in view of the fact that Stamps is designated as an expert witness, the Magistrate finds that his deposition should be taken; provided, however, that he be required only to produce documents which relate directly or indirectly to the obtaining of the comprehensive general liability policy of October 1, 1984. In this regard, Stamps is to produce all correspondence, memoranda, binders, policy specifications and such other and further information, including but not limited to, transmittals between James and Wal-Mart and between James and

various insurance carriers, including the National Union Insurance Company. All parties agree, however, that specific amounts and price quotes may be redacted from the documents so provided.

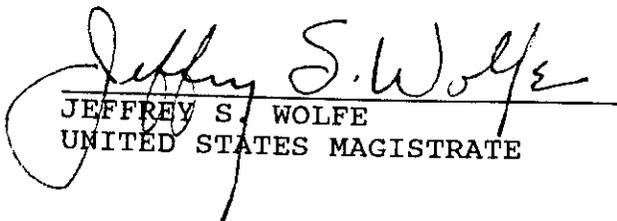
Finally, Stamps indicates a more convenient date for his deposition is November 23, 1987. Neither party objects to rescheduling his deposition to that date.

THEREFORE, IT IS ORDERED, that the Motion to Quash be denied insofar as it would preclude deposition of Stamps and be granted insofar as to limit production of documents, in accord with the foregoing.

IT IS FURTHER ORDERED that Stamps' deposition be taken on November 23, 1987 at the offices of Fred S. James and Company at 9:30 A.M. and that Stamps provide, in accord with the foregoing, all documents relating to procurement and replacement of the comprehensive general liability policy dated October 1, 1984; provided, however, that all numerical amounts and price quotes may be redacted from such documentation.

Either party may seek the court's assistance during the course of that deposition should further question arise.

Dated this 18<sup>TH</sup> day of November, 1987.

  
JEFFREY S. WOLFE  
UNITED STATES MAGISTRATE

*Entered*

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
BERTHENA WASHINGTON; COUNTY	)	
TREASURER, Tulsa County,	)	
Oklahoma; and BOARD OF COUNTY	)	
COMMISSIONERS, Tulsa County,	)	
Oklahoma,	)	
	)	
Defendants.	)	CIVIL ACTION NO. 87-C-782-B

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 no objections have been filed, it is hereby ORDERED that this action shall be dismissed without prejudice.

Dated this 18 day of November, 1987.

S/ THOMAS R. BRETT  
\_\_\_\_\_  
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 United States Courthouse  
Tulsa, Oklahoma 74103  
(918) 581-7463

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

MILO ENERGY COMPANY, )  
a Partnership, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
BIG JACK OIL & GAS, INC., )  
a Kansas corporation, and )  
JERRY W. LINE, SR., )  
 )  
Defendants. )

No. 87-C-716-B ✓

FILED  
JAN 10 1987  
J. G. DISTRICT COURT  
M

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law entered this date, Judgment is hereby entered in favor of the Defendant, Big Jack Oil & Gas, Inc., a Kansas corporation, against the Plaintiff, Milo Energy Company, a partnership, in the sum of Twelve Thousand Three Hundred Thirty Four and No/100 Dollars (\$12,334.00), plus pre-judgment interest at the rate of 6% per annum on the sum of Nineteen Thousand Dollars (\$19,000.00), from November 1, 1986 to January 9, 1987, and at the rate of 6% per annum from January 9, 1987 on the sum of Twelve Thousand Three Hundred Thirty Four Dollars (\$12,334.00), until the date hereon. The Defendant is entitled to post-judgment interest on the sum of Twelve Thousand Three Hundred Thirty Four Dollars (\$12,334.00), at the rate of 6.90% per annum from the date hereon.

The Plaintiff, Milo Energy Company, is entitled to continue to occupy and develop the subject lease premises in accordance with the lease terms. Any proceeds resulting from said develop-

ment shall be the property of Milo Energy Company, but subject to a lien thereon in favor of Defendant Big Jack Oil & Gas, Inc., until the amount of the judgment herein is paid. Upon final payment of said judgment, the Defendants, Big Jack Oil & Gas, Inc., and Jerry W. Line, Sr., shall convey to Milo Energy Company all their right, title and interest in said mineral lease covering:

The South Half of the Northwest Quarter (S/2 NW/4) and the North Half of the Southwest Quarter (N/2 SW/4) in Section Thirty-Five (35), Township Thirty (30), North, Range Sixteen (16) East, less a 10 acre tract in the Northwest corner thereof, in Wilson County, Kansas, known as the Burris Lease.

The bond herein pursuant to the Court's Order of August 28, 1987 in the amount of \$5,000 posted by Milo Energy Company is hereby forfeited and the Clerk of the Court is directed to pay said sum to Big Jack Oil & Gas, Inc., as partial payment on the judgment herein.

FURTHER, the Defendants, Big Jack Oil & Gas, Inc. and Jerry W. Line, Sr., are to recover their costs of this action, if a timely bill of costs pursuant to Local Rule is filed with the Clerk of the Court and the parties herein are to pay their own respective attorney fees.

DATED this 15<sup>th</sup> day of November, 1987.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

FILED

AUG 10 1987

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

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
ROBERT DELMA PHILLIPS, et al., )  
 )  
Defendants. )

No. 87-CR-6-BT

No. 87-C-506-B

FILED

NOV 18 1987

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

ORDER

On July 7, 1987, during sentencing, the Defendant moved the Court to rule on a writ of habeas corpus, improperly filed under 28 U.S.C. §2254. The Court finds it appropriate to designate the premature motion as a motion for new trial.

Defendant contends that his counsel performed inadequately during the course of his trial. The Court has reviewed the document and the record and finds Defendant's counsel's representation has been both appropriate and capable. The motion for new trial is overruled. The Defendant has not waived his right to file an appropriate motion pursuant to 28 U.S.C. §2255.

IT IS SO ORDERED, this 10<sup>th</sup> day of August, 1987.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

FILED  
NOV 17 1987  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

KOCH INDUSTRIES, INC., )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
CLARENCE R. ARNDT, CHARLEEN )  
C. ARNDT, FEDERAL DEPOSIT )  
INSURANCE CORPORATION and )  
OKIE OIL, INC., )  
 )  
Defendants. )

Case Number 87 C 758 B

JUDGMENT

Pursuant to stipulation of all parties to this action, and based on the Court's independent assessment of jurisdiction and venue, the following constitutes the order and judgment of the Court in the captioned action:

1. The Court has jurisdiction over the parties and the subject matter.
2. Venue properly lies in this Court.
3. The lawful owners of the \$763.10 which Plaintiff sought to pay into Court as stakeholder are Clarence R. Arndt and Charleen C. Arndt.
4. Plaintiff shall pay \$381.55 to Clarence R. Arndt and \$381.55 to Charleen C. Arndt and thereby be dismissed from all

liability as to the \$763.10 referred to in Plaintiff's Complaint for Interpleader and Declaratory Relief.

5. On February 15, 1980 Clarence R. Arndt and Charleen C. Arndt granted an oil and gas lease to predecessors in interest of the Federal Deposit Insurance Corporation, which lease is attached as Exhibit A to the Answer filed by Clarence R. Arndt and Charleen C. Arndt (the "Lease").

6. On September 20, 1986 the Lease was abandoned by the lessee, and such Lease is terminated effective September 20, 1986 for failure to produce as required by the Lease.

7. By virtue of the termination of the Lease for non-production, neither the Federal Deposit Insurance Corporation, its predecessor in interest Bank of Commerce, nor any other predecessor in interest as lessee under the Lease has, at present, any right, title or interest to the Lease or to any of the oil, gas or other minerals referred to in the Lease, to any equipment on the Lease, or to the land described in the Lease.

8. The Federal Deposit Insurance Corporation shall pay Court costs in this case, and an attorney's fee of \$ — 0 — to Plaintiff. All other parties shall pay their own costs and attorney fees.

Entered this 17<sup>th</sup> day of November, 1987.

S/ THOMAS R. BRETT

\_\_\_\_\_  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

FILED  
[unclear]  
[unclear]

ALBERT BIGPOND and	)	
DOROTHY DEAN BIGPOND,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. 87-C-123-E
	)	
FIBREBOARD CORPORATION, et al.,	)	
	)	
Defendants.	)	

ORDER DISMISSING CLAIMS PRESENTED AGAINST  
DEFENDANT RAYMARK INDUSTRIES, INC.

This cause comes before the Court on Plaintiffs' Motion to Dismiss Claims Presented Against Defendant Raymark Industries, Inc. pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure and the Court, finding that said defendant has filed no counterclaim against the plaintiffs in this action and that there are no conditions known to said defendant or to the plaintiffs to be placed on the dismissal with prejudice, GRANTS the plaintiffs' motion.

IT IS, THEREFORE, ORDERED that the claims presented by plaintiffs Albert Bigpond and Dorothy Dean Bigpond against Raymark Industries, Inc., individually and as successor to Raybestos-Manhattan, Inc., in the above-styled and numbered action shall be, and are hereby, dismissed with prejudice and with said parties to bear their own costs.

DATED this 16<sup>th</sup> day of Nov, 1987.

S/ JAMES O. ELLISON

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

COPIES TO:

Mark H. Iola, P.O. Box 2099, Tulsa, Oklahoma 74101

John McCormick, Jr., Oneok Plaza, 9th Floor, Tulsa, Oklahoma 74103

Bill Hall, 525 South Main, Suite 1400, Tulsa, Oklahoma 74103

Joan Godlove, 3800 First National Tower, Tulsa, Oklahoma 74103

Stephen Boaz, 920 North Harvey, Oklahoma City, Oklahoma 73102-2610

W. Michael Hill, 1515 East 71st, Suite 200, Tulsa, Oklahoma 74136

**FILED**

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

NOV 27 1987

U.S. DISTRICT COURT

CREOLE PRODUCTION SERVICES, INC., )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
WILLIAM J. COLLIER, )  
 )  
Defendant. )

NO. 86-C-391-E

**ORDER FOR DISMISSAL**

On Motion of the Defendant and there being no objection by the Plaintiff, this action is hereby dismissed with prejudice. The parties have reached a settlement, as set forth in the attached Indemnity Agreement and General Mutual Release Of All Claims, and the terms of these items are incorporated into the judgment herein.

By: **S/ JAMES O. ELLISON**  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

INDEMNITY AGREEMENT

This agreement is entered into by and between William J. Collier ("Collier"), an individual, of Evergreen, Colorado and Creole Production Services, Inc. ("Creole"), a corporation, of Houston, Texas.

For and in consideration of a compromise of any disputes pending between the parties in a lawsuit styled Creole Production Services, Inc. v. William J. Collier, Case No. 86-C-391-E, filed in the United States District Court in and for the Northern District of the State of Oklahoma, Collier agrees to save harmless and indemnify Creole of and from any and all expenses arising because of any claim made by the American Express credit card corporation for charges incurred by Collier on that certain American Express credit card issued by Creole to Collier.

It is specifically understood and agreed that the above indemnity is for purpose of compromise and is not in any way to be construed as an admission of liability on the part of Collier as to any of the allegations raised in the above-styled lawsuit.

The undersigned hereby declare that each fully understands the terms of this agreement, agrees to be bound thereby and voluntarily accepts this agreement as a full and final compromise, adjustment and settlement of any claim arising by or from the aforementioned lawsuit. This agreement shall be binding on the parties respective heirs, administrators, executors, agents, servants, employees, successors or assigns.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

ATTEST:

CREOLE PRODUCTION SERVICES, INC.

(SEAL)

\_\_\_\_\_  
Secretary

BY: \_\_\_\_\_

  
WILLIAM J. COLLIER

## GENERAL MUTUAL RELEASE OF ALL CLAIMS

KNOW ALL MEN BY THESE PRESENTS:

For and in consideration of Ten Dollars and other valuable consideration (\$10.00 and O.V.C.), the receipt whereof is hereby acknowledged, Creole Production Services, Inc. has remised, released, and forever discharged and by these presents does for Creole Production Services, Inc., their heirs, executors and administrators and assigns, remise, release and forever discharge William J. Collier, his successors and assigns of and from all manner of actions, causes of action, suit, debts, sums of money, accounts, reckoning, bonds, bills, specialities, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, execution, claims and demands whatsoever, in law, in admiralty, or in equity, which against William J. Collier, Creole Production Services, Inc. ever had, now has or which, their heirs, executors or administrators, hereafter can, shall or may have for, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of the date of these presents, except only for that certain indemnity and hold harmless agreement by him executed the 21st day of January, 1987; and

For and in consideration of Ten Dollars and other valuable consideration (\$10.00 and O.V.C.), the receipt whereof is hereby acknowledged, William J. Collier has remised, released, and forever discharged and by these presents do for William J. Collier, his heirs, executors and administrators and assigns, remise, release and forever discharge Creole Production Services, Inc., their successors and assigns of and from all manner of actions, causes of action, suit, debts, sums of money, accounts, reckoning, bonds, bills, specialities, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, execution,





Entered

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

FILED  
JUL 17 1986  
U.S. DISTRICT COURT  
TULSA, OKLAHOMA

FEDERAL DEPOSIT INSURANCE )  
CORPORATION, in its corporate )  
capacity, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
BILL R. ESTEP, PHILMORE COX, )  
and JAMES E. PARKER, )  
 )  
Defendants, )  
 )  
v. )  
 )  
KEN HELTERBRAND, HELTERBRAND )  
ENERGY CORPORATION and MARK )  
MITCHELL, )  
 )  
Third-Party Defendants. )

Case No. 86-C-720-C

STIPULATION OF DISMISSAL

Plaintiff, Federal Deposit Insurance Corporation, and Defendants Philmore Cox and James E. Parker, hereby stipulate the dismissal, with prejudice, of all claims of the FDIC against Defendants Philmore Cox and James E. Parker, and also for dismissal, with prejudice, of the Counterclaim of Philmore Cox and James E. Parker asserted against the FDIC, pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

Respectfully submitted,

  
\_\_\_\_\_  
JOHN HENRY RULE  
JAMES W. RUSHER  
Gable & Gotwals  
2000 Fourth National Bank Bldg.  
Tulsa, OK 74119 (918) 582-9201  
ATTORNEYS FOR FDIC



BRAD SMITH

DALE ELLIS

Knowles & King

603 Expressway Tower

2431 East 51st Street

Tulsa, OK 74105

ATTORNEYS FOR PHILMORE COX AND  
JAMES E. PARKER

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

Missouri-Kansas-Texas RR	)
	)
Plaintiff(s),	)
	)
vs.	)
	)
Grand River Dam Authority, et al	)
	)
Defendant(s).	)

No. 87-C-209-E

FILED

NOV 17 1987

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

JUDGMENT DISMISSING ACTION  
BY REASON OF SETTLEMENT

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

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

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

Dated this 16<sup>th</sup> day of November, 1987.

James C. Silver  
UNITED STATES DISTRICT JUDGE

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

FILED

NOV 17 1987

JACK G. ...  
PRESIDENT ...

WADRESS HUBERT METOYER, JR., )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 THOMAS WHITE, C.C.C., et al., )  
 )  
 Respondents. )

No. 87-C-320-E

O R D E R

The Court has for consideration the Findings and Recommendations of the Magistrate filed September 9, 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.

The Magistrate reviewed the three grounds upon which Petitioner urged habeas relief:

- (1) that the prosecutor purposefully exercised his preemptory challenges so as to exclude blacks from the jury;
- (2) that the trial court did not have jurisdiction to try Petitioner because the state magistrate did not properly bind him over for trial; and
- (3) that the evidence against him was insufficient in that the state did not prove every material element of the crime beyond a reasonable doubt.

The Court has reviewed the briefs, exhibits, and the

8

Findings and Recommendations of the Magistrate, and has further conducted research on the issues presented. The Court is satisfied that the findings of the Magistrate are supported by the evidence presented and that the Magistrate's recommendations are fully supported by the applicable rules of law. Therefore, the Magistrate's Findings and Recommendations should be adopted as the findings and order of this Court.

IT IS THEREFORE ORDERED that Petitioner's application for a writ of habeas corpus be denied.

It is so Ordered this 16<sup>th</sup> day of November, 1987.

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

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

The Atchison, Topeka & Santa Fe RR	)	
	)	
	)	
Plaintiff(s),	)	
vs.	)	No. 86-C-195-E
	)	
Emerson Transportation, et al	)	
	)	
	)	
Defendant(s).	)	

**FILED**  
NOV 17 1987

JUDGMENT DISMISSING ACTION  
BY REASON OF SETTLEMENT

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

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

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

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

Dated this 16<sup>th</sup> day of November, 1987.

UNITED STATES DISTRICT JUDGE

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

Great Central Steel Company )  
 )  
 )  
 Plaintiff(s), )  
 )  
 vs. )  
 )  
 Rodger Coday, et al )  
 )  
 )  
 )  
 Defendant(s). )

No. 86-C-679-E

**FILED**  
NOV 17 1987

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

JUDGMENT DISMISSING ACTION  
BY REASON OF SETTLEMENT

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

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

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

Dated this 16<sup>th</sup> day of November, 1987.

*James J. [Signature]*  
UNITED STATES DISTRICT JUDGE

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

**FILED**

Harold W. Burlingame	)
	)
	)
Plaintiff(s),	)
	)
vs.	)
	)
Stephen H. Wilden, et al	)
	)
	)
Defendant(s).	)

10/17/87  
JAMES C. WILSON, CLERK  
U.S. DISTRICT COURT

No. 85-C-541-E

ADMINISTRATIVE CLOSING ORDER

The Defendant having filed its petition in bankruptcy and these proceedings being stayed thereby, it is hereby ordered that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

IF, within 45 days of a final adjudication of the bankruptcy proceedings, the parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

IT IS SO ORDERED this 17<sup>th</sup> day of November, 1987.

James C. Wilson  
UNITED STATES DISTRICT JUDGE



the "last overt act" test in connection with a conspiracy to deprive a person of his civil rights. The Defendants distinguish the cases cited by Plaintiff on the basis that they involved convictions and incarceration of the persons tried, while the Plaintiff in this action was acquitted and therefore not deprived of a fair trial.

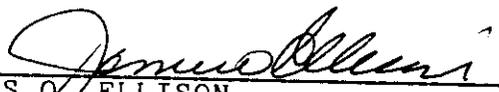
Because Plaintiff alleges that Defendants conspired to violate his civil rights, the applicable date on which a claim of conspiracy accrues is the date of the last overt act of the conspiracy. Crosswhite v. Brown, supra.

The second basis on which the Plaintiff urges this Court to reconsider its prior order is the argument that the Court can consider the fact that testimony was given at the trial for statute of limitations purposes although the trial testimony is clearly immune from damages claims under Brisco v. LaHue, 460 U.S. 325, 75 L.Ed.2d 96, 103 S.Ct. 1108 (1983). However this Court fails to see how trial testimony can be immunized for liability purposes but yet considered for statute of limitations purposes.

Accordingly, the Court declines to reconsider its prior order, and Plaintiff's motion to reconsider is denied. Because only pendant claims remain, and the issues presented to the Court thus far have only involved the sufficiency of the pleadings, the Court concludes that there is no reason for the Court to continue to exercise pendant jurisdiction over these claims. Jones v. Intermountain Power Project, 794 F.2d 546 (10th Cir. 1986). Therefore Plaintiff's claims of malicious prosecution, false

imprisonment, and false arrest are dismissed without prejudice.

DATED this 16<sup>th</sup> day of October, 1987.

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





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

**FILED**

**NOV 16 1987**

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

INSTRUCTIONAL SYSTEMS )  
DEVELOPMENT CORPORATION, )  
 )  
Plaintiff, )  
 )  
VS. )  
 )  
CARL WENZINGER, THOMAS P. BART, )  
and VIRGINIA COBB, )  
 )  
Defendants, )

NO. 87-C-412-BT

STIPULATION OF DISMISSAL

Plaintiff and Defendants Carl Wenzinger, Thomas P. Bart and Virginia Cobb having settled their dispute:

It is HEREBY STIPULATED AND AGREED that:

1. The Complaint and all amendments against Defendants Carl Wenzinger, Thomas P. Bart and Virginia Cobb each and every cause of action asserted therein against them, are hereby dismissed with prejudice and without costs to either ISDC or the Defendants.

DAUGHERTY, BRADFORD, FOWLER & MOSS  
900 First City Place  
Oklahoma City, Oklahoma 73102  
(405) 232-0003

BY:   
PETER B. BRADFORD - OBA #1044

Attorneys for Carl Wenzinger and  
Thomas P. Bart

BULLOCK AND BULLOCK  
320 South Boston, Suite 718  
Tulsa, Oklahoma 74103  
(918) 584-2001

BY:   
LOUIS W. BULLOCK

Attorney for Plaintiff

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

11-16-87

INSTRUCTIONAL SYSTEMS )  
DEVELOPMENT CORPORATION, )  
 )  
Plaintiff, )  
 )  
VS. )  
 )  
AETNA CASUALTY AND SURETY COMPANY )  
and DORON PRECISION SYSTEMS, INC. )  
 )  
Defendants, )

557-C  
NO. 79-C-577-BT

STIPULATION OF DISMISSAL

Plaintiff and Defendant Doron Precision Systems, Inc., having settled their dispute:

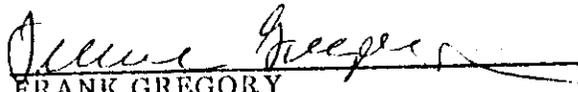
It is HEREBY STIPULATED AND AGREED that:

1. The Complaint against Defendant Doron Precision Systems, Inc., ("Doron"), each and every cause of action asserted therein against Doron, and the counterclaim asserted by Doron against Instructional Systems Development Corporation ("ISDC"), are hereby dismissed with prejudice and without costs to either ISDC or Doron.

2. The order of the Court of Appeals, dated October 9, 1987, and any and all prior orders awarding costs with respect to the appeal, are hereby vacated insofar as they impose any obligations on Doron.

KHOURIE, CREW & JAEGER, P.C.  
Spear Street Tower  
One Market Plaza - 4th Floor  
San Francisco, California 94105  
(415) 777-0333

BY: Eugene Crew by J. Jaeger  
EUGENE CREW



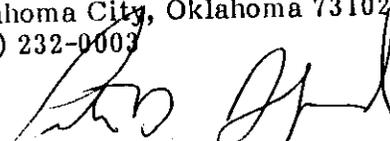
FRANK GREGORY  
300 Citicorp Bldg.  
5001 East 68th Street  
Tulsa, Oklahoma 74136  
(918) 495-3564

BULLOCK AND BULLOCK  
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Tulsa, Oklahoma 74103  
(918) 584-2001

BY:   
LOUIS W. BULLOCK

Attorneys for Plaintiff

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900 First City Place  
Oklahoma City, Oklahoma 73102  
(405) 232-0003

BY:   
PETER B. BRADFORD - OBA #1044

Attorneys for Doron Precision Systems, Inc.



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

**FILED**

NOV 13 1987

GROVER C. THOUVENALL, ET AL

Plaintiff(s),

vs.

JOHN D. REPPETEOUX

Defendant(s).

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

No. 87-C-108-E

ORDER

Rule 36(a) of the Rules of the United States District Court for the Northern District of Oklahoma provides as follows:

(a) In any case in which no action has been taken by the parties for six (6) months, it shall be the duty of the Clerk to mail notice thereof to counsel of record or to the parties, if their post office addresses are known. If such notice has been given and no action has been taken in the case within thirty (30) days of the date of the notice, an order of dismissal may in the Court's discretion be entered.

In the action herein, notice pursuant to Rule 36(a) was mailed to counsel of record or to the parties, at their last address of record with the Court, on August 12, , 19 87 . No action has been taken in the case within thirty (30) days of the date of the notice.

Therefore, it is the Order of the Court that this action is in all respects dismissed.

Dated this 16<sup>th</sup> day of November, 19 87.

*James A. ...*  
UNITED STATES DISTRICT JUDGE



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

**F I L E D**

NOV 13 1987

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

COMPRESSOR SYSTEMS, INC.,	]
	]
Plaintiff,	]
vs.	]
	]
BRUCE D. BENSON, an individual;	]
DALE L. SCHWARZHOFF, an individual;	]
LEO B. HELZEL, an individual, and	]
LEO B. HELZEL AND DALE L.	]
SCHWARZHOFF AS TRUSTEES FOR THE	]
BENEFIT OF LAWRENCE BARTH HELZEL AND	]
DEBORAH LYNN KIRSHMAN d/b/a CENTRAL	]
TRANSMISSION CO.: and CENTRAL ENERGY	]
COMPANY, a Delaware corporation,	]
d/b/a CENTRAL TRANSMISSIONS SYSTEMS	]
CO.,	]
Defendants.	]

No. C-86-591-E

ORDER OF DISMISSAL

NOW on this 16<sup>th</sup> day of November, 1987, the above cause comes on for hearing upon the Application of the Plaintiff for an Order dismissing the above entitled action upon the merits, and with prejudice to a future action as to all Defendants; and the Court being well advised in the premises, is of the opinion that said motion should be sustained.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above entitled action be and the same is hereby dismissed upon the merits and with prejudice to a future action as to all Defendants.

S/ JAMES O. ELISON

U. S. DISTRICT JUDGE

KPC/gs

JBS/jh

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

FLOYD WOOD,

Plaintiff,

v.

WILLIAM PARRISH d/b/a TEXAS  
BLOODSTOCK AGENCY;  
THE JAY MAR GROUP, a New  
Jersey insurance company;  
and  
THE GREAT GLOBAL ASSURANCE  
COMPANY, an Arizona insurance  
corporation,

Defendants.

**FILED**  
**NOV 16 1987**

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

Case No. 85-C-90-C

DISMISSAL WITH PREJUDICE  
AND  
APPLICATION FOR ORDER OF DISMISSAL

In consideration of settlement and release of all claims, cross claims, and counter claims of whatsoever nature including, but not limited to, any claims by William Parrish against plaintiff Floyd Wood and his former attorneys and Estate of George A. Farrar, Deceased, Farrar & Farrar P.C., Gus A. Farrar, and Greg A. Farrar, and his present attorneys, Jack B. Sellers and Jack B. Sellers Law Associates, Inc., the undersigned hereby dismiss this action with prejudice at cost of defendants and hereby move this court for order of dismissal.

Dated: November 2, 1987.

  
Floyd Wood, Plaintiff

Jack B. Sellers  
Jack B. Sellers, OBA #8066  
JACK B. SELLERS LAW ASSOC., INC.  
P.O. Box 730  
Sapulpa, OK 74067  
(918) 224-9070

ATTORNEYS FOR PLAINTIFF

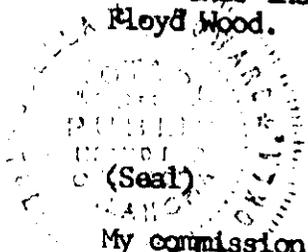
William V. Parrish  
William Parrish d/b/a Texas  
Bloodstock Agency

Philard L. Rounds  
RHODES, HIERONYMOUS, JONES, TUCKER  
& GABLE  
2800 Fourth National Bank Building  
Tulsa, OK 74119

ATTORNEYS FOR DEFENDANTS JAY MAR  
AND GREAT GLOBAL ASSURANCE COMPANY

STATE OF OKLAHOMA )  
                                  §  
COUNTY OF CREEK )

This instrument was acknowledged before me on November 2, 1987, by  
Floyd Wood.



Joella L. Howard  
Joella L. Howard, Notary Public

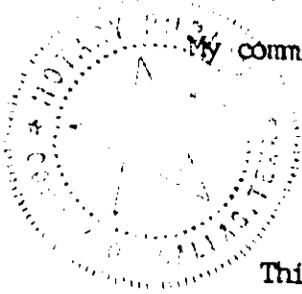
My commission expires: July 11, 1988.

STATE OF TEXAS )  
                                  §  
COUNTY OF Dallas )

This instrument was acknowledged before me on 11/5/87 by  
William Parrish.

William K. Holt, Jr.

(Seal)



My commission expires: 2/9/89.

ORDER OF DISMISSAL

This November 16, 1987, on the above application, this action is dismissed with prejudice at cost of defendants.

\_\_\_\_\_  
Hon. H. Dale Cook  
United States District Judge

CERTIFICATE

I hereby certify that on this 13<sup>th</sup> day of November, 1987, a copy of the foregoing was mailed to PHILARD L. ROUNDS, ATTORNEY FOR DEFENDANTS ~~Jack B. Sellers of JACK B. SELLERS LAW ASSOCIATES, INC., P.O. Box 730, Sapulpa, Oklahoma 74067.~~

Philard L. Rounds  
~~Philard L. Rounds~~