

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

FILED

FEB 26 1988

UNITED STATES OF AMERICA,)
)
 Plaintiff)
)
 v.)
)
 IDA CAROLYN (KAISER) HARRISON,)
 Sunshine Trust,)
)
 Defendants)

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

CIVIL NO. 86-C-92-C ✓

STIPULATION FOR ENTRY OF JUDGMENT

It is hereby stipulated and agreed that judgment may be entered in favor of the plaintiff, the United States of America, and against the defendants, Ida Carolyn (Kaiser) Harrison and Sunshine Trust, in the amount of \$32,831.00, plus interest from the date of this judgment to the date of payment in accordance with law.

FILED

MAR 1 1988

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

Steven Shapiro

STEVEN SHAPIRO
Chief, Civil Trial Section
Southern Region Tax Div.
Dept. of Justice
P.O. Box 14198
Ben Franklin Station
Washington, D.C. 20044

Attorney for Plaintiff

A. Craig Abrahamson

A. CRAIG ABRAHAMSON
Attorney for Defendants
Ida Carolyn (Kaiser) Harrison
and Sunshine Trust

IT IS SO ORDERED, this 1st day of March, 1988.

H. Dale Cook
UNITED STATES DISTRICT JUDGE
By: James O'Brien

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

KATHY STOUT and JAY STOUT,)
)
 Plaintiffs,)
)
 v.) No. 84-C-449-B
)
 UNITED STATES OF AMERICA,)
)
 Defendant.)

FILED

FEB 29 1988

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

ORDER

Before the Court for consideration is the Defendant United States of America's motion to dismiss the Plaintiffs' Complaint for failure to state a claim upon which relief can be granted pursuant to Fed.R.Civ.P. 12(b)(6). The Plaintiffs' Complaint alleges a claim for "wrongful conception and/or wrongful birth." Due to the lack of Oklahoma case law authority on the Plaintiffs' novel claim, the Court certified certain questions of law to the Oklahoma Supreme Court on February 1, 1985, by agreement of the parties.

The certified questions were consolidated with the similar case of Rhonda Morris and Michael Morris, Plaintiffs v. Gabriel Sanchez, M.D., Case No. CIV 84-1899-E, originating in the Western District of Oklahoma. In the Consolidated Order of Certification the following questions were put to the Supreme Court of the State of Oklahoma:

1. In a medical malpractice action against a physician concerning a failed sterilization procedure which resulted in the birth of a healthy child, may a patient recover as an element of damages the cost of rearing the child?
2. If the answer to question No. 1 is affirmative, may the finder of fact consider the love and affection and/or benefits due to the child's services the parents may receive from the child as factors which mitigate the loss caused by the financial burden of rearing the child?
3. In the event of a conception, do the plaintiff or plaintiffs have a duty to mitigate damages such as by obtaining a timely abortion or by attempting to place the child for adoption?

By Order dated November 10, 1987, the Oklahoma Supreme Court has provided the following answers:

- "1. A plaintiff or plaintiffs in a medical malpractice action for negligent sterilization may not recover the costs of raising a healthy normal, but unplanned child as an element of damages.
2. As the answer to the first question is negative we need not specifically address the second question.
3. As we have found that the plaintiff parents in a medical malpractice action for negligent sterilization suffer no legally cognizable harm as a result of the life of the unplanned child, they are under no legal obligation to dispose of that life. Further, the concept of disposal of that life would be, as a matter of law, unreasonable as an action in mitigation of damages in this context."

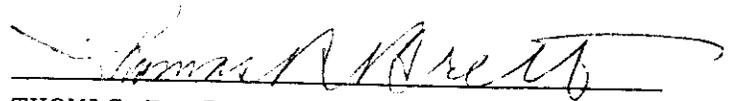
746 P.2d 184, 189 (Okla. 1987).

In light of the pronouncement of the Oklahoma Supreme Court regarding the Plaintiffs' claim for recovery of damages for "wrongful birth" or "wrongful conception", the Court hereby dismisses those portions of the Plaintiff's Complaint that seek damages for the additional financial burden of raising the child, the emotional, physical and mental strain caused by rearing

children at a late stage in their lives. Plaintiffs' causes of action against the Defendant for the alleged negligent sterilization may proceed insofar as they seek to recover the cost of additional surgical treatment required to sterilize the wife, and the claim for deprivation of the service, sexual relations, society and consortium of the Plaintiffs to each other during the subject pregnancy. The Defendant's motion to dismiss the "wrongful birth" portions of the Plaintiff's Complaint is granted.

This matter is set for a status/scheduling conference on March 14, 1988, at 4:00 P.M.

IT IS SO ORDERED, this 29th day of Feb., 1988.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

FEB 29 1988

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

CHUCK NELSON and JERRY COLMAN,)
co-partners d/b/under the firm)
name and style COUNTRY AIR,)
and STEWART KIMMEL, an)
individual,)

Plaintiffs,)

VS.)

Case No. 86-C-286-C

HELIO AIRCRAFT, INC., LOREN)
ABBOTT, LARRY SMITH, CHUCK)
DAVIS, V. BRUCE THOMPSON,)
AREOSPACE TECHNOLOGIES, INC.,)
GARY ADAMS, and ADAMS ENERGY)
COMPANY,)

Defendants.)

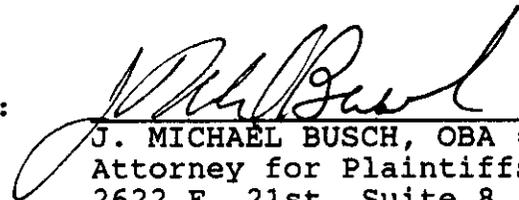
NOTICE

DISMISSAL WITHOUT PREJUDICE

COME NOW the Plaintiffs, pursuant to the oral admonishments of Magistrate Leo Wagner, and voluntarily dismisses the Second Amended Complaint filed herein on October 2, 1987, against the following Defendants, to-wit: Larry Smith, Chuck Davis, V. Bruce Thompson, Aerospace Technologies, Inc., Gary Adams, and Adams Engery Company. Plaintiffs are submitting this dismissal in lieu of the RICO Statement ordered at the status conference, to be filed on or before the 29th day of February, 1988.

Respectfully submitted,

By:



J. MICHAEL BUSCH, OBA #10227
Attorney for Plaintiffs
2622 E. 21st, Suite 8
Tulsa, Oklahoma 74119
(918) 592-3611

CERTIFICATE OF MAILING

I hereby certify, that on the 29th day of February, 1988, a true and correct copy of the above and foregoing instrument was mailed to the following, with sufficient postage prepaid thereon:

Mr. Jim D. Shofner
4143 E. 31st St.
Tulsa, Oklahoma 74135

Timothy Trump
Richard Comfort
2100 Mid-Continent Tower
401 S. Boston
Tulsa, Oklahoma 74103

Robert M. Butler
1710 S. Boston Ave.
Tulsa, Oklahoma 74119

Mr. Richard D. Koljack, Jr.
2000 Fourth National Bank Building
Tulsa, Oklahoma 74119

L. Dru McQueen
1000 Atlas Life Building
415 S. Boston Ave.
Tulsa, Oklahoma 74103


J. MICHAEL BUSCH

EDWARD O. MOODY, P. A.

ATTORNEYS AT LAW

506 FIRST FEDERAL PLAZA

LITTLE ROCK, ARKANSAS 72201

(501) 376-0000

TELECOPIER (501) 376-0546

LEGAL ASSISTANT
KAREN RITCHEY

EDWARD O. MOODY, P. A.
LEWIS E. RITCHEY

February 23, 1988

RECEIVED

FEB 23 1988
JACK C. SILVER, CLERK
U. S. DISTRICT COURT

Mr. Jack C. Silver
United States District Clerk
411 U.S. Courthouse
Tulsa, Oklahoma 74103

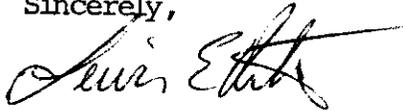
Re: Mary Hickerson, et al. v. AC & S, Inc., et al.
No. 87-C-160-E

Dear Mr. Silver:

Enclosed you will find Plaintiff's Motion to Dismiss Defendant Gustin-Baken and Order of Dismissal approving the same (original and three copies of each) for execution and filing relative to the above matter. I would appreciate your returning to me a file marked copy of each in the enclosed, self-addressed, stamped envelope.

Thank you for your assistance. Should you have any questions, please don't hesitate to contact our office.

Sincerely,



Lewis E. Ritchey

LER:courts:15
Enclosures

cc: Attorneys of Record (with enclosures)

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

EMMITT ALLEN CHITWOOD,)
)
 Plaintiff,)
)
 v.)
)
 FRANK THURMAN, Tulsa County)
 Sheriff, and L. E. MORRIS,)
)
 Defendants.)

87-C-736-B

FILED

FEB 26 1988

ORDER

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

Plaintiff brought this action under 42 U.S.C. §1983 for the alleged deprivation of his civil rights. Plaintiff alleges that a Tulsa County Deputy, defendant L. E. Morris, attacked him in his holding cell at the Tulsa County Jail and cut his left eye and then threw him on the floor and chipped his tooth. With regard to defendant Sheriff Frank Thurman, plaintiff alleges he had knowledge of and acquiesced in the misconduct.

The defendants have filed a motion to dismiss the complaint for failure to state a claim upon which relief can be granted under Fed.R.Civ.P. 12(b)(6), because plaintiff did not show he was deprived of any constitutionally-protected right.

To state a claim under 42 U.S.C. §1983, "the plaintiff must allege that some person has deprived him of a federal right [and] that the person who has deprived him of that right acted under color of state or territorial law." Gomez v. Toledo, 446 U.S. 635, 640, 100 S.Ct. 1920, 1923, 64 L.Ed.2d 572, 577 (1980).

To show that his Eighth Amendment right to be free from "cruel and unusual punishment" has been violated after incarceration, a prisoner must show "unnecessary and wanton

infliction of pain'" by a prison official. Whitley v. Albers, 475 U.S. 312, 319, 106 S.Ct. 1078 (1986). "It is obduracy and wantonness, not inadvertence or error in good faith, that characterize the conduct prohibited by the Cruel and Unusual Punishments Clause." Id.

Plaintiff's complaint sets out the claim that he was assaulted and battered by defendant Morris. The court finds that in performing his duties as a deputy sheriff for Tulsa County, L. E. Morris was acting under color of state law. In addition, there exists a genuine issue as to the facts involving the cause of plaintiff's injuries and whether they were inflicted by defendant Morris unnecessarily and wantonly, and thus defendant Morris's motion to dismiss or for summary judgment must be denied.

In reviewing plaintiff's claim against defendant Frank Thurman, the court reaches a different conclusion. Section 1983 liability cannot be based on the theory of respondeat superior. See, McClelland v. Focteau, 610 F.2d 693, 695 (10th Cir. 1979).

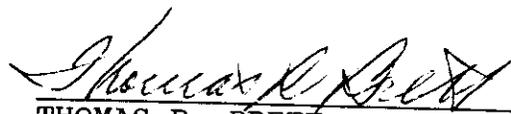
In Bennett v. Passic, 545 F.2d 1260, 1262 (10th Cir. 1976), the court concluded that "personal participation is an essential allegation in a §1983 claim". Subsequently, in Kite v. Kelley, 546 F.2d 334, 337 (10th Cir. 1976), the Tenth Circuit stated that "before a superior may be held liable for acts of an inferior, the superior, expressly or otherwise, must have participated or acquiesced in the constitutional deprivation of

which complaint is made." The Kite court based its decision on Rizzo v. Goode, 423 U.S. 362, 98 S.Ct. 598, 56 L.Ed.2d 561 (1976), which discussed the need to show an "affirmative link" between alleged misconduct and alleged authorization or approval of that misconduct.

In the instant case, the plaintiff did not establish an "affirmative link" between defendant Thurman and the allegations herein. He also failed to show in what manner defendant Thurman participated or acquiesced in the alleged harm of plaintiff and did not even allege any such participation or acquiescence on the part of the defendant Thurman.

The court finds that plaintiff has not stated a §1983 cause of action against defendant Thurman and therefore defendant Thurman's motion to dismiss is granted. However, defendant Thurman's request for attorney's fees is denied, as the court finds that plaintiff's claim is not frivolous, unreasonable, or groundless.

Dated this 26th day of February, 1988.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

REEL TIME DUPLICATORS, INC., a
Delaware corporation,

Plaintiff,

vs.

PHILIP COOKE a/k/a PHIL COOKE, an
individual; MAX JONES, an individual;
and ZONA ROSA, INC., a Texas
corporation d/b/a ARCHANGEL MOTION
PICTURES & TELEVISION a/k/a ARCHANGEL
MOTION PICTURE, INC., a/k/a
FUTUREVISION a/k/a FUTUREVISIONS,

Defendants.

Case No. 87-C-1021-B

FILED

FEB 26 1988

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

ORDER

This matter came on consideration before Court on this 24
day of February, 1988, and the Court having reviewed the
pleadings and file herein, and having reviewed the Joint Stipula-
tions and Request for Entry of Judgment filed by the Plaintiff,
Reel Time Duplicators, Inc., and the Defendants, Philip Cooke, Max
Jones, and Zona Rosa, Inc., FINDS:

1. The Plaintiff and Defendants have stipulated that
Defendant, Zona Rosa, Inc., is indebted to the Plaintiff on an
open account and have further stipulated that Plaintiff should
recover judgment in its favor and against the Defendant, Zona
Rosa, Inc., in the amount of \$41,500.

2. The Plaintiff and Defendants, and their respective
counsel, have stipulated to the above findings and conclusions and
to the entry of judgment as stated above, as evidenced by their
signatures affixed to the above-referenced Joint Stipulations and
Request for Entry of Judgment filed in this case.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

1. Plaintiff, Reel Time Duplicators, Inc., have and recover judgment in its favor and against the Defendant, Zona Rosa, Inc., in the amount of \$41,500;

2. Judgment in favor of Plaintiff, Reel Time Duplicators, Inc., and against Defendant, Zona Rosa, Inc., shall be entered accordingly.

DATED this 24 day of February, 1988.

S/ THOMAS R. BRETT
THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

REUBEN T. DIXON and IRENE DIXON,)
)
 Plaintiffs,)
)
 v.)
)
 GOLDEN RULE INSURANCE COMPANY and)
 PAUL DAVID GRAHAM, a/k/a DAVID)
 GRAHAM,)
)
 Defendants.)

No. 87-C-252-B

FILED

FEB 26 1988

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

O R D E R

This matter comes before the Court on Defendant Golden Rule Insurance Company's motion for summary judgment. The Court requested the parties to submit briefs as to whether this case should be remanded to the state court if the Court grants partial summary judgment against Plaintiffs on their punitive damage claim of \$250,000. The parties agree the case would not be properly remanded in the event the remaining claim totals less than \$10,000. Reisman v. New Hampshire Fire Ins. Co., 312 F.2d 17 (5th Cir. 1963).

In January 1985, David Graham ("Graham") (who has not yet been served) applied to become an agent/broker for Defendant Golden Rule Insurance Company ("Golden Rule"). Before Golden Rule accepted the application Graham issued a medicare supplement insurance policy to Plaintiffs with Golden Rule. Graham accepted a check for the first six months' premium. The complaint alleges several acts done by Graham over the next several months to cover up the alleged fraud upon Plaintiffs. Graham became a Golden

Rule agent February 25, 1985, after receiving approval. Graham did not turn in Plaintiffs' application to Golden Rule until April 18, 1985, and did so without the check for the premiums. Subsequently, Plaintiffs found they were not insured and Graham had taken their money.

Plaintiffs seek \$8,628.77 reimbursement for medical expenses allegedly due under the insurance policy delivered to them by Graham on February 1, 1985. Plaintiffs also sue for \$250,000 against Golden Rule for bad faith.

Golden Rule contends there are no issues of material fact to be tried and summary judgment should be awarded in its favor. Golden Rule contends Graham's actions did not create a contract of insurance before or after he became an agent and Plaintiffs have not stated a cause of action against it for breach of duty of good faith. Plaintiffs have not shown that Golden Rule acted in bad faith herein. To the contrary, Golden Rule voluntarily tendered to Plaintiffs all the money Graham had taken from them. Golden Rule had a legitimate dispute over whether it was obligated to pay on Plaintiffs' medical bills and therefore punitive damages are not appropriate. Christian v. American Home Assurance, 577 P.2d 899 (Okla. 1977). The motion for summary judgment on the punitive damage claim is granted.

However, there is a factual dispute here as to whether Graham was operating under apparent authority for Golden Rule. Summary judgment is inappropriate, notwithstanding the existence of uncontroverted facts, where the reasonable inferences to be

drawn from those facts are in dispute. Londrigan v. Federal Bureau of Investigation, 670 F.2d 1164, 1171 n. 37 (D.C.Cir. 1981); Luckett v. Bethlehem Steel Corp., 618 F.2d 1373, 1377 (10th Cir. 1980); Mustang Fuel Corp. v. Youngstown Sheet & Tube Co., 536 F.2d 336, 339 (10th Cir. 1976).

Partial summary judgment is granted in favor of Defendant Golden Rule on the punitive damage claim.

The parties are to:

1. Exchange the names and addresses of all witnesses, including experts, in writing, along with a brief statement regarding each witness' expected testimony (not necessary if witness' deposition taken) by May 6, 1988;
2. Complete discovery by May 20, 1988;
3. File an agreed pretrial order and exchange prenumbered exhibits by June 6, 1988;
4. File any trial briefs, requested voir dire and requested jury instructions by June 13, 1988;
5. The case is set for jury trial on June 20, 1988, at 9:30 A.M.

IT IS SO ORDERED, this 25th day of February, 1988.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

REEL TIME DUPLICATORS, INC.,)
a Delaware corporation,)

Plaintiff,)

v.)

No. 87-C-1021-B

PHILIP COOKE a/k/a PHIL COOKE,)
an individual; MAX JONES, an)
individual; and ZONA ROSA,)
INC., a Texas corporation)
d/b/a ARCHANGEL MOTION)
PICTURES & TELEVISION a/k/a)
ARCHANGEL MOTION PICTURE, INC.)
a/k/a FUTUREVISION a/k/a)
FUTUREVISIONS,)

Defendants.)

FILED

FEB 26 1988

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

J U D G M E N T

In accordance with the Order filed this date, the Court hereby enters judgment in favor of Plaintiff, Reel Time Duplicators, Inc., a Delaware corporation, and against the Defendant Zona Rosa, Inc., a Texas corporation, in the sum of Forty-One Thousand Five Hundred Dollars (\$41,500.00), with interest thereon at the rate of 6.59% per annum.

DATED this 26th day of February, 1988.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

FEB 26 1988

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

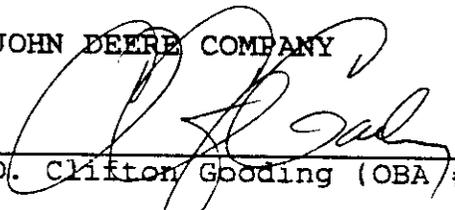
JOHN DEERE COMPANY,)
)
Plaintiff,)
)
Vs.)
)
DENNIS GOULD and JAMES HARRINGTON,)
)
Defendants.)

Case No. 88-C0024-B

NOTICE OF DISMISSAL WITHOUT PREJUDICE

COMES NOW the Plaintiff, John Deere Company, by and through its attorney, O. Clifton Gooding, and hereby dismisses this cause of action against the Defendants Dennis Gould and James Harrington, without prejudice to the refiling thereof.

JOHN DEERE COMPANY

By: 
O. Clifton Gooding (OBA/#10315)

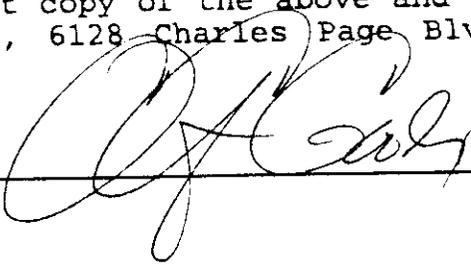
Of the Firm:

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

Attorney(s) for Plaintiff
JOHN DEERE COMPANY

CERTIFICATE OF MAILING

This is to certify that on this 25th day of February, 1988, I mailed a true and correct copy of the above and foregoing instrument to: James Harrington, 6128 Charles Page Blvd., Sand Springs, OK 74127.



JIM W. COLE, an individual

By: *Diane I. Palumbo*
Diane I. Palumbo
Attorney at Law
Suite 400
124 East Fourth Street
Tulsa, OK 74103

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

FRED B. WELCH,
Petitioner,
v.
MR. YAGER, Conner
Correctional Center, and
THE ATTORNEY GENERAL OF
THE STATE OF OKLAHOMA,
Respondents.

86-C-323-B

FILED

FEB 26 1988

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

ORDER

This matter comes before the court on a pro se petition for writ of habeas corpus pursuant to 28 U.S.C. §2254 by Fred B. Welch.

Petitioner pled guilty to Second Degree Forgery, Delivery of a Forged Check AFCF, in the District Court for Washington County, Oklahoma, on March 8, 1983, and was sentenced to thirteen (13) years imprisonment, concurrent with other state and federal sentences. He did not apply to withdraw his guilty plea and appeal, but applied for an application for post-conviction relief, which was denied by the trial court on June 30, 1985, in Case No. CRF-82-124 and no appeal was timely filed to the Supreme Court. The Court of Criminal Appeals affirmed the denial on March 17, 1986.

Petitioner alleges several grounds for the writ: (1) that he was denied a direct appeal through no fault of his own; (2) that he was denied effective assistance of counsel; (3) that the state breached promises made during the course of a plea

bargain; and (4) that petitioner's guilty plea was involuntary due to drug use and other circumstances.

The court finds that the petitioner presented the above issues to the state court on post-conviction application, so he has exhausted all remedies available to him in the courts of the State of Oklahoma with respect to the claims.

Respondents contend that petitioner has failed to state cognizable claims for federal habeas review and that his guilty plea was knowing and voluntary and thus his petition for writ of habeas corpus must be dismissed.

Having reviewed the pleadings and the transcripts of the plea hearing held on March 8, 1983 and of the June 30, 1985 evidentiary hearing in which petitioner's application for post-conviction relief was denied, the court finds as follows:

Petitioner claims that he was denied a direct appeal through no fault of his own. It was established at the June 30, 1985 hearing that petitioner was provided with writing materials, could make phone calls, and had access to a law library after he was incarcerated. (Transcript of Evidentiary Hearing ("TOEH"), p. 28). He failed to explain why he did not contact his attorney, Mr. Adams, for help in perfecting an appeal or request that the court appoint an attorney for the appeal. He admitted sending a letter to Judge Dreiling withdrawing his plea, in which he did not mention having an attorney or needing one to perfect an appeal. (TOEH, pp. 29-31). The letter also said nothing about his allegation that his plea was made involuntarily while

he was on drugs. Petitioner has presented no factual support for his allegation that he was denied a direct appeal through no fault of his own and the court therefore finds that petitioner is not entitled to habeas relief on this ground.

Petitioner's second allegation is ineffective assistance of counsel. The basis of this allegation is not clear, but his petition suggests that he was not told by his attorney of the consequences of his plea, he did not understand what occurred there, and no appeal was perfected. The court finds that the transcript of the plea hearing ("TOPH") provides evidence that petitioner's attorney went through every question on the summary of facts sheet with petitioner (TOPH, p. 2) and discussed his desire for concurrent sentences with the court (TOPH, p. 5). Petitioner's attorney objected to the District Attorney's recommendation for sentencing in order to convince the court to order petitioner's sentence to run concurrently with both his Tulsa County and federal sentences. (TOPH, pp. 6-8). Petitioner stated on the record that he was satisfied with the services of his attorney. (TOPH, p. 12). Petitioner has not alleged that he sought counsel's help in perfecting an appeal, and indicated to the court at the time of his plea that he understood his basic appeal rights under Oklahoma law. (TOPH, p. 8).

The Supreme Court standard for judging the ineffectiveness of counsel is set forth in Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). To establish a claim of ineffectiveness, the petitioner must show that "counsel's

conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." 104 S.Ct. at 2064. The Court recognized that "counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. The court finds that petitioner's counsel conducted himself in such a way that the outcome of the plea hearing was just and therefore petitioner is not entitled to habeas corpus relief on this ground.

Petitioner's third allegation is that the state breached promises made during the course of the plea hearing. The published Judgment and Sentence on Plea of Guilty filed on March 8, 1983 ordered concurrent sentences, as the court stated during the plea hearing. (TOPH, pp. 6-8). The transcript of the plea hearing contains absolutely no mention of his being sent to federal custody in Washington County by agreement between Tulsa and Washington Counties as soon as his plea hearing was over, as he alleged in his evidentiary hearing (TOEH, pp. 9 and 14), and in his petition. In fact, at the plea hearing the judge told him "I want you to understand this is still going to hinge on what the Federal Judge ultimately decides to do, but as far as our charge is concerned, our sentence is going to run concurrent with both of those sentences ... in accord with Title 21, Section 61.2." (TOPH, p. 8). The court finds that the facts do not support petitioner's allegation that the state breached promises

made during the course of the plea hearing, and petitioner is not entitled to habeas relief on this ground.

Petitioner's final allegation is that his guilty plea was involuntary due to drug use. The transcript of the plea hearing shows that petitioner was fully aware of what was going on and asked several questions revealing his understanding: "Does it [his sentence] run concurrent with the Federal [sentence]?" (TOPH, p. 8). "You said a while ago that this forgery carried 10 to life?" (TOPH, p. 8). "Just all I'm concerned as long as its under this Title 21, all the Tulsa County Cases be run together." (TOPH, p. 11). He admitted guilt and stated he was doing so without coercion from anyone. (TOPH, p. 4). He also told the court he and his attorney had gone through the summary of facts sheet and he repeated that he understood what was happening at the plea hearing and what rights he was forfeiting. (TOPH, pp. 2-4). The petitioner's signature appears on the Summary of Facts sheets under the following legend:

I, the Defendant in this case and my attorney have read the above and foregoing SUMMARY OF FACTS and it is a true statement of the questions asked and my answers and the Court's findings. I approve this Summary and do not desire to change it or add anything to it.

Question number three of the Summary of Facts inquires, "Have you taken any medication or drugs or consumed any substance which affects your ability to understand these proceedings?" The form is marked to show that petitioner responded "No" to that question.

At the evidentiary hearing petitioner testified at one point that he did not remember what he said at the hearing because he was on medication (TOEH, p. 25), and at another point he said he understood at the hearing that he was going to federal custody, getting concurrent sentences, pleading guilty, and being charged restitution. (TOEH, pp. 26-27). The court finds that the evidence from the two hearings does not support petitioner's allegation that his guilty plea was involuntary and that he did not understand the proceedings. Petitioner is not entitled to habeas relief on this ground.

Based on the above findings, it is the order of this court that petitioner's application for writ of habeas corpus be denied.

Dated this 26 day of February, 1988.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

FEB 26 1988

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

REUBEN JUNIOR ROBERTS,)
)
 Petitioner,)
)
v.)
)
LARRY MEACHUM, et al.,)
)
 Respondents.)

No. 86-C-830-B

O R D E R

Petitioner Reuben Junior Roberts' ("Roberts") application for a writ of habeas corpus pursuant to 28 U.S.C. §2254 is now before the court for determination.¹ Petitioner was convicted of Shooting With Intent to Kill and was sentenced to life imprisonment following a jury trial in Rogers County, Oklahoma District Court, Case No. CRF-82-3. Petitioner's defense at trial was that he was insane at the time of the shooting and three days later when he made a postarrest confession. Implicit in the general jury verdict of guilty is that the jury found Roberts not insane at the time of the shooting and not insane at the time of the confession.² His conviction and sentence were affirmed on appeal by the Oklahoma Court of Criminal

¹ State court findings of fact shall be presumed to be correct in a federal habeas corpus proceeding. However, concerning the issue of voluntariness of a confession the court must make an independent evaluation of the record. Miller v. Fenton, 474 U.S. 104 (1985).

² The postarrest statements of petitioner were critical to the state's case, without them the circumstantial evidence in the record is probably insufficient to support a finding of guilt. No ballistics or fingerprints were taken.

Appeals, Case No. F-83-128. The Court of Criminal Appeals denied petitioner's application for rehearing on April 17, 1984. Petitioner then filed an application for postconviction relief which was denied.

Petitioner now seeks federal habeas relief based upon the following allegations:

- I. That the trial court erred in admitting into evidence statements obtained by law enforcement officers in violation of petitioner's Fifth and Fourteenth Amendment rights;
- II. That the trial court violated his Eighth and Fourteenth Amendment rights by subjecting him to trial for a crime done when petitioner's mental capacity prevented him from forming the requisite criminal intent;
- III. That he was denied a fair trial by the statement of a prospective juror during voir dire; and
- IV. That the punishment of life imprisonment is excessive and constitutes cruel and unusual punishment for the crime involved.

I. During the course of the trial, the prosecution sought to introduce into evidence petitioner's postarrest statements and a drawing he made during police questioning. There is no dispute that before the interrogation commenced, a police officer read petitioner his Miranda rights. At that time petitioner informed the officers that he was aware of his rights, and that he was willing to talk with them but not sign a written statement. He proceeded to answer questions affirmatively that he fired several rifle shots at the driver of a car exiting his property that he suspected of theft, and then he drew a diagram showing his property and the location from which the shots were fired. The driver of the car was struck and injured by the rifle fire.

Petitioner's attorney objected to the use of Roberts' post-arrest statements, arguing that Roberts was insane at the time of the confession and therefore he could not have been competent to waive his constitutional rights. Counsel argued that because he lacked mental capacity, the statements were not voluntarily made. The trial court conducted an in camera hearing as required by Jackson v. Denno, 378 U.S. 368 (1964). During this hearing petitioner, his attorney, and the state prosecutors were present. Both sides presented evidence, following which the trial judge found:

"The question still is whether he was capable of knowingly waiving his right against self-incrimination. That depends on whether, in essence, the defendant was sane at the time which is a factual determination which I understand by the way the trial has been going is what is going to be asked of the jury. The ultimate may not be. There is some evidence to indicate that maybe Mr. Roberts knew or was aware of the seriousness of what it might do for failure to sign a statement, refusing to sign a statement....

I don't think that the evidence exclusively establishes that Mr. Roberts was insane at the time he made the statement."

The trial judge allowed the oral statements of defendant to be admitted into evidence by way of the testimony of the interrogating officers. (See Appendix "A") The defendant did not testify at the trial.

Petitioner argued in his appeal and now before this Court that he was not competent to waive his constitutional rights and the incriminating postarrest statements and drawing he made should have been suppressed. The record indicates that there was

some reasonable likelihood that Roberts was suffering from paranoid schizophrenia at the time he made the statements and drawing. The following facts are in the record.

Dr. Garcia, chief forensic psychiatrist at Eastern State Hospital, testified in 1975 petitioner had been treated for schizophrenia paranoia, a mental illness. Petitioner "had a tendency to become paranoid and illusional and at times, imagining things like hearing voices and seeing things, withdrawn behavior, unable to socialize with anybody...." Dr. Garcia testified petitioner's condition without medication was "chronic" and "longstanding."³ Petitioner was prescribed Mellaril in 1975, which he failed to take the year of the shooting incident.⁴

One of the police officers involved in petitioner's interrogation testified petitioner had a general reputation in the community for being "crazy" and his wife testified to specific examples of irrational behavior during the month of the shooting incident. Petitioner heard voices and accused his wife of talking to people who weren't present. Petitioner built a fire on the front lawn and burned family sentimental items without any rational reason for doing so.

³ Credibility and weight of expert testimony are matters within the jury's province and need not be accepted as conclusive even though uncontradicted by countermedical expertise. United States v. Coleman, 501 F.2d 342 (10th Cir. 1974).

⁴ Dr. Garcia testified when Petitioner went off his Mellaril, "he did not know what he was simply doing, whether what he was doing was right or wrong at those times, whether what he was doing was dangerous or not dangerous. In other words, he was not capable of controlling his behavior and his thinking process that were all distorted."

However, two investigating police officers testified that although Petitioner looked "haggard" and "very nervous," he appeared rational and understood what was going on at the time they discussed the matter with him. (See Appendix "A").

On the night of the shooting incident, petitioner went with his family into town and then left them at a little tavern and inexplicably did not return for them. They started walking home.

Betty and John Lollis saw Mrs. Roberts and her daughter walking late that night and though strangers to them, offered them a ride to the Roberts' country home. After letting petitioner's family out of the car and proceeding to exit the property, shots were fired at their automobile and Mr. Lollis was shot in the back. No motive for the shooting was established at trial other than defendant was attempting to defend his property. The police officers testified petitioner told them he had previously been the victim of a series of robberies, his wallet and pickup had been stolen, and there were other break-ins as well.

The United States Supreme Court held in Jackson v. Denno, 378 U.S. 368 (1963), that when the defendant contends a confession was involuntarily made due to police coercion, a separate in camera hearing must be held and the trial court must make a finding of voluntariness on the record before the statements can go to the jury. Voluntariness must be proved by a preponderance of the evidence. Hays v. State, 738 P.2d 533 (Okla. Cr. 1987). "Although the judge need not make formal findings of fact or write an opinion, his conclusion that the

confession is voluntary must appear from the record with unmistakable clarity." Sims v. Georgia, 385 U.S. 538, 544 (1967).

However, the same procedure is not required when the issue is whether the statements were involuntary because the defendant did not have the mental capacity to give a voluntary statement. Recently, in Colorado v. Connelly, ____ U.S. ____, 107 S.Ct. 515, 93 L.Ed.2d 473 (1986), the United States Supreme Court held that admissibility of a confession alleged to be involuntary due to mental capacity and not due to police coercion "is governed by state rules of evidence, rather than by our previous decisions regarding coerced confessions and Miranda waivers." In Connelly, the defendant suffered from chronic schizophrenia and confessed to a murder to a randomly selected traffic officer, at the direction of "voices" he considered to be God. The United States Supreme Court held under the Fourteenth Amendment analysis that "[a]bsent police conduct causally related to the confession, there is simply no basis for concluding that any state action has deprived a criminal defendant of due process of law." That court said there must be that "essential link between coercive activity of the state" and the "resulting confession by the defendant." The admission of a confession free of police coercion constitutes no violation of the Due Process Clause of the Fourteenth Amendment.

The Colorado v. Connelly, supra, decision also held without police coercion there is no violation of the Fifth Amendment of

the United States Constitution. The Court held "Miranda protects defendants against government coercion leading them to surrender rights protected by the Fifth Amendment; it goes no further than that." The court said "the relinquishment of the right must have been voluntary in the sense that it was the product of free and deliberate choice rather than intimidation, coercion, or deception."

Petitioner has not alleged in his petition for writ of habeas corpus nor at trial any improper coercive physical or psychological conduct of the police interrogators to elicit the statements. Therefore, the Court finds no violation of petitioner's constitutional rights concerning the confession as the record supports that it was free of intimidation, coercion or deception.⁵ The trial court instructed on the insanity defense:

"A person is insane when that person is suffering from such a disability of reason or disease of the mind that he does not know that his acts or omissions are wrong and is unable to distinguish right from wrong with respect to his acts or omissions. A person is also insane when that person is suffering from such a disability of reason or disease of the mind that he does not understand the nature and consequences of his acts or omissions.

⁵ In spite of the fact petitioner did not contend at trial that his statements were the product of police coercion, the trial judge instructed the jury that "you are charged that you should give the Defendant the benefit of any doubt which may exist in your mind. If you find that the statement made by the Defendant was not voluntary, or that he did not understand and appreciate the effect and consequences of any statement that he may have signed, or that the statement was the result of coercion or intimidation or a promise on the part of the law enforcement officers, then in any of these events, you should exclude such statement or confession from your consideration."

"It is the burden of the State to prove beyond a reasonable doubt that the Defendant was sane at the time of the commission of the acts or omissions that constitute the crime. If you find that the State has failed to sustain that burden, then the Defendant must be found not guilty."

II. Petitioner claims that his constitutional rights were violated by the trial court's having subjected him to trial and conviction for an act done when he was not sane. In its response to the application, the State correctly categorizes this contention as an attack upon the sufficiency of the evidence on the issue of sanity.

The Due Process Clause of the Fourteenth Amendment protects a criminal defendant against conviction "except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged." In re Winship, 397 U.S. 358, 364, 90 S.Ct. 1068, 1073, 25 L.Ed.2d 368, 375 (1970).

When a challenge is made to the sufficiency of the evidence underlying a habeas petitioner's criminal conviction, the habeas court must determine whether the evidence in the record could reasonably support a finding of guilt beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307, 318, 99 S.Ct. 2781, 2788, 61 L.Ed.2d 560, 573 (1979).

"[T]his inquiry does not require a court to 'ask itself whether it believes that the evidence at the trial established guilt beyond a reasonable doubt.' Woodby v. INS, 385 U.S., at 282, 17 L.Ed.2d 362, 87 S.Ct. 483 (emphasis added). Instead, the relevant question is whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. See Johnson v. Louisiana, 406 U.S., at 362, 32 L.Ed.2d 152, 92 S.Ct. 1620."

443 U.S. at 319, 99 S.Ct. at 2789, 61 L.Ed.2d at 573.

However, in exercising its power of judicial review of a criminal conviction, the federal court is required to consider all of the evidence in the light most favorable to the prosecution. Id. See also, United States v. Jorgenson, 451 F.2d 516, 521 (10th Cir. 1971).

Petitioner's expert on the sanity issue, Dr. Garcia, testified that he examined petitioner once in 1975 and that he did not examine him again until two months after the shooting incident. The State offered the testimony of the police officers who observed petitioner at the time of his oral confession 3 or 4 days following the shooting and stated in effect that petitioner appeared to be sane at that time. From all the evidence admitted regarding petitioner's conduct, this court cannot say that no rational trier of fact could have found petitioner sane. Jackson v. Virginia, supra.

III. Petitioner raises several alleged trial errors. He claims that the judge denied him a fair trial by refusing to individually voir dire prospective jurors out of the hearing of other prospective jurors. Both the trial and appellate courts rejected his argument that individual voir dire was necessary because petitioner intended to offer an insanity defense and because his case was tried shortly after the acquittal of John Hinckley, Jr. in the attempted assassination of President Reagan. Under federal law the decision on how to conduct voir dire is a matter left to the trial judge's discretion. See, United States

v. Bruntly, 701 F.2d 1375 (11th Cir. 1983) (and cases cited therein). The petitioner has not demonstrated any prejudice resulting from the trial court's decision, and the record does not indicate any abuse of the trial judge's discretion.

Petitioner also contends that he was deprived of a fair trial by the statement of a prospective juror during voir dire. The statement complained of was made by jury panel member Ray M. Hammtree, who stated in response to a question in the presence of jury members actually chosen, that petitioner had shot his wife's uncle. Mr. Hammtree was immediately discharged and the jury was admonished to disregard his statement. The decision whether to grant a mistrial is left in the discretion of the trial court which has the authority to regulate the trials set before it. Petitioner has failed to demonstrate any abuse of discretion by the trial judge. Neither has he shown that the trial court's refusal to declare a mistrial rendered his trial fundamentally unfair. Brinlee v. Crisp, 608 F.2d 839 (10th Cir. 1979).

As for his argument that he was denied a fair trial by the prosecutor's conduct in purposefully leaving a firearm in view of the jury, the court takes note of the fact that petitioner did not, at any time during trial, object to the presence of the gun. Furthermore, the gun was not admitted into evidence. Mere errors or irregularities which occur during a criminal trial are not cognizable in federal habeas corpus proceedings unless they render the trial so fundamentally unfair as to result in a

deprivation of the petitioner's constitutional rights. Bishop v. Wainwright, 511 F.2d 664 (5th Cir. 1975); see also, Brinlee v. Crisp, supra. The court concludes that none of the trial errors alleged under petitioner's third ground entitle him to habeas corpus relief.

IV. Finally, petitioner claims that his punishment of life imprisonment constitutes cruel and unusual punishment. Generally, "[a] sentence will not be disturbed on appeal nor considered cruel and unusual punishment if it is within the statutory limits." Fields v. State, 501 P.2d 1390, 1393 (Okl.Cr. 1972)(quoting Haskins v. United States, 433 F.2d 836 (10th Cir. 1970)).

Petitioner was convicted of Shooting with Intent to Kill in violation of 21 Okl.St. Ann. §652 (1981). The punishment for this offense is set by statute at "imprisonment in the penitentiary not exceeding life." Because his sentence was within the statutory limits, this court cannot find that it constitutes cruel and unusual punishment.

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

DATED this 26th day of February, 1988.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

APPENDIX "A"

Sheriff Steve Johnson gave the following testimony:

Q After you read Mr. Roberts these rights, did he make any response to them?

A Yes, sir. I asked him if he understood his rights. I also read the waiver which is printed on here. It says, do you understand each of these rights I have explained to you? He answered to the affirmative. I said, having these rights in mind, do you wish to talk to us now?

Q What did he answer?

A He said, yes.

Q What was his appearance at that time?

A Like he needed some sleep. He looked haggard.

Q It's your opinion that he understood what was going on at the time?

A Yes, sir. I asked him again if he understood.

Q He had been in jail at this time approximately three or four days; is that correct?

A Yes, sir.

Q Is it your opinion that he was under the influence of any type of intoxicant?

A No, sir.

Q Drugs?

A No.

Q Did he seem rational?

A Yes, sir.

Q Did he seem conscious of the acts at the time?

A Yes.

Q Was there ever any mention made by Mr. Roberts that he wanted an attorney present?

A No, sir.

Q Did you have an opinion prior to going up to the county jail as to whether or not Mr. Roberts had an attorney?

A I didn't know. I asked Mr. Roberts if he had an attorney and he said, no, he did not.

Q How did the conversation begin after the rights were read? Was there any further discussion about the rights or any questions?

A No, sir.

Q Was it someone asking questions?

A I asked Ruben.¹ I was trying to find out what happened out there.

Q Did you ask him a question?

A Yes, sir.

Q What did you ask him?

A I asked him, I said, Ruben, will you tell us what happened out there?

Q Did Mr. Roberts respond?

A Yes. He explained that he had some break ins, and someone had stolen his pickup, and also someone had taken his wallet at Pryor. I asked him if he would draw us a diagram. He said, yes, he would, which he did. I asked him if he would make a statement and sign it, and he said, no, he would not.

* * *

Q Did you have any conversation concerning either a gun or the fire weapon?

A Yes, sir.

Q Would you tell me what that conversation was?

A I asked Ruben where he fired the gun from.

Q What did he respond?

A He said, from the trailer.

¹ Mr. Roberts' first name is spelled "Ruben" rather than "Reuben" throughout the transcript.

Q Did he say as to -- was there any mention as to a number of shots?

A He said he fired, he thought, three times. On his diagram, he drew more than three lines to show where he fired from.

Q Do you have that diagram with you that Mr. Roberts made?

A Yes, sir.

(Pg. 83, line 2 - pg. 85, line 16)

A Well, I asked him what he had shot.

Q Did he respond to that?

A He said that he thought he had a right to protect his property.

Q Was there any other conversation before State's Exhibit No. 2 was made?

A I had drawn a little map and I asked Ruben to draw in the direction that he fired the shots and he drew in some lines.

Q On State's Exhibit 2 there are some dotted lines. Could you tell me what they signify?

A Ruben said these were the lines in the direction he was shooting as the vehicle left.

Q Did he say where he was shooting from?

A The trailer house. The camp trailer.

* * *

Q (By Mr. Abitbol) Please answer the question.

A I asked Mr. Roberts what gun he had used and he said he used a 30-30 Winchester.

Q Is there anything else that was discussed.

A Yes. We asked him why this had taken place and he said he had a right to protect his property. He said he had been broken into, his pickup stolen, and his billfold stolen also. I again asked him for a statement and he would not give me a written statement.

(Pg. 136, line 23 - Pg. 138, line 24)

On cross-examination, Deputy Sheriff Johnson was asked the following questions, to which he responded:

Q Deputy Johnson, you went to the jail on September when?

A Third.

Q How long had Ruben Roberts been in jail?

A It had been several days.

Q Do you know whether or not he had ever talked to a lawyer?

A No, sir, I asked him if he had.

Q That's not the question. Do you know whether he had talked to a lawyer?

A No, sir.

Q Now, then, how did Mr. Roberts act on that day?

A Nervous.

Q How nervous?

A He was smoking quite heavily.

Q Hands shaking?

A Yes, sir.

Q He wouldn't sign a Rights Waiver; would he?

A No, sir, he said he wouldn't sign anything.

Q Was anybody in that little room with you besides Mr. Roberts and Deputy Bynum?

A That's all.

Q Did you have your guns on?

A I did.

Q And he looked liked he needed some sleep?

A He appeared haggard.

(Pg. 93, lines 1-25)

Deputy Sheriff Tex Bynum testified that he accompanied Deputy Johnson to the Rogers County Jail to question Mr. Roberts. On direct examination Bynum gave the following testimony:

Q (By Mr. Abitbol) Did Mr. Roberts seem to understand what was going on?

A It appeared that he understood.

Q Is it your opinion that he understood that you were a police officer?

A Yes, sir.

Q And Deputy Johnson was a police officer?

A Did it seem to you that he understood that you were there to speak to him about an alleged event?

A Yes, sir.

. . . .

Q Did Mr. Roberts through the course of this talk and preparing the diagram, seem to you to be intoxicated?

A I couldn't tell that he was.

Q Did he appear to you to be under the influence of any type of drugs?

A No.

Q Do you have an opinion as to whether or not he understood the essence of what you and Steve were up there for?

A He appeared to understand.

(Pg. 99 line 24 - Pg. 101 line 12, and Pg. 102 lines 14-22).

To defense counsel's questions on cross-examination, Bynum responded as follows:

Q Is it a fair statement to say that Ruben Roberts was right upset when you talked to him on September 3rd?

A Well, I would say he's fairly.

Q Fairly nervous?

A He was somewhat nervous.

Q Deputy Bynum, you've had occasion in the past to have some dealings with Mr. Roberts; have you not?

A Yes, sir, a couple of times, I think.

Q And Ruben Roberts carries a reputation down in the Inola community; doesn't he?

MR. ABITBOL: Judge, I'm going to object. It's outside the scope of direct.

COURT: What does it have to do with the admissibility of the statement?

MR. GORDON: Well, because I'm going to start my proof right here that Ruben Roberts was insane at the time of making this statement.

COURT: Are you going to call him as your witness?

MR. GORDON: Well, we're talking about how Ruben was acting and how he was reacting. I think I can cross examine Deputy Bynum in that regard. I just have a few more questions.

Q (By Mr. Gordon) He does carry a reputation down in the Inola community; doesn't he, Tex?

A Yes, sir.

Q That reputation is that he's crazy.

A Yes, sir.

(Pg. 103 line 17 - Pg. 104 line 18).

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

SHELTON CLEVELAND POWELL, JR.,)
)
Petitioner,)
)
v.)
)
LARRY MEACHUM and The Attorney)
General of the State of Oklahoma,)
)
Respondents.)

87-C-1-B
FILED

FEB 26 1988

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

ORDER

The second ground of petitioner Shelton Cleveland Powell Jr.'s application for a writ of habeas corpus pursuant to 28 U.S.C. §2254 is now before the court for determination. Petitioner attempts to challenge his Tulsa County District Court convictions for Armed Robbery in Case Nos. CRF-73-2566, CRF-73-2567, CRF-73-2568, and CRF-73-2569. Petitioner is no longer in custody in Oklahoma pursuant to those convictions, but he is currently in the custody of the Texas Department of Corrections, serving a sentence for Aggravated Robbery, which was enhanced by evidence of his Oklahoma convictions.

Prior to this date this court ruled that petitioner satisfied the "in custody" requirement of a habeas application, because there is a positive relationship between the convictions he is challenging and his present incarceration. The court also dismissed Larry Meachum as a defendant in this action and denied grounds one and three of his application for habeas corpus relief.

As his second ground for relief petitioner asserts that he was denied effective assistance of counsel, alleging that his counsel represented both petitioner and his co-defendant, failed to investigate the crime, call witnesses, or file appropriate pretrial motions, and pressured petitioner to plead guilty.

Having reviewed the pleadings, the state record from the Oklahoma Court of Criminal Appeals concerning his application for post-conviction relief, and the transcript of petitioner's plea hearing on February 7, 1974 ("TPPH"), this court finds as follows.

The transcript of petitioner's plea hearing clearly shows that petitioner was aware of the consequences of pleading guilty. He admitted guilt (TPPH, pp. 5-7), admitted knowing that he was doing wrong when he committed the crimes (TPPH, p. 7), was told by the court that he could receive five years to life for the crimes because of his earlier felony conviction in Florida (TPPH, pp. 7 and 11), and was told by the court he had the right to a full trial to present his case, which right he was giving up by pleading guilty (TPPH, pp. 8-9). The court finds no evidence of ineffective assistance of counsel at the plea hearing.

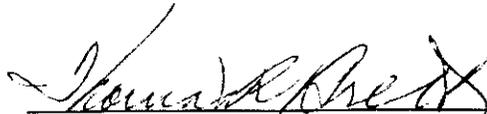
The court also finds that there was evidence of petitioner's prior felony convictions when he was sentenced, and he could have been sentenced to life in each case, so petitioner cannot claim his counsel was ineffective in encouraging him to plea bargain for the fifteen-year sentence that he received. Petitioner should have been aware that his co-defendant had no prior felony

convictions, so he would receive a lesser sentence than petitioner, and no conflict of interest on the part of their shared counsel was shown by their differing sentences.

The court finds no evidence of any irregularities in the sentencing that went unchallenged, as petitioner claims, and no evidence of counsel's failure to make motions that would have been warranted. Petitioner had no right to object to the manner of his arrest or evidence obtained as a result of his arrest once he pled guilty. Mack v. State, 492 P.2d 670 (Okla.Crim. 1971); Smith v. State, 311 P.2d 275 (Okla.Crim. 1957). He never claimed to have mental problems or substance addiction requiring mental evaluation (TPPH, p. 9). He was not eligible for probation because of his prior felony convictions, so a pre-sentence investigation was not necessary. Because petitioner admitted guilt, no witnesses on his behalf existed and further study of the crime by an investigator would have been futile.

It is therefore ordered that petitioner's application for habeas corpus relief be denied as to ground two.

Dated this 26th ^{7th} day of ~~January~~ ^{February}, 1988.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

FEB 25 1983

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

ALN RESOURCES CORPORATION, an)
Oklahoma Corporation,)

PLAINTIFF,)

v.)

CASE NO. 87-C-466-B

KELRAY OIL & GAS, INC., a)
Texas Corporation,)

DEFENDANT.)

AMENDED JOURNAL ENTRY OF JUDGMENT

NOW COME ALN Resources Corporation, an Oklahoma Corporation (hereinafter referred to as "ALN"), by and through its attorneys of record, Ira L. Edwards, Jr., and Robert L. Briggs, of Houston and Klein, Inc., and Kelray Oil & Gas, Inc., a Texas Corporation (hereinafter referred to as "KELRAY"), by and through its attorney of record, Anthony P. Sutton, Feldman, Hall, Franden, Woodard & Farris, and represent to the Court the following:

1. On or about the 25th day of January, 1988, the parties hereto, by and through their respective counsel reached an agreed Confession of Judgment of this cause.

2. In good faith, the parties have agreed to this Journal Entry of Judgment in order to resolve the issues before the Court and to dispense with the trial of this cause. By virtue of this agreement and judgment herein,

KELRAY agrees to pay ALN the total sum of THREE THOUSAND THIRTY-NINE and 86/100 DOLLARS (\$3,039.86); plus interest at 7.14% per annum from January 25, 1988, until paid; plus costs and attorney fees in the sum of ONE THOUSAND FIVE HUNDRED and NO/100 DOLLARS (\$1,500.00).

THEREFORE, it is ORDERED, ADJUDGED and DECREED that Defendant, Kelray Oil and Gas, Inc. is liable and obligated to Plaintiff, ALN Resources Corporation, the total sum of THREE THOUSAND THIRTY-NINE and 86/100 DOLLARS (\$3,039.86); plus interest to accrue at 7.14% per annum from January 25, 1988, until paid; plus costs and attorney fees in the sum of ONE THOUSAND FIVE HUNDRED and NO/100 DOLLARS (\$1,500.00).

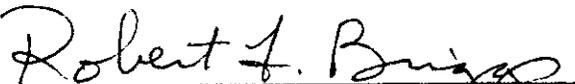
WHEREFORE, let execution be had in favor of Plaintiff, ALN Resources Corporation.

IT IS SO ORDERED, ADJUDGED and DECREED this 25 day of Feb, 1988.


The Honorable Thomas R. Brett
JUDGE PRESIDING

APPROVED AS TO FORM:

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Attorneys for Defendant,
KELRAY OIL AND GAS, INC.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 RONNEY E. BOONE,)
)
 Defendant.)

FILED

FEB 25 1988

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

CIVIL ACTION NO. 87-C-896-C

DEFAULT JUDGMENT

This matter comes on for consideration this 24 day of February, 1988, the Plaintiff appearing by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Ronney E. Boone, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Ronney E. Boone, acknowledged receipt of Summons and Complaint on November 21, 1987. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

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

Ronney E. Boone, for the principal sum of \$1,961.68, plus accrued interest of \$327.06 through July 19, 1987, plus interest at the rate of 9 percent per annum until judgment, plus interest thereafter at the current legal rate of 6.59 percent per annum until paid, plus costs of this action.

13/ James C. Ellison for
H. Dale Cook

UNITED STATES DISTRICT JUDGE

NNB/mp

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ROBERT DENNIS HUTSON;)
 JEANETTE C. HUTSON; COUNTY)
 TREASURER, Creek County,)
 Oklahoma; and BOARD OF COUNTY)
 COMMISSIONERS, Creek County,)
 Oklahoma,)
)
 Defendants.)

FILED

FEB 25 1988

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

CIVIL ACTION NO. 87-C-797-C

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 24th day
of Feb, 1988. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Nancy Nesbitt Blevins, Assistant United States
Attorney; the Defendants, County Treasurer, Creek County,
Oklahoma, and Board of County Commissioners, Creek County,
Oklahoma, appear by Wesley R. Thompson, Assistant District
Attorney, Creek County, Oklahoma; and the Defendants, Robert
Dennis Hutson and Jeanette C. Hutson, appear not, but make
default.

The Court being fully advised and having examined the
file herein finds that the Defendant, Robert Dennis Hutson,
acknowledged receipt of Summons and Complaint on October 1,
1987; that the Defendant, Jeanette C. Hutson, acknowledged
receipt of Summons and Complaint on December 22, 1987; that
Defendant, County Treasurer, Creek County, Oklahoma, acknowledged

receipt of Summons and Complaint on September 30, 1987; and that Defendant, Board of County Commissioners, Creek County, Oklahoma, acknowledged receipt of Summons and Complaint on September 30, 1987.

It appears that the Defendants, County Treasurer, Creek County, Oklahoma, and Board of County Commissioners, Creek County, Oklahoma, filed their Answer herein on October 9, 1987; and that the Defendants, Robert Dennis Hutson and Jeanette C. Hutson, have failed to answer and their default has therefore been entered by the Clerk of this Court.

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

Lot Seven (7), Block Three (3), BURNETTS FOREST PARK ADDITION, to the City of Sapulpa, in Creek County, State of Oklahoma, according to the recorded Plat thereof.

The Court further finds that on October 26, 1983, the Defendants, Robert Dennis Hutson and Jeanette C. Hutson, executed and delivered to the First Security Mortgage Company, their mortgage note in the amount of \$32,650.00, payable in monthly installments, with interest thereon at the rate of thirteen percent (13%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Robert Dennis Hutson and Jeanette C. Hutson, executed and delivered to

the First Security Mortgage Company, a mortgage dated October 26, 1983, covering the above-described property. Said mortgage was recorded on October 28, 1983, in Book 148, Page 437, in the records of Creek County, Oklahoma.

The Court further finds that on May 25, 1984, the First Security Mortgage Company assigned unto Victor Federal Savings and Loan Association the above-described mortgage. On July 11, 1985, Victor Federal Savings and Loan Association assigned unto the Administrator of Veterans Affairs the subject mortgage. This Assignment of Mortgage was recorded on October 16, 1985, in Book 195, Page 908 in the records of Creek County, Oklahoma.

The Court further finds that the Defendants, Robert Dennis Hutson and Jeanette C. Hutson, 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, Robert Dennis Hutson and Jeanette C. Hutson, are indebted to the Plaintiff in the principal sum of \$35,650.76, plus interest at the rate of 13 percent per annum from October 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, Creek County, Oklahoma, have a lien on the property which is the subject matter of this action by virtue of personal property taxes in the amount of \$10.23 which became a lien on the property as of 1986. 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, Robert Dennis Hutson and Jeanette C. Hutson, in the principal sum of \$35,650.76, plus interest at the rate of 13 percent per annum from October 1, 1985 until judgment, plus interest thereafter at the current legal rate of 6.59 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, Creek County, Oklahoma, have and recover judgment in the amount of \$10.23, plus penalties and interest, for personal property taxes for the year of 1986, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Robert Dennis Hutson and Jeanette C. Hutson, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisalment the real property involved herein and apply the proceeds of the sale as follows:

First:

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

Second:

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

Third:

In payment of the Defendants, County Treasurer and Board of County Commissioners, Creek County, Oklahoma, in the amount of \$10.23, personal property taxes which are currently due and owing.

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.

1031 James C. Ellison For

H. Dale Cook

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney

For
NANCY NESBITT BLEVINS
Assistant United States Attorney

WESLEY R. THOMPSON
Assisant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Creek County, Oklahoma

NNB/css

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

FILED

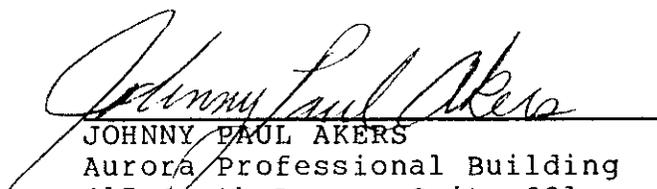
FEB 25 1988

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

LOIS BROWN,)	
)	
Plaintiff,)	
)	
vs.)	NO. 88-C0021-E
)	
MINNESOTA MUTUAL LIFE)	
INSURANCE COMPANY,)	
)	
Defendant.)	

STIPULATION OF DISMISSAL WITH PREJUDICE

The parties, through their undersigned counsel, hereby stipulate, pursuant to Rule 41(a)(1), that the within cause may be dismissed, with prejudice to the filing of any future action.


 JOHNNY PAUL AKERS
 Aurora Professional Building
 415 South Dewey, Suite 201
 Bartlesville, Oklahoma 74003
 918/336-1818
 ATTORNEY FOR PLAINTIFF


 JOHN J. LOVE
 of the firm
 McCLELLAND, COLLINS, BAILEY,
 BAILEY & BELLINGHAM
 11th Floor - Colcord Building
 Oklahoma City, Oklahoma 73102
 405/235-9371
 ATTORNEY FOR DEFENDANT

MCCLELLAND, COLLINS,
BAILEY, BAILEY &
BELLINGHAM
11TH FLOOR -
COLCORD BUILDING
OKLAHOMA CITY, OKLA.
73102

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

FILED

FEB 23 1983

U.S. District Court
NORTHERN DISTRICT OF OKLAHOMA

WORD INDUSTRIES PIPE FABRICATING,)
INC.,)

Plaintiff,)

-vs-)

BROOKS ERECTION AND CONSTRUCTION)
CO.,)

Defendant.)

Case No. 87-C-100-E

JOINT STIPULATION OF DISMISSAL OF ALL CLAIMS WITH PREJUDICE

COME NOW the parties hereto, by and through their attorneys of record, and pursuant to Fed. R. Civ. Proc. 41(a)(1)(ii), hereby stipulate that the captioned case is hereby dismissed in its entirety with prejudice, including all claims and counterclaims therein by reason that the parties have reached a settlement. Each party is to bear its own attorneys' fees.

HALL, ESTILL, HARDWICK, GABLE,
COLLINGSWORTH & NELSON

NICHOLS, WOLFE, STAMPER,
NALLY & FALLIS, INC.

By: Ronald A. White
Mark K. Blongewicz
Ronald A. White OBA #12037
4100 Bank of Oklahoma Tower
Tulsa, Oklahoma 74103
(918) 588-2700

By: Diane O. Palumbo
Diane O. Palumbo, OBA #12154
400 Old City Hall Building
124 East Fourth Street
Tulsa, Oklahoma 74103
(918) 584-5182

ATTORNEYS FOR DEFENDANT

ATTORNEYS FOR PLAINTIFF

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

KIMBERLYN RAE KENDRICK,)
)
 Plaintiff,)
)
 v.)
)
 HICKS COMMUNICATIONS PARTNERS,)
 A DELAWARE LIMITED PARTNER-)
 SHIP, d/b/a KAYI-FM 107, A)
 HICKS COMMUNICATIONS, INC.)
 STATION,)
)
 Defendant.)

No. 87-C-844-B

F I L E D

FEB 24 1988

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

O R D E R

This matter comes before the Court on Defendant's motion to dismiss and strike filed October 28, 1987. Defendant's motion moves to dismiss Plaintiff's First, Second, Third, Fourth, Sixth, Seventh and Eighth Causes of Action in whole or in part, and to strike her Ninth Cause of Action. For the reasons set forth below, the Defendant's motion is granted in part and denied in part.

Plaintiff's First Cause of Action seeks damages for the negligent or intentional infliction of emotional distress. Count Two asserts a cause of action for the negligent or intentional infliction of physical distress. Defendant contends that both causes of action should be dismissed because the Plaintiff has failed to specifically allege "outrageous conduct" in the First Cause of Action or specifically allege what "physical injury" has occurred which would support the second claim. To prevail on a motion to dismiss for failure to state a claim upon which relief

can be granted, defendant must establish that the plaintiff can prove no set of facts in support of her claim that would entitle the plaintiff to relief. Haines v. Kerner, 404 U.S. 519 (1972); Jorgensen v. Meade Johnson Laboratories, Inc., 483 F.2d 237 (10th Cir. 1973). All factual allegations should be construed to the pleader. Gardner v. Toilet Goods Assn., 387 U.S. 167 (1967); Lee v. Derryberry, 466 F.Supp. 30 (W.D.Okl. 1978); Halliburton Oil Producing Co. v. Aetna Ins. Co., 491 F.Supp. 595 (W.D.Okl. 1978).

The Court's review of the Plaintiff's claim for negligent or intentional infliction of emotional distress and the second cause of action for the negligent or intentional infliction of physical distress reveals a lack of factual allegations which would support the tort claims. However, the Court feels that under the standard previously articulated, Haines v. Kerner, supra, the dismissal of the Plaintiff's claims would be premature. While the Court has considerable doubt that the Plaintiff would be entitled to recover for the vaguely pled claims for emotional distress and/or physical distress, dismissal at this juncture is not proper under the liberal pleading format of the Federal Rules of Civil Procedure. The Court will, of course, entertain a motion for summary judgment on this issue at a later date supported by the evidence of the actual facts regarding Plaintiff's employment and termination. The Defendant's motion to dismiss Counts One and Two is overruled.

The Defendant next seeks dismissal of Count Three of Plaintiff's complaint which asserts a cause of action for

interference with contractual relations. In her third cause of action the Plaintiff purports to allege that the Defendant has somehow interfered with her contractual relationship with the Defendant and is, therefore, liable in tort. Under Oklahoma law a cause of action in tort is recognized against a third party who interferes with an employee's relationship with her employer. Del State Bank v. Salmon, 548 P.2d 1024 (Okla. 1976). The Defendant's argument that an agent or employee cannot tortiously interfere with his principal's contract with a fellow employee is well taken. See, Bowman v. Grolsche Bierbrouwerij B.V., 474 F.Supp. 725, 733 (D.Conn. 1979). Plaintiff's reply brief belatedly asserts that the Defendant tortiously interfered with her contractual relationship with Playboy magazine. However, this theory is not raised in the petition and no explanation is offered describing how the Plaintiff's contract rights and obligation with Playboy were affected by the Defendant. The third cause of action is dismissed.

Defendant next seeks dismissal of the Plaintiff's Fourth Cause of Action which alleges fraud. Defendant asserts that the Plaintiff's complaint fails under both Fed.R.Civ.P. 9(b) and 12 Okl.St. Ann. §2009B, in that allegations of fraud must be stated with particularity. The Plaintiff's fraud cause of action incorporates by reference the preliminary statement of the facts portion of the complaint. From this recitation of the facts and circumstances the Court concludes that the Plaintiff has satisfied Rule 9(b) in that she has alleged with particularity

the "circumstances" constituting fraud. Consequently, the Plaintiff is not obligated to plead "evidentiary facts" to support a fraud claim. See, Nolan Bros., Inc. v. United States ex rel Fox Brothers Construction Co., 266 F.2d 143 (10th Cir. 1959). The Court finds under the liberal Tenth Circuit interpretation of Rule 9(b) that the instant pleading is sufficient to apprise the Defendant of the nature of the fraud claim and allow the Defendant to frame a response. See, e.g., Citizens State Bank v. F.D.I.C., 639 F.Supp. 758 (W.D.Okla. 1986). Defendant's motion to dismiss the fraud cause of action is overruled.

The Plaintiff has confessed the Defendant's motion to dismiss the Sixth Cause of Action which alleges an invasion of privacy. Therefore, the Defendant's motion is granted.

Defendant seeks dismissal of the Plaintiff's seventh claim of sexual harassment. Defendant bases its motion to dismiss on the argument that the Plaintiff has failed to exhaust her administrative remedies as set forth in Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq. Defendant urges that the Plaintiff has filed a charge of sexual harassment with the Oklahoma Human Rights Commission on November 20, 1985, naming Harvey Blaine, not Defendant KAYI, her employer, as respondent. Defendant contends that Plaintiff's failure to name Defendant KAYI precludes her from bringing the instant sexual harassment claim. Defendant's argument is without merit. As pointed out by the Plaintiff, Exhibit B to the Defendant's motion to dismiss

shows that an order dismissing complaint from the Oklahoma Human Rights Commission clearly sets forth the Plaintiff as Kimberlyn Kendrick and the respondent as KAYI-Hicks Communications. Defendant's motion to dismiss the Plaintiff's seventh cause of action is overruled.

Defendant moves to dismiss the Plaintiff's eighth cause of action, which alleges a claim for wrongful discharge. Plaintiff alleges that she was terminated in retaliation for exercising her rights and freedoms guaranteed under the laws of the State of Oklahoma and the United States Constitution. In response to the Defendant's motion to dismiss the Plaintiff claims that her claim for wrongful discharge is proper under the authority of Hinson v. Cameron, 743 P.2d 549 (Okla. 1987), as it involves a wrongful termination in violation of public policy. Plaintiff asserts that Hinson would recognize a public policy exception to the at will employment relationship because she was forced from her job for exercising her legal right or interest to pursue a promotion publicized by Playboy magazine. The Court finds that the alleged conduct of the Defendant does not constitute a violation of public policy and must be dismissed.

Finally, the Defendant moves to strike the Plaintiff's ninth cause of action which attempts to reserve the right to further plead or amend the petition after discovery as may be appropriate. Plaintiff's ninth cause of action is stricken as any amendment or modification of the complaint will be governed by the Federal Rules of Civil Procedure.

As stated above, the Defendant's motion to dismiss the Plaintiff's third, sixth and eighth causes of action is granted, the Defendant's motion to dismiss the first, second, fourth and seventh causes of action is denied. Defendant's motion to strike the Plaintiff's ninth cause of action is granted.

IT IS SO ORDERED, this 21st day of February, 1988.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

JOHN R. GILBREATH, BETTIE)
GILBREATH, JOSEPH P. CACOPERDO,)
GILDA E. CACOPERDO, HULEN R.)
PRYOR, JIMMIE L. PRYOR, FRANK S.)
HARKEY and MARILYN A. HARKEY,)

Plaintiffs,)

vs.)

THE CITY OF TULSA, OKLAHOMA, an)
Oklahoma municipal corporation,)
THE BOARD OF COUNTY COMMISSIONERS)
OF TULSA COUNTY, and THE STATE OF)
OKLAHOMA ex rel THE DEPARTMENT OF)
TRANSPORTATION,)

Defendants.)

No. 87-C-730-B

FILED

FEB 24 1988

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

ORDER

The Court having been advised that a Stipulation For Dismissal has been filed in this case by plaintiffs and the defendant The Board Of County Commissioners Of Tulsa County, orders this case to be dismissed without prejudice as to the defendant The Board Of County Commissioners Of Tulsa County.

IT IS THEREFORE ORDERED BY THIS COURT that this case be dismissed without prejudice as to the defendant The Board Of County Commissioners Of Tulsa County.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

FEB 24 1988

FARMERS INSURANCE COMPANY, INC.)
)
Plaintiff,)
)
vs.)
)
HENRY WILKINS, BILLY MATT LOVE,)
and ARCO OIL AND GAS COMPANY,)
)
Defendants.)

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

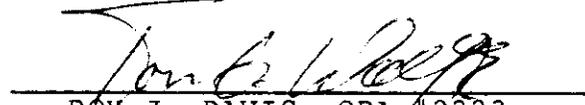
Case No. 87-C-695-B

DISMISSAL WITHOUT PREJUDICE

COMES NOW Defendant ARCO Oil and Gas Company, a division of Atlantic Richfield Co., and pursuant to Rule 41(a)(2) F.R.Civ.P. dismisses without prejudice the following claims:

- 1) Counterclaim against Plaintiff Farmers Insurance Co., Inc.; and,
- 2) Cross-claim against Defendant Henry Wilkins.

These claims are dismissed without prejudice pursuant to permission granted ARCO by the Court as reflected in the Scheduling Conference Order filed herein on February 10, 1988.



ROY J. DAVIS, OBA #2223
TOM G. WOLFE, OBA #11576

-of-

ANDREWS DAVIS LEGG BIXLER
MILSTEN & MURRAH
500 West Main
Oklahoma City, Oklahoma 73102
Telephone: (405) 272-9241

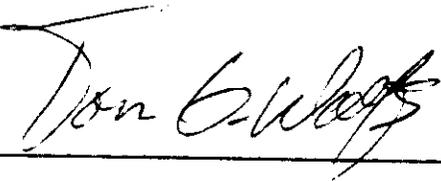
CERTIFICATE OF SERVICE

I hereby certify, on this 23 day of February, 1988, a true and correct copy of the Dismissal Without Prejudice was deposited in the United States Mail, with postage prepaid, and addressed to:

Brad Smith, Esq.
Knowles & King
603 Expressway Tower
2431 East 51st Street
Tulsa, Oklahoma 74105

Bill Abney, Jr., Esq.
Lawter & Pitts, Inc.
1330 Classen Blvd., Suite G-2
Oklahoma City, Oklahoma 73102

Mr. Robert C. Payden, Esq.
201 West Fifth Street
Suite 320
Tulsa, Oklahoma 74103



IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

15834/tlr

BALBOA INSURANCE COMPANY,)
a California corporation,)
)
Plaintiff,)

vs.)

MURPHY ENTERPRISES, INC.,)
d/b/a MURPHY BROTHERS)
EXPOSITIONS, an Oklahoma)
corporation,)
)
Defendant.)

No. 87-C-194-B

FILED

FEB 24 1988

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

ORDER OF DISMISSAL WITH PREJUDICE

NOW, on this 24 day of February, 1988, this matter comes on before the undersigned Judge of the District Court upon Joint Application of the parties for Order of Dismissal With Prejudice.

THE COURT, being fully advised in the premises, FINDS that Plaintiff's Motion to Tax Attorney Fees as Costs and Defendant's Motion for New Trial are now moot based upon a settlement agreement between the parties hereto.

THE COURT FURTHER FINDS that the parties' Joint Application for Order of Dismissal With Prejudice should be and same is hereby granted.

IT IS FURTHER ORDERED that this action should be and same is hereby dismissed with prejudice.

The parties are to bear their respective costs.

S/ THOMAS R. BRETT

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM & CONTENT:



EUGENE ROBINSON
McGivern, Scott, Gilliard,
McGivern & Robinson

Attorneys for Plaintiff



DAVID P. PAGE
TERESA MEINDERS WHITE
Boone, Smith, Davis & Hurst

Attorneys for Defendant

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

SAMSON RESOURCES COMPANY,)
a corporation,)
)
Plaintiff,)
)
vs.,) Case No. 86-C-717-E
)
ANR PIPELINE COMPANY,)
a corporation,)
)
Defendant.)

ORDER OF DISMISSAL WITH PREJUDICE

On this 23rd day of February, 1988, upon written application of the parties for an order of dismissal with prejudice of the Complaint and the Counterclaim and all causes of action, the Court, having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint and the Counterclaim and have requested the Court to dismiss the Complaint and the Counterclaim with prejudice to any future action, and, the Court, being fully advised in the premises, finds that said Complaint and Counterclaim should be dismissed; it is, therefore,

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

S/ JAMES O. ELLISON

UNITED STATES DISTRICT COURT JUDGE

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

E. E. McADOO,)
)
 Plaintiff,)
)
 v.) No. 86-C-410-E
)
 SOUTHWESTERN BELL MEDIA, INC.,)
)
 Defendant.)

ORDER OF DISMISSAL

This matter comes before the Court on the Stipulation of Dismissal of the parties in this action. The Court finds this matter should be and is hereby ordered dismissed with prejudice to the refiling thereof.

ST JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

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

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

vs.)

No. 87-C-173-B

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

FILED

FEB 24 1988

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

JUDGMENT

This matter comes before the Court pursuant to the Joint Stipulation for Judgment presented by the Plaintiffs Donald J. Wilson, Thomas A. Layon and Elizabeth A. Cronin Layon and Defendant Venture Properties, Inc. ("Venture"). Upon consideration of the Joint Stipulation for Judgment, and for good cause shown, it is

ORDERED that the Plaintiffs are awarded a judgment in their favor and against the Defendant Venture in the amount of twenty-five thousand dollars (\$25,000.00).

DATED this 24 day of February, 1988.

S/ THOMAS R. BRETT

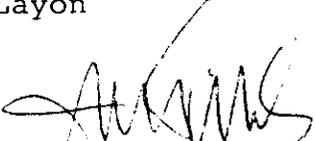
THOMAS R. BRETT,
UNITED STATES DISTRICT JUDGE FOR
THE NORTHERN DISTRICT OF OKLAHOMA

APPROVED:



Joel L. Wohlgemuth
John E. Dowdell
NORMAN, WOHLGEMUTH & THOMPSON
909 Kennedy Building
Tulsa, Oklahoma 74103
(918) 583-7571

Attorneys for Plaintiffs,
Donald J. Wilson, Thomas A.
Layon and Elizabeth A. Cronin
Layon



J. Michael Tibbals
Karen L. Moe
VETTER, BATES, TIBBALS, LEE
& DeBUSK
2700 One Main Place
Dallas, TX 75202-3951

Attorneys for Defendant,
Venture Properties, Inc.

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

FILED

FEB 24 1988

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

DONALD J. WILSON

Plaintiff,

vs.

GREAT WESTERN ENERGY
CORPORATION, et al.,

Defendant.

Case No. 87-C-173-B

**JUDGMENT DISMISSING ACTION
BY REASON OF SETTLEMENT**

The Court has been advised by counsel that the claims of Chrysler Capital Corporation against Thomas A. Layon and Elizabeth A. Cronin Layon have been settled, or are 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 as it pertains to only the claims of Chrysler Capital Corporation against Thomas A. Layon and Elizabeth A. Cronin Layon are 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. The remaining claims of the parties have been dismissed with prejudice by separate order of this Court.

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 24 day of February, 1988.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FEB 24 1988

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

Case No. 87-C-196-C

ROSE SIMPSON,)
)
 Plaintiff,)
)
 vs.)
)
 CENTRILIFT-Division of Hughes)
 Tool Company, and AETNA LIFE)
 INSURANCE COMPANY,)
)
 Defendants.)

ORDER OF DISMISSAL WITH PREJUDICE

Plaintiff and Defendants having compromised and settled all issues in the action and having stipulated that the Petition and the action may be dismissed with prejudice, IT IS THEREFORE ORDERED that the Petition and this cause of action are, by the Court, dismissed with prejudice to the bringing of another action upon the same cause or causes of action.

Entered this 24th day of Feb., 1988.

BY JAMES O. BLISSON For F. DALE COOK
United States District Judge

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

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

Plaintiffs,)

vs.)

No. 87-C-173-B

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

Defendants.)

FILED

FEB 24 1988

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

ORDER OF DISMISSAL

NOW ON THIS 24 day of February, 1988, the Court has for its consideration the Joint Stipulation for Dismissal filed in the above-styled and numbered cause by Plaintiffs and Defendants. Based upon the representations and requests of the parties, as set forth in the foregoing stipulation, it is

ORDERED that Plaintiffs' Complaint, Amended Complaint and claims for relief against the Defendants be and the same are hereby dismissed with prejudice. It is further

ORDERED That Defendant Chrysler Capital Corporation's counterclaim and claim for relief against Donald J. Wilson be

and the same are hereby dismissed with prejudice. It is further

ORDERED that a separate Administrative Closing Order will be entered by the Court with respect to the Counterclaim and claim retained by Chrysler Capital Corporation against Thomas A. Layon and Elizabeth A. Cronin Layon. It is further

ORDERED that each party shall bear its own costs.

DATED this 24 day of February, 1988.

S/ THOMAS R. BRETT

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

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

FEB 24 1988

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

UNITED STATES OF AMERICA)
)
Plaintiff,)
)
vs.)
)
CARBONEX COAL COMPANY,)
)
Defendant.)

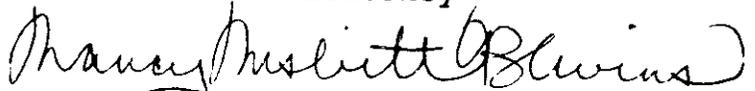
Civil Action No. 88-C-60-B

NOTICE OF DISMISSAL

Comes now the Plaintiff, United States of America, by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and hereby gives notice of its dismissal of the above-captioned action.

Respectfully submitted,

TONY M. GRAHAM
United States Attorney

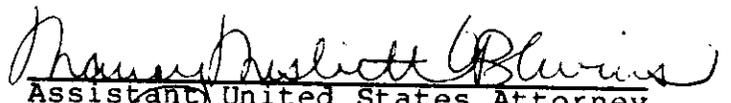


NANCY NESBITT BLEVINS, OBA # 6634
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

CERTIFICATE OF SERVICE

This is to certify that on the 24th day of February, 1988, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to:

Mr. Thomas J. McGeady
Attorney at Law
P.O. Box 558
Vinita, Oklahoma 74301


Assistant United States Attorney

RECEIVED FEB 16 1988

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

FRANCIS E. MAHONEY, et al.,)
)
 Plaintiffs,)
)
vs.)
)
CITICORP PERSON-TO-PERSON)
FINANCIAL CENTER, INC.,)
)
 Defendant.) No. 85-C-1041-E

O R D E R

NOW, on this 23rd day of February, 1988, the application of Plaintiffs, Francis E. Mahoney and Lillie Mahoney, comes on before the undersigned judge. After reviewing the application, the Court finds that Plaintiffs and Defendant, Citicorp Person-to-Person Financial Center, Inc., have reached a full, final, and complete settlement of this matter by Defendant agreeing to pay the sum of \$25,000.00 into the Court fund of the United States District Court for the Northern District of Oklahoma no later than February 15, 1988, to be retained by the Court Clerk pending the determination by the Court, of payment of attorney fees.

The Court further finds and ORDERS that the said sum of \$25,000.00 shall be placed in an interest bearing account by the Court Clerk, pending disposition and disbursement.

IT IS ORDERED that counsel presenting this order serve a copy thereof on the Clerk of this Court or his Chief Deputy personally. Absent the aforesaid service the Clerk is hereby relieved of any personal liability relative to compliance with this order.

The Court further finds that Defendant has complied with all of the terms reached between Plaintiffs and Defendant according to the terms of their settlement agreement, and that Plaintiffs' claims against Defendant shall be dismissed with prejudice to the refiling of the same, each party to bear their own attorney fees and costs.

By: JAMES W. BROWN

UNITED STATES DISTRICT JUDGE

FILED

FEB 24 1988

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

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

CARMEN EUGENE RUGGERI,)
)
 Plaintiff,)
)
 vs.)
)
 SUN REFINING AND MARKETING)
 COMPANY,)
)
 Defendant.)

No. 86-C-90-E

JUDGMENT

This action came on for hearing before the Court, Honorable James O. Ellison, District Judge, presiding, and the issues having been duly heard and a decision having been duly rendered,

IT IS ORDERED AND ADJUDGED that the Plaintiff Carmen Eugene Ruggeri take nothing from the Defendant Sun Refining and Marketing Company, that the action be dismissed on the merits, and that each party shall bear its own costs and attorney fees.

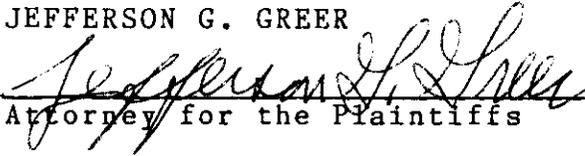
DATED at Tulsa, Oklahoma this 24th day of February, 1988.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

APPROVALS:

JEFFERSON G. GREER



Attorney for the Plaintiffs

JOHN HOWARD LIEBER

Attorney for the Defendant

FILED

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

FLORIDA GOLF CORPORATION,)
)
 Plaintiff,)
)
 vs.)
)
 JAMES D. HOLMAN)
 and HENRY W. THOMPSON,)
)
 Defendants.)
)
 and)

No. 86-C-1136-E

2-24-88

ROBERT TRENT JONES, INC.,)
)
 Plaintiff,)
)
 vs.)
)
 JAMES D. HOLMAN)
 and HENRY W. THOMPSON,)
)
 Defendants.)

No. 86-C-1137-E
(Consolidated)

JUDGMENT DISMISSING ACTION
BY REASON OF SETTLEMENT

This matter comes before the Court upon Plaintiffs' Motion to extend the time to submit an agreed Pretrial Order. There is no objection to this Motion. 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 parties will file settlement papers within thirty (30) days of this date. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown within thirty (30) days that settlement has not been completed

and further litigation is necessary. Plaintiffs' Motion to extend time to file the Pretrial Order is rendered moot and is accordingly denied.

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.

DATED this 29th day of February, 1988.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES POSTAL SERVICE,)

Plaintiff,)

vs.)

RONALD R. SMITH,)
EXECU-SERVICES, INC.,)
FEDERAL CONSUMER XPRESS, INC.,)

Defendants.)

FEB 23 1988

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

Civil Action No. 88-C-28-B

ORDER OF DISMISSAL
AND DISSOLVING SECOND AMENDED
TEMPORARY RESTRAINING ORDER

NOW before the Court for its consideration is the Motion for Voluntary Dismissal of the Plaintiff, United States Postal Service.

Good cause being shown, and there being no objection, it is hereby ordered that the Motion for Voluntary Dismissal of the Plaintiff is sustained and this action is dismissed and the Second Amended Temporary Restraining Order entered herein on February 2, 1988 is accordingly dissolved.

IT IS SO ORDERED this 23rd day of February, 1988.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FEB 23 1988

REEL TIME DUPLICATORS, INC.,)
a Delaware corporation,)
)
Plaintiff,)
)
vs.)
)
PHILIP COOKE a/k/a PHIL COOKE, an)
individual; MAX JONES, an individual;)
and ZONA ROSA, INC., a Texas)
corporation d/b/a ARCHANGEL MOTION)
PICTURES & TELEVISION a/k/a ARCHANGEL)
MOTION PICTURE, INC., a/k/a)
FUTUREVISION a/k/a FUTUREVISIONS,)
)
Defendants.)

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

Case No. 87-C-1021-B

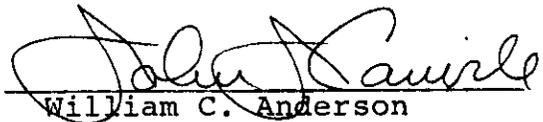
NOTICE OF
DISMISSAL WITHOUT PREJUDICE AS TO DEFENDANTS
PHILIP COOKE AND MAX JONES AND PARTIAL DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT ZONA ROSA, INC.

The Plaintiff, Reel Time Duplicators, Inc., by and through its undersigned counsel of record, and pursuant to Rule 41(a)(1)(i), Federal Rules of Civil Procedure, hereby dismisses the above action against Defendants Philip Cooke a/k/a Phil Cooke, and Max Jones, without prejudice to the refiling thereof. Plaintiff further hereby dismisses, without prejudice, its claims for damages against Defendant Zona Rosa, Inc. in excess of \$41,500.00. Plaintiff reserves and maintains all of that portion of its claims

in this action for damages in the amount of \$41,500.00 against
Defendant, Zona Rosa, Inc.

DOERNER, STUART, SAUNDERS,
DANIEL & ANDERSON

By



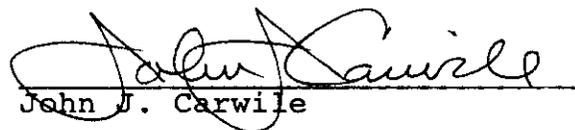
~~William C. Anderson~~
John J. Carwile
1000 Atlas Life Building
Tulsa, Oklahoma 74103
(918) 582-1211

Attorneys for Plaintiff,
Reel Time Duplicators, Inc.

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 23rd day of
February, 1988, a true and correct copy of the above and foregoing
instrument was mailed, with proper postage prepaid thereon, to:

Rodney Phelps
416 South Duck
Stillwater, Oklahoma 74074



John J. Carwile

F I L E D

FEB 23 1988

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

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

BONNEVILLE LIFE INSURANCE COMPANY,)
)
 Plaintiff,)
)
 v.) No. 87-C-1089-B
)
 JOHN WILLIAMS,)
)
 Defendant.)

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). Plaintiff has objected to the motion. For the reasons set forth below, the Court concludes that subject matter jurisdiction is lacking.

This is a suit for alleged breach of contract with jurisdiction based on diversity of citizenship. Defendant has made a motion to dismiss for lack of subject matter jurisdiction based on the premise that Plaintiff lacks capacity to sue in any court in Oklahoma.

The general rule to have capacity to maintain a suit in Oklahoma is set out in 12 O.S. §2017(B):

"CAPACITY TO SUE OR BE SUED: Except as otherwise provided by law, any person, corporation, partnership, or unincorporated association shall have capacity to sue or be sued in this state."

An exception to §2017(B) exists in 18 O.S. §1137(A) which provides:

"A foreign corporation which is required to comply with the provisions of Sections 130 and 131 of this Act and which has done business in this state without authority shall not maintain any action or special proceeding in this state unless and until such corporation has been authorized to do business in this state and has paid to the state all fees, penalties, and franchise taxes for the years or parts thereof during which it did business in this state without authority."

The bar against maintaining a suit set forth above applies to both state courts and federal courts with jurisdiction based on diversity of citizenship. Woods v. Interstate Realty Co., 337 U.S. 535, 69 S.Ct. 1235, 93 L.Ed. 1524 (1948); Wilson v. Williams, 222 F.2d 692 (10th Cir. 1955); and Williams Tanner v. Plains Broadcasting, 486 F.Supp. 1313 (W.D.Okla. 1980).

Plaintiff admits that it is a foreign corporation. The above statutes, as a result, will bar the current suit since a certificate from the office of the Secretary of State for the State of Oklahoma makes clear that Plaintiff is not a foreign corporation qualified to do business in Oklahoma.

Plaintiff sets forth two exceptions to the above statutes. This Court finds both unpersuasive.

First, Plaintiff claims it is not doing business in the State of Oklahoma, and, as a result, is not bound by §137(a) to have capacity to sue. Plaintiff's contract with Defendant, however, indicates that its executive offices are located in Tulsa, Oklahoma. Paragraph 23 of the contract in dispute states that the contract was negotiated in Tulsa, executed in Tulsa, and to be performed in Tulsa. In addition, an affidavit filed by Plaintiff's vice-president in a similar state court suit

indicates that Plaintiff employs between 115 and 125 men and women in Tulsa. This Court, therefore, finds that Plaintiff is doing business in the State of Oklahoma within the meaning of §1137(a).

Second, Plaintiff asserts that if it is found to be doing business in Oklahoma, it is not required to comply with §1137(a) because 18 O.S. §1132(a)(5) exempts insurance companies from the provisions of §1137(a). However, Plaintiff fails to recognize that in order to fall within the §1132 exception, it must be registered as an insurance company with the State of Oklahoma. 36 Okl.St. Ann. §606(a) provides:

"No person shall act as an insurer and no insurer shall transact insurance in Oklahoma except as authorized by a subsisting authority granted to it by the Insurance Commissioner . . ."

A certificate from the Oklahoma State Insurance Commissioner states that Plaintiff is not licensed in the State of Oklahoma as an insurer of any kind. As a result, this Court finds Plaintiff's second exception unpersuasive.

For the reasons set forth above, this Court finds that it lacks subject matter jurisdiction and, therefore, Defendant's motion to dismiss is hereby granted.

IT IS SO ORDERED, this 23rd day of February, 1988.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

FEB 22 1988

CHANMOON BAKHSH,)
Plaintiff,)
vs.)
JAMES HEMPHILL, et al.,)
Defendant.)

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

87-C-152-E

STIPULATION OF DISMISSAL

Comes now the Plaintiff, CHANMOON BAKHSH, and moves to dismiss the above styled action with prejudice against refiling. Settlement negotiations between all relevant parties have resulted in a conclusion to this matter that is acceptable to all parties. Further it is stipulated by all parties that have been served with a petition and summons in this matter that all parties desire a dismissal. As to other parties named that have not been served and have therefore not filed an answer, the Plaintiff also seeks dismissal. Respectfully requested this

22nd day of February, 1988.

Chanmoon Bakhsh
CHANMOON BAKHSH

Earl Williston
EARL WILLISTON, Individually
and as General Partner for
Eggbert's No. 6 Limited
Partnership

Mark D. Lyons
MARK D. LYONS
Attorney for Chanmoon Bakhsh

William Dale
WILLIAM DALE
Attorney for Earl Williston

JAMES HEMPHILL, Individually and as General Partner of Eggbert's No. 6 Limited Partnership

Roger Carpenter
ROGER CARPENTER, Individually, as President of Eggbert's International and as Limited Partner of of Eggbert's No. 6 Limited Partnership

Kathy R. Neal
KATHY R. NEAL
Attorney for James Hemphill and Eggbert's No. 6 Limited Partnership

Tom Mason
TOM MASON
Attorney for Roger Carpenter and Eggbert's International

CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the above styled Stipulation of Dismissal to the attorneys for the Defendants: Ms. Kathy Neal and Mr. Lynn Paul Mattson of Doerner, Stuart, Saunders, Daniel & Anderson, 1000 Atlas Life Building, Tulsa, Oklahoma, 74103; Mr. Tom Mason of Sanders and Carpenter, 624 S. Denver, Tulsa, Oklahoma, 74119; Mr. William J. Dale, 3500 S.E. Henrietta, Bartlesville, Oklahoma, 74006, this 22nd day of ^{February} ~~January~~, 1988, with proper postage paid thereon.

Mark D. Lyons
MARK D. LYONS

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

FILED

FIRST WESTERN INCOME REALTY)
TRUST, et al.,)
)
Plaintiffs,)
)
vs.)
)
AVIS RENT A CAR SYSTEM, INC.,)
)
Defendant.)

No. 85-C-1062-E

2-22-88

JUDGMENT

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

IT IS ORDERED AND ADJUDGED that the Plaintiffs First Western Income Realty Trust, by its Trustees Gary K. Barr, J. Grayson Sanders, Robert W. Medearis, J. Richard McMichael, Harold Trimble, Jr. and Western Real Estate Fund, Inc., additional Plaintiff, take nothing from the Defendant Avis Rent A Car System, Inc., and that the Defendant Avis Rent A Car System, Inc. recover of the Plaintiffs First Western Income Realty Trust and Western Real Estate Fund, Inc. its costs of action.

DATED at Tulsa, Oklahoma this 22^d day of February, 1988.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

FEB 22 1988

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
CLAUD W. CARDER,)
)
Defendant.)

CIVIL ACTION NO. 88-C-99-E

NOTICE OF DISMISSAL

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

Dated this 22 day of February, 1988.

UNITED STATES OF AMERICA

TONY M. GRAHAM
United States Attorney

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

CERTIFICATE OF SERVICE

This is to certify that on the 22 day of February, 1988, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to: Mrs. Claud W. Carder, Route 1, Box 150, Eucha, Oklahoma 74342.

Assistant United States Attorney

PB/mp

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

FEB 22 1988

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

ALN RESOURCES CORPORATION, an)
Oklahoma Corporation,)

PLAINTIFF,)

v.)

CASE NO. 87-C-466-B

KELRAY OIL & GAS, INC., a)
Texas Corporation, and)
R. KEVIN RUSSELL, an)
Individual,)

DEFENDANTS.)

JOURNAL ENTRY OF JUDGMENT

NOW COME ALN Resources Corporation, an Oklahoma Corporation (hereinafter referred to as "ALN"), by and through its attorneys of record, Ira L. Edwards, Jr., and Robert L. Briggs, of Houston and Klein, Inc., and Kelray Oil & Gas, Inc., a Texas Corporation (hereinafter referred to as "KELRAY"), and R. Kevin Russell, an individual (hereinafter referred to as "RUSSELL"), by and through their attorney of record, Anthony P. Sutton, Feldman, Hall, Franden, Woodard & Farris, and represent to the Court the following:

1. On or about the 25th day of January, 1988, the parties hereto, by and through their respective counsel reached an agreed Confession of Judgment of this cause.

2. In good faith, the parties have agreed to this Journal Entry of Judgment in order to resolve the issues before the Court and to dispense with the trial of this cause. By virtue of this agreement and judgment herein, KELRAY and RUSSELL agreed to pay ALN the total sum of THREE THOUSAND THIRTY-NINE and 86/100 DOLLARS (\$3,039.86); plus interest at 7.14% per annum from January 25, 1988, until paid; plus costs and attorney fees in the sum of ONE THOUSAND FIVE HUNDRED and NO/100 DOLLARS (\$1,500.00).

THEREFORE, it is ORDERED, ADJUDGED and DECREED that Defendants, Kelray Oil and Gas, Inc. and R. Kevin Russell, are liable and obligated to Plaintiff, ALN Resources Corporation, the total sum of THREE THOUSAND THIRTY-NINE and 86/100 DOLLARS (\$3,039.86); plus interest to accrue at 7.14% per annum from January 25, 1988, until paid; plus costs and attorney fees in the sum of ONE THOUSAND FIVE HUNDRED and NO/100 DOLLARS (\$1,500.00).

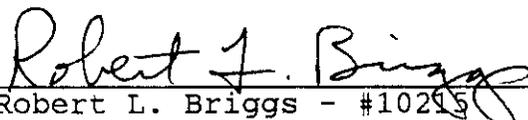
WHEREFORE, let execution be had in favor of Plaintiff,
ALN Resources Corporation.

IT IS SO ORDERED, ADJUDGED and DECREED this 22nd day of
Feb., 1988.


The Honorable Thomas R. Brett
JUDGE PRESIDING

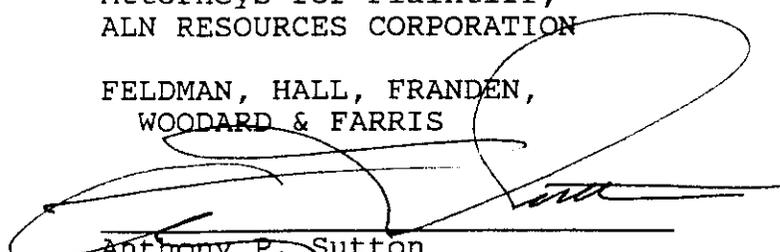
APPROVED AS TO FORM:

HOUSTON AND KLEIN, INC.


Robert L. Briggs - #102115
320 South Boston, Suite 700
Tulsa, Oklahoma 74103
(918) 583-2131

Attorneys for Plaintiff,
ALN RESOURCES CORPORATION

FELDMAN, HALL, FRANDEN,
WOODARD & FARRIS


Anthony P. Sutton
Park Centre - Suite 1400
525 South Main
Tulsa, Oklahoma 74103-4409
(918) 583-7129

Attorneys for Defendants,
KELRAY OIL AND GAS, INC. and
R. KEVIN RUSSELL

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

FILED

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 EARL S. TENNIAL,)
)
 Defendant.)

U.S. DISTRICT COURT

No. 87-C-866-E

2-22-88

AGREED JUDGMENT

NOW on this 16th day of February, 1988 this matter comes on for consideration, the Plaintiff appearing by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Phil Pinnell, Assistant United States Attorney, and the Defendant, Earl S. Tennial, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Earl S. Tennial, received Summons and Complaint on December 10, 1987. The Defendant waives his right to file an Answer but in lieu thereof has agreed that he is indebted to the Plaintiff in the amount alleged in the Complaint and that judgment may accordingly be entered against him in the amount of \$640.00, plus interest at the rate of 8.25 percent per annum and administrative costs of \$.70 per month from February 1, 1987, until judgment, plus interest thereafter at the legal rate until paid, plus the costs of this action.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Earl S. Tennial, in the amount of \$640.00, plus interest at the rate of 8.25 percent per annum and administrative costs of \$.70 per month from February 1, 1987, until judgment, plus interest thereafter at the current legal rate of 6.59 percent per annum until paid, plus the costs of this action.


UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

TONY M. GRAHAM
United States Attorney


PHIL PINNELL
Assistant U.S. Attorney


EARL S. TENNIAL

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
 vs.)
)
 KENNETH H. COATS; LINDA M.)
 COATS; JACKIE L. PETTY;)
 GLADYS A. PETTY; CENTURY BANK;)
 COUNTY TREASURER, Tulsa County,)
 Oklahoma; and BOARD OF COUNTY)
 COMMISSIONERS, Tulsa County,)
 Oklahoma,)
)
 Defendants.)

FILED

FEB 19 1988

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

CIVIL ACTION NO. 87-C-211-B

DEFICIENCY JUDGMENT

Now on this 18 day of February 1988, there came on for hearing the Motion of the Plaintiff United States of America for leave to enter a Deficiency Judgment herein, said Motion being filed on the 15th day of December, 1987, and a copy of said Motion being mailed to Kenneth H. Coats and Linda M. Coats, 504 East Buffalo, Kellyville, Oklahoma 74039. The Plaintiff, United States of America, acting on behalf of the Administrator of Veterans Affairs, appeared by Tony M. Graham, United States Attorney for the Northern District of Oklahoma through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendants, Kenneth H. Coats and Linda M. Coats, appeared neither in person nor by counsel.

The Court upon consideration of said Motion finds that the amount of the Judgment rendered herein on July 15, 1987, in favor of the Plaintiff United States of America, and against the Defendants, Kenneth H. Coats and Linda M. Coats, with interest and costs to date of sale is \$53,496.82.

The Court further finds that the appraised value of the real property at the time of sale was \$36,525.00.

The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Judgment of this Court entered July 15, 1987, for the sum of \$32,445.00 which is less than the market value.

The Court further finds that the said Marshal's sale was confirmed pursuant to the Order of this Court on the 8th day of February, 1988.

The Court further finds that the Plaintiff, United States of America on behalf of the Administrator of Veterans Affairs, is accordingly entitled to a deficiency judgment against the Defendants, Kenneth H. Coats and Linda M. Coats, as follows:

Principal Balance as of 10/05/87	\$44,676.60
Interest	8,365.10
Late Charges	230.12
Appraisal	175.00
Management Broker Fees	<u>50.00</u>
TOTAL	\$53,496.82
Less Credit of Appraised Value	- <u>36,525.00</u>
DEFICIENCY	\$16,971.82

plus interest on said deficiency judgment at the legal rate of 6.57 percent per annum from date of deficiency judgment until paid; said deficiency being the difference between the amount of Judgment rendered herein and the appraised value of the property herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the United States of America on behalf of the Administrator of Veterans Affairs have and recover from Defendants, Kenneth H. Coats and Linda M. Coats, a deficiency judgment in the amount of \$16,971.82, plus interest at the legal rate of 6.57 percent per annum on said deficiency judgment from date of judgment until paid.

S/ THOMAS R. BREIT

UNITED STATES DISTRICT JUDGE

NNB/css

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

FILED
FEB 19 1988
Jack C. Silver, Clerk
U. S. DISTRICT COURT

DELLA F. LANE,)
)
Plaintiff,)
)
vs.)
)
BETHLEHEM STEEL)
CORPORATION,)
)
Defendant.)

No. 86-C-416-B

ORDER

UPON the Joint Stipulation For Dismissal With Prejudice of Plaintiff Della F. Lane and Defendant Bethlehem Steel Corporation, it is hereby ordered that the captioned case is dismissed with prejudice, each party to bear her or its own costs, expenses, and attorneys' fees.

DATED this 18 day of February, 1988.

S/ THOMAS R. BREIT

JUDGE OF THE UNITED STATES
DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

FEB 19 1988

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ONE 1979 CHEVROLET CAMARO,)
 VIN 1Q87D9L593364,)
)
 Defendant.)

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

CIVIL ACTION NO. 87-C-911-B

ORDER DISMISSING CLAIM AND ANSWER
AND ORDER OF FORFEITURE

IT NOW APPEARS that the claim filed herein has been fully compromised and settled. Such settlement more fully appears by the written Stipulation entered into between the claimants Mike Moore and Shari Moore, and the United States of America on February 17, 1988, and filed herein, to which Stipulation reference is hereby made and is incorporated herein. Therefore the claim and answer filed herein should be dismissed with prejudice and the Clerk of Court should be authorized and directed to enter of record in this civil action such dismissal.

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

Now, therefore, on motion of Catherine J. Depew, Assistant United States Attorney, and with the consent of Mike Moore and Shari Moore, it is

ORDERED that the claim and answer of Mike Moore and Shari Moore in this action be and the same hereby is dismissed with prejudice, and it is

FURTHER ORDERED that the Clerk of the above-entitled Court is hereby authorized and directed to enter of record in the Court the dismissal of the claim and answer filed herein by Mike Moore and Shari Moore with prejudice, and it is

FURTHER ORDERED AND DECREED that the defendant property be and hereby is condemned as forfeited to the United States of America for disposition according to law.

S/ THOMAS R. BRETT

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

DON LEE REYNOLDS,)
)
 Plaintiff,)
)
 v.)
)
 JUDGE GAIL HARRIS, et al.,)
)
 Defendants.)

87-C-901-B)

FILED

FEB 19 1988

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

ORDER

Plaintiff's Motion to Proceed in forma pauperis was granted and Plaintiff's Complaint was filed on the 10th day of November, 1987. Plaintiff brings this action pursuant to 42 U.S.C. §1983.

The Complaint is now to be tested under the standard set forth in 28 U.S.C. §1915(d). If the Complaint 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 the Plaintiff 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 Plaintiff's claims, the Magistrate finds that the action against Defendant Judge Gail Harris should be dismissed as follows.

A. DEFENDANT, JUDGE GAIL HARRIS

Plaintiff makes two general allegations. First, he contends he was subjected to an unreasonable search and seizure and a false arrest by Tulsa Police Officers. Second, he asserts Tulsa Police Officers failed to properly secure property of the Plaintiff, thereby causing its loss. The only allegation made

concerning Judge Harris (Tulsa County District Court) is that Judge Harris was "acting under color of state law in issueing (sic) a search warrant for Jimmy Virge Hosey and property located at 8 North 47th West Avenue, Tulsa, Oklahoma."

Plaintiff's allegation against Judge Harris does not rise to the level of a claim cognizable under 42 U.S.C. §1983. Rather, Defendant asserts nothing more than Defendant was properly executing a function of her judicial office as a District Court Judge of Tulsa County, Oklahoma. Even if Plaintiff had alleged more, the doctrine of judicial immunity, reaffirmed in Stump v. Sparkman, 435 U.S. 349, reh'g denied 436 U.S. 951 (1978), precludes Plaintiff on these facts, from making a rational argument sufficient to support his claim. Therefore, Plaintiff's claim against Defendant Harris should be dismissed as obviously without merit, pursuant to 28 U.S.C. §1915(d). Yellen v. Cooper, No 86-1430, slip op. (10th Cir. Sept. 9, 1987).

It is so ordered this 19th day of February, 1988.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

THOMAS LIPPERT,

Plaintiff,

v.

DAVID GRANDELL, an individual,
OKLAHOMA TELEPHONE DIRECTORIES,
an Oklahoma Corporation, and
DONNELLEY INFORMATION PUBLISHING,
INC., A foreign corporation,

Defendants.

Case No. 87-C-298-E ✓

FILED

1987

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

ORDER OF DISMISSAL

This cause having come before this Court on the Joint Application for Dismissal with Prejudice of the parties, and this Court being fully advised in the premises, and the parties having stipulated and the Court having found that the parties have reached a private settlement of the individual claims of Plaintiff, and that such claims should be dismissed with prejudice, it is, therefore,

ORDERED, ADJUDGED AND DECREED that the Complaint of Plaintiff, together with any causes of action asserted therein, be and hereby are dismissed with prejudice, with each party to bear its own costs.

So Ordered this 18th day of February, 1988.

James C. Silver
United States District Judge

APPROVED AS TO FORM AND CONTENT:

W. A. Brown
Attorney for Plaintiff

W. A. Brown
Attorney for Defendant

FILED

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

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

JOEL WILLIAM NOBLES,)
)
 Plaintiff,)
)
 v.)
)
 MAX MCKENZIE and BUNNY BOWERS,)
)
 Defendants.)

86-C-626-E ✓

ORDER

The Court has for consideration the Report and Recommendation of the Magistrate filed January 27, 1988 in which the Magistrate recommended that the Defendants' Motion to Dismiss be granted. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

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

It is therefore Ordered that the Defendants' Motion to Dismiss is granted.

Dated this 18th day of February, 1988.

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

14

Entered

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA FEB 18 1988

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

WANDA LOU BAKER,)
)
 Plaintiff,)
)
 vs.)
)
 SHELTER LIFE INSURANCE COMPANY,)
 an insurance corporation,)
)
 Defendant.)

No. 87-C-683-C

O R D E R

Now before the Court for its consideration is the motion of the defendant for summary judgment.

FACTS

Plaintiff Wanda Lou Baker brought this action on July 23, 1987 in the District Court of Creek County, State of Oklahoma, against defendant Shelter Life Insurance Company. In her first cause of action, plaintiff alleges breach of contract and seeks actual damages in the amount of \$3,761.38. In her second cause of action, plaintiff alleges that the actions of the defendant in denying the claim of the plaintiff resulted in bad faith misrepresentation which entitles the plaintiff to punitive damages in the amount of \$500,000.00. The defendant filed a petition for removal and the case was removed to this Court with jurisdiction based on diversity of citizenship of the parties.

Defendant filed a motion to dismiss, attaching matters outside the pleadings, which was properly treated by this Court

as a motion for summary judgment pursuant to Rule 12(b) F.R.Cv.P. Both parties were given the opportunity to submit additional material for the Court to consider in ruling on the motion. Neither party chose to submit any additional material.

The standard for granting a motion for summary judgment has been articulated as follows: "the movant's burden under Rule 56 is circumscribed by an initial showing of the absence of evidence to support the non-moving party's case." Windon Third Oil and Gas Drilling Partnership v. Federal Deposit Insurance Corporation, 805 F.2d 342, 345 (10th Cir. 1986) (quoting Celotex Corp. v. Catrett, 106 S.Ct. 2548, 2554 (1986)). Stated another way, could "a fair-minded jury return a verdict for the plaintiff on the evidence presented." Windon, 805 F.2d at 346 (citing Anderson v. Liberty Lobby, Inc., 106 S.Ct. 2505 (1986)). The Court will apply this standard.

The defendant stated in its motion that it is entitled to relief due to the plaintiff's fraudulent application for insurance, thus voiding the contract for insurance. The plaintiff states that the application contained no fraud or misrepresentation and, therefore, was a valid application. Since the statements of the plaintiff and of the defendant are in conflict, summary judgment cannot be granted on this issue. Rather, it is a question of fact which must be decided by a jury.

The defendant further states that the contract was rescinded. Again, the defendant's right to rescission depends upon whether or not the plaintiff's application was fraudulent or

contained misrepresentations, and, thus, summary judgment cannot be granted on this issue.

The defendant asserts that plaintiff should be estopped from denying that she made misrepresentations due to her inaction. However, pursuant to Okla. Stat. tit. 12, § 95, the statute of limitations regarding a breach of contract action is five (5) years. The cause of action arose on May 4, 1984 when the defendant notified the plaintiff of its intent to rescind the contract. Plaintiff brought this action on July 23, 1987, well within the statute of limitations for breach of contract. Accordingly, summary judgment is denied on this issue.

The defendant's motion states that the plaintiff's claim for bad faith is barred by the statute of limitations. The violation of the duty of an insurance company to deal fairly and act in good faith gives rise to an action in tort. Christian v. American Home Assurance Co., 577 P.2d 899, 904 (Okla. 1977). Pursuant to Okla. Stat. tit. 12, § 95, a tort action has a two (2) year statute of limitations. Again, the cause of action accrued on May 4, 1984 when the defendant notified the plaintiff of its intent to rescind the contract. Plaintiff did not bring this action until July 23, 1987; thus the statute of limitations had expired. Therefore, this action is barred. Accordingly, summary judgment for the defendant is granted in regard to this issue.

Thus, the only remaining claim in this action is the plaintiff's claim for breach of contract, seeking actual damages in the amount of \$3,761.38. This raises the question of the propriety of this Court's jurisdiction over this matter. As previously

stated, defendant removed this action from Oklahoma state court to this Court with jurisdiction being asserted under 28 U.S.C. §1332. 28 U.S.C. § 1332(a) provides for "jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$10,000.00, exclusive of interest and costs, and is between (1) citizens of different States." The test the Court must apply in determining whether the jurisdictional amount requirement is met is that "[i]t must appear to a legal certainty that the claim is really for less than the jurisdictional amount to justify dismissal. The inability of plaintiff to recover an amount adequate to give the court jurisdiction does not show his bad faith or oust the jurisdiction. Nor does the fact that the complaint discloses the existence of a valid defense to the claim." Saint Paul Mercury Indem. Co. v. Red Cab Co., 303 U.S. 283, 289 (1938) (emphasis added) (footnotes omitted). Thus, although the amount in controversy is now \$3,761.38, this fact does not defeat jurisdiction.

It is the Order of the Court that the motion of the defendant for summary judgment is hereby granted as to the bad faith claim and denied as to the breach of contract claim.

IT IS SO ORDERED this 18th day of February, 1988.


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

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

FEB 18 1988

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

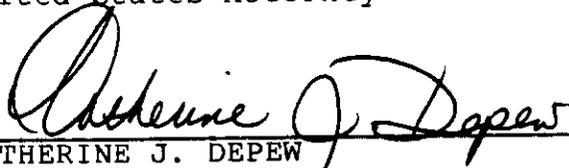
UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ONE 1984 CHEVROLET PICKUP TRUCK,)
 VIN 1GCCW80HOER214117, et al.,)
)
 Defendants.)

Civil Action No. 87-C-922-E

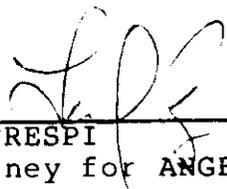
STIPULATION OF DISMISSAL

Pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure the Plaintiff, United States of America, by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Catherine J. Depew, Assistant United States Attorney, and the Claimant, Angelo Avino, hereby stipulate to dismissal against the Defendant Property, known as One 1984 Chevrolet Pickup Truck, VIN 1GCCW80HOER214117, with prejudice, and without costs pursuant to the terms and conditions of the Release of Claim of Seized Property and Indemnity Agreement entered into by the parties on February 18, 1988.

TONY M. GRAHAM
United States Attorney



CATHERINE J. DEPEW
Assistant United States Attorney
Attorney for UNITED STATES
OF AMERICA



TED CRESPI
Attorney for ANGELO AVINO

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

FILED

1988 FEB 17

THOMAS WILLIAM HERRINGTON,)
)
 Plaintiff,)
)
 v.)
)
 DAVID GRANDELL, an individual,)
)
 OKLAHOMA TELEPHONE DIRECTORIES,)
)
 an Oklahoma corporation, and)
)
 DONNELLEY INFORMATION PUBLISHING,)
)
 INC., a foreign corporation.)
)
 Defendants.)
)
 _____)

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

Case No. 86-C-1077-E

ORDER OF DISMISSAL

This cause having come before this Court on the Joint Application for Dismissal with Prejudice of the parties, and this Court being fully advised in the premises, and the parties having stipulated and the Court having found that the parties have reached a private settlement of the individual claims of Plaintiff, and that such claims should be dismissed with prejudice, it is, therefore,

ORDERED, ADJUDGED AND DECREED that the Complaint of Plaintiff, together with any causes of action asserted therein, be and hereby are dismissed with prejudice, with each party to bear its own costs.

So Ordered this 17th day of Feb., 1988.

S/ JAMES D. ELLISON

United States District Judge

APPROVED AS TO FORM AND CONTENT:
Drews M...S
Attorney for Plaintiff

Mary S. Matthews
Attorney for Defendants

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

FILED

DONNA MOBLEY,

Plaintiff,

vs.

FINASERVE, INC., et al.

Defendants.

No. 87-C-44-E

ORDER OF DISMISSAL WITH PREJUDICE

This matter comes before the Court on the Stipulation for Dismissal with Prejudice of the parties herein.

Being advised in the premises and for good cause shown, the Court hereby dismisses this matter with prejudice.

The Court further orders each party to bear its respective attorney's fees and costs of the action.

DATED this 17^d day of February, 1988.

S/ JAMES O. ELLISON

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

UNITED STATES OF AMERICA, for)
the use of INTERNATIONAL)
ROOFING, INC., an Oklahoma)
Corporation,)

Plaintiff,)

vs.)

T.A.O., INC., a corporation)
and MID-CONTINENT CASUALTY)
COMPANY, a Corporation,)

Defendants.)

Case No. 87-C-57 E

ORDER OF DISMISSAL

It appearing to the Court that the above entitled action has been fully settled, adjusted, and compromised, and based on stipulation; therefore,

IT IS ORDERED AND ADJUDGED that the above entitled action, including all claims and counter-claims contained therein be, and it is hereby dismissed, without cost to any party and with prejudice to the Plaintiff, and with prejudice to each Defendant.

DATED this 18th day of February, 1988.

~~S/ JAMES O. ELLISON~~

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

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

V.I.P. MORTGAGE TRUST,
COMPANY, INC., a Florida
corporation,

Plaintiff,

v.

EXECUTIVE TELECOMMUNICATIONS,
INC., et al,

Defendants.

87-C-332-E ✓

FILED
1988
Silver, Clerk
DISTRICT COURT

ORDER

The Court has for consideration the Report and Recommendation of the Magistrate filed January 27, 1988 in which the Magistrate recommended that the Defendants' Motion to Dismiss be granted. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

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

It is therefore Ordered that the Defendants' Motion to Dismiss is granted.

Dated this 18th day of February, 1988.

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

FILED
1987

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

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

VIRGINIA BEACH FEDERAL)
SAVINGS AND LOAN ASSOCIATION,)
)
Appellant,)
)
v.)
)
FRANK E. WOOD and BEVERLY)
J. WOOD d/b/a FRANKLIN)
INVESTMENTS, FRANKLIN)
DEVELOPMENT CO., and)
FRANKLIN WOODWORKS,)
)
Appellees.)

87-C-364-E

and

VIRGINIA BEACH FEDERAL)
SAVINGS AND LOAN ASSOCIATION,)
)
Appellant,)
)
v.)
)
FRANK E. WOOD, BEVERLY)
J. WOOD, and the Unsecured)
Creditors Committee ("UCC"),)
)
Appellees.)

87-C-514-E
Consolidated

ORDER

Now before the Court is the appeal of Creditor Virginia Beach Federal Savings & Loan Association ("VBF") of the Order of the United States Bankruptcy Court for the Northern District of Oklahoma dated March 11, 1987, which found that VBF had no interest in the rents from its collateral after the filing of its Notice Under 11 U.S.C. §546 of Claim to Cash Collateral on December 2, 1986.

The facts as stipulated to by the parties are briefly as follows. On March 9, 1983, debtors executed in favor of First City Mortgage Company an installment note in the principal amount

of \$1,500,000.00, secured by a mortgage and security agreement in certain properties, which was assigned to VBF. Both mortgage and assignment were duly filed. Debtors also executed in favor of First City Mortgage Company an assignment of their interest in leases covering the subject property, and this was assigned to VBF. Debtors defaulted on the loan, leaving an unpaid balance of approximately \$1,500,000.00 including interest. VBF commenced a mortgage foreclosure action in Tulsa County and obtained a Journal Entry of Judgment and an order of foreclosure authorizing a Sheriff's Sale. No appointment of receiver was requested. The sale was set for September 2, 1986, but was stayed by the filing of the Petition in Bankruptcy Case No. 86-02242 in the Northern District of Oklahoma on September 2, 1986. VBF filed a proof of claim under 11 U.S.C. §546(b) for over \$1,700,000.00 on December 24, 1986, claiming rentals from the subject property.

Debtors and the Unsecured Creditors Committee objected to the Notice filed by VBF on the ground that Oklahoma law has held assignment of rent clauses void and unenforceable, and VBF does not have the present interest in the rents which is required to make a claim to "cash collateral" in the bankrupt estate.

At a hearing on February 10, 1987, United States Bankruptcy Judge James Ryan denied VBF's notice and claim, saying the assignment of rent clause was void, and thus VBF did not have a vested interest in the rents. He also determined the VBF would not have had that vested interest even if a receiver had been

appointed until after it issued execution against that receiver following confirmation of the Sheriff's Sale which was stayed. VBF now appeals that ruling.

Having reviewed carefully the pleadings in this case, the transcript of the February 10, 1987 hearing, and the applicable law, the Court makes the following findings.

In Butner v. United States, 440 U.S. 48, 99 S.Ct. 914, 59 L.Ed.2d 136 (1979), the Supreme Court held that a mortgagee's rights to rents collected is to be determined by reference to state law. The Court also stated:

[T]he federal bankruptcy court should take whatever steps are necessary to ensure that the mortgagee is afforded in federal bankruptcy court the same protection he would have under state law if no bankruptcy had ensued. For while it is argued that bankruptcy may impair or delay the mortgagee's exercise of his right to foreclosure, and thus his acquisition of a security interest in rents according to the law of many states, a bankruptcy judge familiar with local practice should be able to avoid this potential loss by sequestering rents or authorizing immediate state law foreclosures. Even though a federal judge may temporarily delay entry of such an order, the loss of rents to the mortgagee normally should be no greater than if he had been proceeding in a state court: for if there is a reason that persuades a federal judge to delay, presumably the same reason would also persuade a state judge to withhold foreclosure temporarily.

Id. at 56-57, 99 S.Ct. at 918-19, 59 L.Ed.2d at ____.

Under Butner this Court must look at Oklahoma State law to determine VBF's right to the rents referred to in this appeal. It is clear that Oklahoma law has held assignment of rent clauses void and unenforceable as being contrary to public policy. Tiger v. Sellers, 145 F.2d 920, 923 (10th Cir. 1944), citing Hart v.

Bingham, 43 P.2d 447, 449 (Okla. 1935). This Court finds that the Bankruptcy Judge was correct in ruling that VBF did not have a vested interest in the rents based on the assignment of rents clause involved here.

Oklahoma law has also recognized that upon appointment of a receiver or upon taking possession of real property, a mortgagee can recover rents accruing on that property and apply them to the mortgage debt. Bingham, supra, at 451. Pursuant to 12 O.S. §1551 (1981) a receiver may be appointed:

[i]n an action by a mortgagee for the foreclosure of his mortgage and sale of the mortgaged property, where it appears that the mortgaged property is in danger of being lost, removed or materially injured, or that the condition of the mortgage has not been performed, and that the property is probably insufficient to discharge the mortgage debt.

See also Little v. Keaton, 38 F.2d 457, 461 (10th Cir. 1930).

Oklahoma is a lien theory state and thus a mortgagor remains the legal owner of mortgaged property and has the right to possession and to receive profits. Rives v. Mincks Hotel Co., 30 P.2d 911 (Okla. 1934). A mortgagee's right to such profits has been found to follow a foreclosure action granting ownership or the appointment of a receiver to collect the rents. Id. at 915. A provision in a mortgage which assigns rents creates a lien thereon. Id. at 915.

By assigning its interest in the leases, a debtor subordinates all of its rent claims to the lien of the mortgage and gives the mortgagee a prior lien as to all rent that is legally reachable for collection by a receiver. Phoenix Mutual Life Ins.

Co. v. Harden, 596 P.2d 888, 891 (Okla. 1979) (Opala, J., concurring).

Section 546(b) of 11 U.S.C.S. provides that the rights and powers of the bankruptcy trustee are subject to any law that allows perfection of an interest in property to be effective against an entity that acquired rights to the property before the date of the perfection. If the law requires seizure of the property or an action to accomplish the perfection, and the property has not been seized or the action has not been commenced before the date petition is filed, the property interest is to be perfected by notice within the time allowed for seizure or commencement of suit.

The Court finds that the Bankruptcy Judge erred in finding that VBF's notice and claim gave it no right to the rents in this case. The Bankruptcy Judge admitted the appraisers' report on the property valuing it at \$1,200,000.00 at the February 10, 1987 hearing, when he responded "it will be considered for what it's worth", following an objection to its admission. Because the value of the property was insufficient to discharge the mortgage debt of \$1,765,366.98, VBF was entitled to the appointment of a receiver under 12 O.S. §1551 (1981). Under Oklahoma law, which is applicable as stated in the Butner case, supra, VBF had the right to the protection of a receiver who would collect rents and hold them for VBF. Had no bankruptcy been filed on September 2, 1986, the Sheriff's Sale that day would in all likelihood have led to the purchase of the property by VBF.

VBF immediately instituted a foreclosure action upon debtor's default on its mortgage payments and had the right to request a receiver during the pendency of that action. It chose not to do so because the Sheriff's Sale was set quickly and VBF felt it did not need additional protection and did not want to incur the additional expenses of a receivership. The protection was available, however, and to deny VBF protection of rights it clearly had available as mortgagee at this point would be patently unfair. VBF's losses if it is denied the rents would be substantially greater than if the Sheriff's Sale had been held or a receiver appointed and no bankruptcy was filed.

The Court determines that, while VBF did not have a vested interest in the rents here, the holding in Butner, supra, that the Bankruptcy Court is to take whatever steps are necessary to provide the mortgagee in federal court the same protection he would receive under state law if no bankruptcy ensues, requires the Court to preserve the rents for VBF to be applied to the mortgage debt. VBF's Notice Under §546(b) must be seen as perfecting its pre-petition right to the rents from the filing of the notice forward, as VBF would have been entitled to those rents under Oklahoma law if no bankruptcy had ensued. Section 546(b) of 11 U.S.C. protects just such an interest as this which must be enforced by seizure, through possession, or by appointment of a receiver. The only possible option available to VBF to protect its right to rents was the filing of the §546(b) notice.

The Court finds that once VBF established its right to the rents by Notice Under §546(b), it had priority in those rents over the rights of an intervening bona fide purchaser or judicial lien creditor, as its lien is prior in time. Having taken pre-petition action to perfect its lien, it is only just that VBF be allowed to finish its action to secure a complete lien which dates back to a date before the bankruptcy was filed, when the Court ordered foreclosure of the mortgage and authorized a Sheriff's Sale.

For the foregoing reasons, the Court rules that the Bankruptcy Judge erred in finding that VBF had no right to the rents from its collateral after the filing of its Notice Under 11 U.S.C. §546. The Court determines that VBF has the right to such rents as cash collateral under 11 U.S. C. §363 from and after the date of the filing of the §546(b) Notice and debtors are prohibited from using such rents without providing protection to VBF.

Dated this 16th day of February, 1988.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

L. C. RHOADS,
Plaintiff,
vs.
AGNES SMITH HAMMOND,
Defendant,
vs.
HELEN L. RHOADS,
Third Party Defendant.

No. 84-C-811-E

FILED

1988 FEB 17

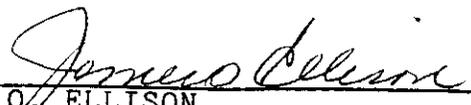
Jack C. Allen, Clerk
U.S. DISTRICT COURT

O R D E R

This matter came before the Court for disposition February 16, 1988. The parties have been ordered previously to obtain an order of the Bankruptcy Court allowing this matter to proceed. No such order has been obtained. Further, the parties have failed to appear on this date as directed. The Court finds that dismissal is an appropriate sanction in this instance.

IT IS THEREFORE ORDERED that this action is dismissed without prejudice.

ORDERED this 17th day of February, 1988.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

PROFESSIONAL INVESTORS LIFE)
INSURANCE COMPANY,)
)
Plaintiff,)
)
vs.)
)
EMPLOYERS REINSURANCE)
CORPORATION,)
)
Defendant.)

No. 85-C-332-E

FILED
1988 FEB 19
James O. Ellison, Clerk
U.S. DISTRICT COURT

JUDGMENT

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

IT IS ORDERED AND ADJUDGED that the Plaintiff, Professional Investors Life Insurance Company, take nothing from the Defendant, Employers Reinsurance Corporation, and that the Defendant, Employers Reinsurance Corporation, recover of the Plaintiff, Professional Investors Life Insurance Company, its costs of action.

DATED this 17th day of February, 1988.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

MOTOR CARRIER AUDIT & COLLECTION)
CO., A DIVISION OF DELTA TRAFFIC)
SERVICE, INC.)

vs.)

BENT RIVER LUMBER)

87-C-1066-E

FEB 18 1988

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

FILED

FEB 18 1988

NOTICE OF DISMISSAL

TO THE HONORABLE JUDGE OF SAID COURT:

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

COMES NOW, MOTOR CARRIER AUDIT & COLLECTION CO., a
Division of Delta Traffic Service, Inc., Plaintiff in the above-
styled and numbered cause, and files this Notice of Dismissal
pursuant to Rule 41(a)(1)(i) of the Federal Rules of Civil
Procedure.

Plaintiff, by filing of this Notice, voluntarily seeks
dismissal of this cause with prejudice and requests that the
Court take note of the filing of this Notice of Dismissal and
hereby dispose of this case accordingly.

Respectfully submitted,



LAWRENCE A. WINKLE
3300 W. Mockingbird Lane
700 Executive Tower
Dallas, Texas 75235
(214) 358-3341

ATTORNEY FOR PLAINTIFF

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

CARL WAYNE SISCO,
Petitioner,
vs.
DISTRICT COURT OF OSAGE
COUNTY, OKLAHOMA AND
ATTORNEY GENERAL,
Respondents.

No. 87-C-872-E

FILED
1-17-88
Clerk
DISTRICT COURT

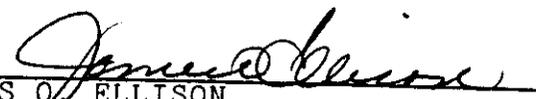
and
CARL WAYNE SISCO,
Petitioner,
vs.
OSAGE DISTRICT COURT AND THE
ATTORNEY GENERAL OF THE
STATE OF OKLAHOMA,
Respondents.

No. 87-C-1090-E

ORDER

The Court has for consideration the Findings and Recommendations of the Magistrate filed January 20, 1988. After careful consideration of the record and the issues, including the briefs and memoranda filed herein by the parties, the Court has concluded that the Findings and Recommendations of the Magistrate should be and hereby are affirmed and adopted by the Court.

It is so Ordered this 16th day of February, 1988.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

customers and depositors and the Oklahoma Securities Commission concerning prebankruptcy audits prepared for Republic.

On March 3, 1986, the Republic estate itself filed a lawsuit against Appellant in Oklahoma state court for gross negligence and breach of contract concerning those audit reports filed prior to bankruptcy. Appellant asserted as affirmative defenses, set-offs and counterclaims concerning the prebankruptcy audits, and the lawsuits based thereon. Appellant contends Republic was either grossly negligent or deliberately gave fraudulent information to Appellant for the preparation of the reports and therefore Appellant seeks damages and also indemnity for the lawsuits against it.

Republic argued the automatic stay prevented the assertion of the counterclaims and set-off against the estate and that Appellant, knowing of actual and potential claims, failed to file claims against the estate by the designated July 29, 1985 date. The state court agreed and held Appellant would have to get relief from the stay in the Bankruptcy Court before Appellant could assert its claims for affirmative relief.

The Bankruptcy Court refused to lift the stay but specifically stated the following: (Hearing of July 2, 1987)

"I am going to deny your Motion to Modify the Stay and whatever rights, if any, you had prior to the filing of this motion, you continue to have. If you had the right to quote, set off, as an affirmative defense, and I underline 'if', then I certainly don't want to take that away from you. In the alternative, in the event you would not be required under applicable law to assert said type of counter claim in the guise of a affirmative defense or setoff, then the same by additional law would not be allowed. I'm not taking from you or

giving you any more rights than you had prior the filing of this motion."

Appellant first argues the Bankruptcy Court erred in finding that its claims were prebankruptcy petition claims and therefore subject to the stay. Appellant relies on In the Matter of M. Frenville Co., Inc., 744 F.2d 332 (3rd Cir. 1984). However, other courts which have considered the issue of whether indemnification for prepetition fraud is considered a prepetition claim come to the opposite conclusion. The Court finds those cases persuasive. In re Black, 70 B.R. 645, 651 (Bkrtcy. D. Utah 1986); In re Baldin-United Corp., 57 B.R. 759, 764 (S.D.Ohio 1985); In re A. A. Robins Co., Inc., 63 B.R. 986, 990 (Bkrtcy. E.D.Va. 1986); In re Edge, 60 B.R. 690, 705 (Tenn. 1986); In re Yanks, 49 B.R. 56, 59 (Bkrtcy. S.D.Fla. 1985); In re Johns-Manville Corp., 57 B.R. 680, 687-690 (Bkrtcy.S.D.N.Y. 1986). The facts and relationships creating the counterclaims originated prepetition and this Court finds the automatic stay does apply.

However, this Court agrees with the Bankruptcy Court that Appellant certainly has a right to offset any award granted Republic in the state court action with any compulsory claim available to Appellant in the state court action, up to the amount Republic is awarded and no more. The state court, of course, is to make the determination of what counterclaims are compulsory under the relatively new Oklahoma statute, 12 O.S. §2013A.

Appellant also argues the Bankruptcy Court erred in denying the motion to lift the stay. This Court finds no abuse of discretion.

Therefore, the order of the Bankruptcy Court is affirmed.

IT IS SO ORDERED, this 17 day of February, 1988.

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

THOMAS R. BRETT
UNITED STATES DISTRICT COURT

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

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

vs.)

Case No. 86-C-864-E

F.W. PARTNERSHIP, a general)
partnership composed of JAMES R.)
FRASER and DAVID E. WORTHEN,)
general partners; and RICHARD S.)
NEMELKA, Trustee of the)
Richard S. Nemelka Living Trust;)
BRIGHTON BANK, Salt Lake City,)
Utah,)
)
Defendants.)

FILED

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

JUDGMENT PURSUANT TO ORDER RE: BRIGHTON BANK

UPON the Order filed herein on December 21, 1987, the
Defendant, Brighton Bank, is hereby dismissed from this action.

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

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

Laurence L. Pinkerton
CONNER & WINTERS
2400 First National Tower
Tulsa, Oklahoma 74103
(918) 586-5711

SIGNED this 16 day of Feb, 1988.

(Signed) H. Dale Cook

H. Dale Cook
United States District Judge

Entered

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

ATLAS UTILITY COMPANY,)
an Oklahoma corporation,)
)
Plaintiff,)
)
v.)
)
WAYNE ODOM, d/b/a NEW START)
INDUSTRIES,)
)
Defendants.)

87-C-862-C

FILED

FEB 17 1988

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

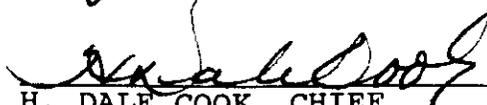
ORDER

The Court has for consideration the Report and Recommendation of the Magistrate filed January 8, 1988 in which the Magistrate recommended that default judgment be entered against the Defendant. The Magistrate further recommended that an evidentiary hearing be held to determine the amount of damages to be awarded pursuant to default judgment, said evidentiary hearing to be set following proper application by Plaintiff. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

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

It is therefore Ordered that Default judgment is entered against the Defendant.

Dated this 17 day of February, 1988.


 H. DALE COOK, CHIEF
 UNITED STATES DISTRICT JUDGE

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

LILLIAN EISEN,

Plaintiff,

vs.

ANTON-WALDMANN & ASSOCIATES, INC.,
a Pennsylvania corporation,
GRANT INDUSTRIES, INC., a Delaware
corporation, PROCESS HARDWARE
MANUFACTURER CO., INC., a New York
corporation,

Defendants.

No. 87-C-142-B

FILED

FEB 17 1988

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

ORDER OF DISMISSAL

NOW on this 17 day of February, 1987, upon the written application of the Plaintiff, Lillian Eisen, and the Defendants, Anton-Waldmann & Associates, Inc., Grant Industries, Inc., and Process Hardware Manufacturer Co., Inc., for a Dismissal with Prejudice as to all claims and causes of action of these parties involved in the Complaint of Eisen v. Anton-Waldmann, et al., and the Court having examined said Application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint, and have requested the Court to Dismiss said Complaint with prejudice, to any future action. The Court being fully advised in the premises finds said settlement is to the best interest of said Plaintiff.

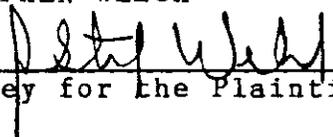
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that all claims and causes of action of the Plaintiff, Lillian Eisen, and the Defendants, Anton-Waldmann & Associates, Inc., Grant Industries, Inc., and Process Hardware Manufacturer Co., Inc., be and the same hereby are dismissed with prejudice to any future action.

S/ THOMAS R. BRETT

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

APPROVALS:

J. STEPHEN WELCH



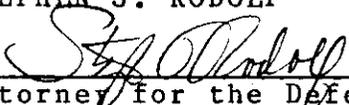
Attorney for the Plaintiff

DAVID M. NICHOLS



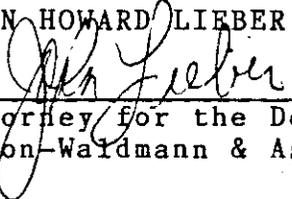
Attorney for the Defendant
Process Hardware Manufacturer
Co., Inc.

STEPHEN J. RODOLF



Attorney for the Defendant
Grant Industries, Inc.

JOHN HOWARD LIEBER



Attorney for the Defendant
Anton-Waldmann & Associates, Inc.

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

DEAN BAILEY OLDS, INC.,)
)
Plaintiff,)
)
vs.)
)
ROMAN MOTOR CORPORATION,)
JOHN TROTMAN, and JAMES)
OMEARA,)
)
Defendants.)

No. 87-C-311 E

FILED
FEB 17 1988
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA
TULSA

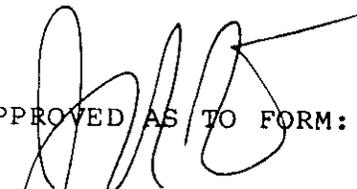
JUDGMENT

NOW ON this 16th day of February, 1988, the Court hereby enters judgment on behalf of the Plaintiff, Dean Bailey Olds, Inc., against the Defendant, Roman Motor Corporation, in the above referenced matter in the amount of \$25,000.00 plus pre-judgment interest to run from February 16, 1987, at the rate of six percent (6%) per annum, plus post-judgment interest to accrue at the statutory rate, plus attorney fees in the amount of \$3,047.50 and costs in the amount of \$365.00.

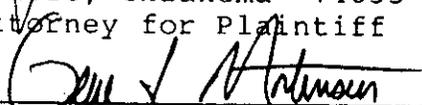
57 JAMES O. ELISON

JUDGE OF THE DISTRICT COURT

APPROVED AS TO FORM:



John D. Rothman, OBA NO. 10121
CHARNEY ROTHMAN & CHARNEY
Post Office Box 116
Owasso, Oklahoma 74055
Attorney for Plaintiff



Gene L. Mortenson
ROSENSTEIN, FIST & RINGOLD
Suite 300, 525 South Main
Tulsa, Oklahoma 74103
Attorney for Defendant

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

FEDERAL DEPOSIT INSURANCE)
CORPORATION, in its corporate)
capacity,)
)
Plaintiff,)
)
vs.)
)
BRUCE L. BONNETT,)
)
Defendant.)

FILED

FEB 17 1988

No. 87-C-242-C

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

JOURNAL ENTRY OF JUDGMENT

Now on this 16 day of Feb, 1988, the above-entitled cause comes on before me, on the Motion for Summary Judgment filed by Plaintiff, Federal Deposit Insurance Corporation, in its corporate capacity, appearing by and through its attorneys of record, Boesche, McDermott & Eskridge, as against Defendant, Bruce L. Bonnett, appearing by and through his attorneys of record, Cox, Blakley and Henneke. Defendant has filed no response to Plaintiff's Motion for Summary Judgment. The Court, being fully advised in the premises, therefore finds as follows:

1. On March 19, 1986, an action was commenced by First National Bank of Sapulpa, a national banking association (the "Bank"), against Bruce L. Bonnett in the District Court in and for Creek County, State of Oklahoma, styled First National Bank of Sapulpa, Plaintiff v. Bruce L. Bonnett, Defendant, No. C-86-43-B (the "State Court Action").

2. On March 5, 1987, the United States Comptroller for the Currency declared the Bank insolvent and appointed

Federal Deposit Insurance Corporation as Receiver for the Bank (the "Receiver").

3. On April 6, 1987, the Receiver filed its Petition for Removal of the State Court Action, to the United States District Court for the Northern District of Oklahoma and the State Court Action henceforth became the present action. On January 4, 1988, FDIC was substituted as Party Plaintiff in this action.

4. This action is one over which the Court has original jurisdiction pursuant to the provisions of 12 U.S.C. §1819(4) and which was properly removed pursuant to 28 U.S.C. §1441(a).

5. All parties are before the Court as Defendant Bruce L. Bonnett ("Bonnett") was properly served with Summons and thereafter filed his Answer to this action.

6. On or about September 6, 1985, Defendant Bonnett made, executed and delivered unto the Bank his certain promissory note in the original principal amount of \$81,112.70, plus interest accruing thereon at the rate of Chase prime plus five percent (5%) payable on March 5, 1986, or on demand (the "Note").

7. Although demand has been made, Defendant Bonnett has failed and refused and continues to fail and refuse to pay the amount due and owing pursuant to the terms of the Note and as a result is in default thereunder.

8. As of February 10, 1988, there is due and owing under the terms of the Note the principal sum of \$81,112.70, plus accrued interest in the sum of \$26,572.02, plus interest accruing from and after said date at the rate of \$31.11 per diem until paid in full.

9. Federal Deposit Insurance Corporation in its corporate capacity ("FDIC") succeeded to all right, title and interest of the Receiver in and to the Note and as such should be substituted as party Plaintiff herein.

10. The Bank's records contain no writing, signed by the Bank and Bonnett, which has been approved by the Bank and its board of directors or loan committee and is so reflected in the minutes of the board or loan committee, and which exists as an official record of the Bank from the inception of the Note, referred to in paragraph 6 above, up to and including the present, which sets forth any representations, conditions, arrangements or agreements of any nature, which would alter, amend or diminish the obligations of Bonnett under the Note. Title 12 U.S.C. §1823(e) therefore precludes any of Bonnett's proffered defenses.

11. Judgment should be entered in favor of FDIC and against Defendant Bonnett on the Note for the principal sum of \$81,112.70, plus accrued interest in the sum of \$26,572.02, plus interest accruing from and after the 10th day of February, 1988, to this date at the rate of \$31.11 per

day, plus interest on the total from and after this date until paid in full at the maximum rate provided by law.

12. Judgment also should be entered in favor of FDIC and against Defendant Bonnett awarding FDIC all of its reasonable costs and expenses to be determined following, upon proper application, a bill of costs hearing thereon, together with an attorney's fee as expressly provided for in the Note, in an amount of 15% of all sums due upon default.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the allegations in Plaintiff's Petition generally are found to be true and correct and that each and every denial and/or affirmative defense contained in Defendant Bonnett's Answer is without merit as against Plaintiff FDIC.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment be and hereby is rendered in favor of Plaintiff FDIC and against Defendant Bonnett for the principal sum of \$81,112.70, plus accrued interest in the sum of \$26,572.02, plus interest accruing from and after the 10th day of February, 1988 to this date at the rate of \$31.11 per diem, plus interest on the total from this date until paid in full at the rate of 6.59 per annum.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment be and is hereby rendered in favor of Plaintiff FDIC and against Defendant Bonnett for all of its reasonable costs and expenses, the amount of which to be determined following, upon proper application, a bill of costs hearing thereon,

together with an attorney's fee in an amount of 15% of all sums due upon default, as expressly provided for in the Note.

IT IS SO ORDERED.

(Signed) H. Dale Cook

The Honorable H. Dale Cook
Chief Judge, U. S. District
Court for the Northern
District of Oklahoma

Bradley K. Beasley OBA #628
Leslie Zieren OBA #9999
BOESCHE, McDERMOTT & ESKRIDGE
800 ONEOK Plaza
100 West 5th Street
Tulsa, Oklahoma 74103
(918) 583-1777

ATTORNEYS FOR FEDERAL DEPOSIT
INSURANCE CORPORATION

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

PEDIATRIC & ADOLESCENT CARE,)
)
Plaintiff,)
vs.)
)
HARTFORD FIRE INSURANCE CO.,)
a Connecticut Corporation,)
)
Defendant.) CASE NO. 86-C-479 E

O R D E R

The plaintiff's Application to dismiss the above-styled action with prejudice to the refiling thereof for the reason that the same has been settled, came on for hearing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above-styled matter is dismissed with prejudice to the refiling thereof.

DATED this 16th day of February, 1988.

S/ JAMES G. ELISON

JUDGE OF THE UNITED STATES
DISTRICT COURT

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

FILED

1988
JAN 16
DISTRICT COURT

KWB OIL PROPERTY MANAGEMENT,
INC., et al.,

Plaintiffs,

vs.

No. 86-C-678-E

THE HOME INDEMNITY COMPANY,

Defendant.

ORDER OF DISMISSAL

NOW on this 16th day of February, 1988, upon the written application of the Plaintiffs, KWB Oil Property Management, Inc., et al., and the Defendant, The Home Indemnity Company, for a Dismissal with Prejudice as to all claims and causes of action of these parties involved in the Complaint of KWB vs. Home, and the Court having examined said Application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint, and have requested the Court to Dismiss said Complaint with prejudice, to any future action. The Court being fully advised in the premises finds said settlement is to the best interest of said Plaintiffs.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that all claims and causes of action of the Plaintiffs, KWB Oil Property Management, Inc., et al., and the Defendant, The Home Indemnity Company, be and the same hereby are dismissed with prejudice to any future action.

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

APPROVALS:

MORREL & WEST, INC.

By:

Ronald J. Saffa
FRED H. DEMIER

RONALD J. SAFFA

Attorneys for the Plaintiffs

KNIGHT, WAGNER, STUART, WILKERSON
& LIEBER

By:

Harry A. Barrish
HARRY A. BARRISH

Attorney for the Defendant

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

LINDA K. DIFEE,
Plaintiff,
vs.
FARMERS INSURANCE COMPANY,
INC., a Kansas corporation,
Defendant.

No. 87-C-820-B

FILED

FEB 17 1988

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

ORDER OF DISMISSAL WITH PREJUDICE

On this 17 day of February, 1988, the Motion for Dismissal With Prejudice jointly filed by the parties came on before the Court for hearing. The Court finds that the above captioned matter has been concluded by appraisal and settlement.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that all causes of action by both the Plaintiff and the Defendant are hereby dismissed with prejudice.

S/ THOMAS R. BRETT

JUDGE OF THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

APPROVED AS TO FORM:

Don L. Gilder
Don L. Gilder
Attorney for Plaintiff

Dennis King
Dennis King
Attorney for Defendant

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

FILED

FEB 17 1988

Jack C. Silver, Clerk
U.S. DISTRICT COURT
Case No. 87-C-59-E

CAROL B. HALL, Administratrix,
of the Estate of Walter B. Hall,
Deceased,

Plaintiff,

vs.

DOYLE V. MATHIA,

Defendant.

OF
STIPULATION FOR DISMISSAL WITH PREJUDICE

Plaintiff, Carol B. Hall, Administratrix of the Estate of
Walter B. Hall, deceased, and Defendant, Doyle V. Mathia,
pursuant to Fed. R. Civ. P. 41(a)(1)(ii), hereby stipulate that
all claims raised by the parties in the above-styled action
shall be, and hereby are, dismissed with prejudice, with each
party to bear his own costs herein.

Respectfully submitted,

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

By Susan J. Speaker
C. Michael Zacharias OBA #9982
Susan J. Speaker, OBA #11524
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, Oklahoma 74172
(918) 588-2700

ATTORNEYS FOR PLAINTIFF
CAROL B. HALL, ADMINISTRATRIX OF
THE ESTATE OF WALTER B. HALL

GARY L. RICHARDSON & ASSOCIATES

By 
Gary L. Richardson, OBA #7547
Gregory G. Meier OBA #6122
Ron D. McKenzie OBA #6027
9525-B East 51st Street
Tulsa, Oklahoma 74145
(918) 492-7674

ATTORNEYS FOR DEFENDANT
DOYLE V. MATHIA

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

LONNY RAY FREEMAN; KELLIE DIANE)
FREEMAN; KOCH INDUSTRIES, INC.,)
a Corporation, Successor to)
BIGHEART PIPE LINE CORPORATION,)
an Oklahoma Corporation;)
COUNTY TREASURER, Tulsa County,)
Oklahoma; and BOARD OF COUNTY)
COMMISSIONERS, Tulsa County,)
Oklahoma,)

Defendants.)

CIVIL ACTION NO. 87-C-247-E

FILED
FEB 16 1987
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA
TULSA

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 16th day
of February, 1987. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Nancy Nesbitt Blevins, 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, Koch Industries,
Inc., a Corporation, Successor to Bigheart Pipe Line Corporation,
an Oklahoma Corporation, appears not, having previously filed its
Disclaimer; and the Defendants, Lonny Ray Freeman and Kellie
Diane Freeman, appear not, but make default.

The Court being fully advised and having examined the
file herein finds that the Defendants, Lonny Ray Freeman and

Kellie Diane Freeman, were served copies of Summons and Complaint on June 16, 1987; that Defendant, Koch Industries, Inc., a Corporation, Successor to Bigheart Pipe Line Corporation, an Oklahoma Corporation, acknowledged receipt of Summons and Complaint on April 10, 1987; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on April 9, 1987; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on April 9, 1987.

On June 5, 1986, the Defendants, Lonny Ray Freeman and Kellie Diane Freeman, filed a petition for relief under Chapter 7 of the Bankruptcy Code, Case No. 86-01330, Northern District of Oklahoma. On February 17, 1987, the Bankruptcy Court entered its Order Granting Relief from Stay with regard to the subject real property.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers herein on April 27, 1987; that the Defendant, Koch Industries, Inc., a Corporation, Successor to Bigheart Pipe Line Corporation, an Oklahoma Corporation, filed its Answer herein on May 21, 1987, and its Amended Answer and Disclaimer herein on November 18, 1987; and that the Defendants, Lonny Ray Freeman and Kellie Diane Freeman, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage

securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Four (4), Block Seven (7), HARDESTY ADDITION in Tulsa County, State of Oklahoma, according to the recorded plat thereof.

The Court further finds that on January 28, 1982, the Defendants, Lonny Ray Freeman and Kellie Diane Freeman, 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 \$12,490.00, payable in monthly installments, with interest thereon at the rate of fifteen and one-half percent (15.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Lonny Ray Freeman and Kellie Diane Freeman, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated January 28, 1982, covering the above-described property. Said mortgage was recorded on January 29, 1982, in Book 4592, Page 2063, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Lonny Ray Freeman and Kellie Diane Freeman, 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 there is now due and owing to the Plaintiff the principal sum of \$11,223.40, plus interest at the rate of 15.5 percent per annum from April 1, 1986 until

judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

The Court further finds that the Defendant, County Treasurer, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of ad valorem taxes in the amount of \$137.00, plus penalties and interest, for the year of 1987. Said lien is superior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, claims no right, title, or interest in the subject real property.

The Court further finds that the Defendant, Koch Industries, Inc., a Corporation, Successor to Bigheart Pipe Line Corporation, an Oklahoma Corporation, disclaims any interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment in rem against Defendants, Lonny Ray Freeman and Kellie Diane Freeman, in the principal sum of \$11,223.40, plus interest at the rate of fifteen and one-half percent (15.5%) per annum from April 1, 1986 until judgment, plus interest thereafter at the current legal rate of 6.59 percent per annum until paid, plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, County Treasurer, Tulsa County, Oklahoma, have and recover judgment in the amount of \$137.00, plus penalties and interest, for ad valorem taxes for the year of 1987, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Board of County Commissioners, Tulsa County, Oklahoma, and Koch Industries, Inc., a Corporation, Successor to Bigheart Pipe Line Corporation, an Oklahoma Corporation, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisalment the real property involved herein and apply the proceeds of the sale as follows:

First:

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

Second:

In payment of the Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of \$137.00, plus penalties and interest, for ad valorem taxes which are presently due and owing on said real property;

Third:

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

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

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


UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney


NANCY NESBITT BLEVINS
Assistant United States Attorney


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

NNB/css

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

CARL WAYNE SISCO,
Petitioner,
vs.
DISTRICT COURT OF OSAGE
COUNTY, OKLAHOMA AND
ATTORNEY GENERAL,
Respondents.

No. 87-C-872-E

FILED
1-27-88
James O. Ellison, Clerk
U.S. DISTRICT COURT

and
CARL WAYNE SISCO,
Petitioner,
vs.
OSAGE DISTRICT COURT AND THE
ATTORNEY GENERAL OF THE
STATE OF OKLAHOMA,
Respondents.

No. 87-C-1090-E

ORDER

The Court has for consideration the Findings and Recommendations of the Magistrate filed January 20, 1988. After careful consideration of the record and the issues, including the briefs and memoranda filed herein by the parties, the Court has concluded that the Findings and Recommendations of the Magistrate should be and hereby are affirmed and adopted by the Court.

It is so Ordered this 16th day of February, 1988.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

JOHN BAKER)
)
)
 Plaintiff(s),)
)
 vs.)
)
 CUMMINS SALES & SERVICE, INC.)
)
)
 Defendant(s).)

No. 80-C-159-E

2-17-88

FILED

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

ADMINISTRATIVE CLOSING ORDER

The defendant's ~~having filed~~ involuntary ~~petition~~ having been filed 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 16th day of February, 19 88.

James Allison
UNITED STATES DISTRICT JUDGE

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

FILED

R. K. PIPE & SUPPLY, INC.,)
)
 Plaintiff,)
)
 vs.)
)
 MELVIN McGEE, et al.,)
)
 Defendants.)

2-17-88
Clerk
U.S. DISTRICT COURT

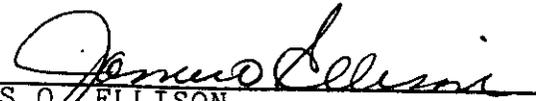
No. 82-C-821-E

ADMINISTRATIVE CLOSING ORDER

The Plaintiff 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 thirty (30) days of a final adjudication of the bankruptcy proceedings the parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

It is so ORDERED this 16th day of February, 1988.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FEDERATED METALS CORP.)

Plaintiff(s),)

vs.)

CATHODIC PROTECTION SERVICES)

Defendant(s).)

No. 84-C-752-E

FILED

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

ADMINISTRATIVE CLOSING ORDER

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

IF, within 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 16th day of February, 19 88.

James Belline
UNITED STATES DISTRICT JUDGE

F I L E D

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

FEB 16 1988

MACARTHUR OSBORNE,)
)
 Plaintiff,)
)
 vs.)
)
 KAREN HARGROVE,)
)
 Defendant.)

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

87
No. ~~86~~-C-592-B

ORDER OF DISMISSAL

Based upon the stipulation filed in the above entitled cause herein on February 12th, 1988, by counsel for Plaintiff, Jim Lloyd, and counsel for Defendant, Donald G. Hopkins, the Court finds it appropriate to enter and order of dismissal without prejudice.

Dated this 16th day of February, 1988.

BY CLERK'S OFFICE

United States District Judge