

of action.

Dated this 29th day of June, 1990.



LAYN R. PHILLIPS
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

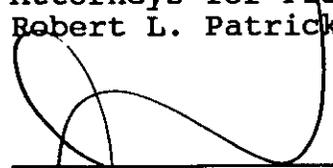


Sheldon E. Morton, OBA #12187
1408 South Denver
Tulsa, Oklahoma 74119

and

Claudette J. Joshi, OBA #12727
4100 East 51st St., Ste. 108
Tulsa, Oklahoma 74135

Attorneys for Plaintiff,
Robert L. Patrick



Joel L. Wohlgemuth, OBA #9811
Thomas M. Ladner, OBA #5161
NORMAN & WOHLGEMUTH
2900 Mid-Continent Tower
Tulsa, Oklahoma 74103

Attorneys for Defendant,
Seismograph Service Corporation

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

FILED

MAR 21 1989

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

EQUITABLE LOMAS LEASING
CORPORATION, A Delaware
Corporation,

Plaintiff,

v.

INLAND MORTGAGE CORPORATION,
an Oklahoma Corporation, and
P.S.I. BANCSHARES, INC.,

Defendant.

Case No. 89-C-633-P

JUDGMENT AWARDING ATTORNEY'S FEES

Plaintiff's request for a reasonable attorney's fee as prevailing party comes before the Court for consideration. The Court is advised that the parties have reached an agreement that the Plaintiff is entitled to a reasonable attorney's fee and that a reasonable attorney's fee in this case would be \$28,000. The Court having examined the request for attorney's fees and the attached exhibits, finds that such an agreement is fair and reasonable and the Court will adopt the agreement as findings of the Court.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that the Plaintiff have additional judgment against the Defendant Inland Mortgage Company in the sum of \$28,000, representing a reasonable attorney's fee.

DATED:

June 29, 1990



Judge, United States District Court

APPROVED AS TO FORM:



Larry D. Henry
Attorney for Plaintiff



Joe M. Fears
Attorney for Defendant

ORDERED that the verdict and judgment heretofore entered in favor of plaintiff be set aside; and that judgment be entered in favor of defendant, Seismograph Service Corporation and against the plaintiff, Robert L. Patrick.

DATED this 21st day of June, 1990.


LAYN R. PHILLIPS
UNITED STATES DISTRICT JUDGE

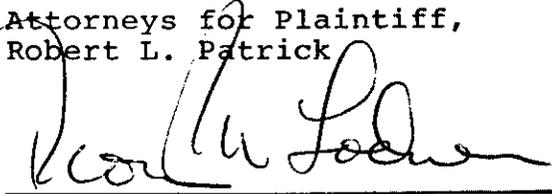
APPROVED AS TO FORM:


Sheldon E. Morton, OBA #12187
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Attorneys for Defendant,
Seismograph Service Corporation

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

FILED

JUN 29 1990

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

ROBERT KOONS,
Plaintiff,

v.

ALLSTATE INSURANCE COMPANY,
Defendant.

89-C-692-E

STIPULATION AND DISMISSAL WITH PREJUDICE

It is hereby stipulated by the Plaintiff, Robert Koons, and the Defendant, Allstate Insurance Company, a corporation, that the above styled case is dismissed with prejudice as to all causes of action and claims asserted herein and that each party shall bear and be responsible for his / its own costs including attorneys fees. Accordingly, the above styled case are hereby dismissed with prejudice.

Robert Koons
Robert Koons, Plaintiff

June 20, 1990
Date

Gary A. Eaton
Gary A. Eaton, Attorney for Plaintiff

June 20, 1990
Date

Gary F. [Signature]
Attorney for Defendant

6-28-90
Date

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

FILED

JIMMY LEE JOHNSON,

Plaintiff,

v.

DAVID MOSS, et al,

Defendants.

JUN 29 1990

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

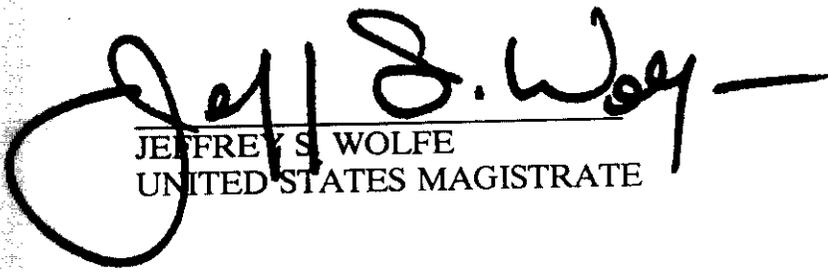
M-1619-B

ORDER DENYING PLAINTIFF LEAVE TO PROCEED
IN FORMA PAUPERIS

In reliance upon the representations and information set forth in the Affidavit of Financial Status, that PLAINTIFF has funds in the amount of \$ 241.52, and in view of the required filing fee of \$ 120.00 and the frivolous nature of the proposed suit, it is Ordered that:

The motion for leave to proceed in forma pauperis is, hereby, denied.

SO ORDERED THIS 29th day of June, 1990.


JEFFREY S. WOLFE
UNITED STATES MAGISTRATE

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

LUCY WALKER,

Plaintiff,

vs.

RAYMOND N. ROBBINS, Guardian of
Lucy Walker,

Defendant.

Case No. 90-C-377-E

NOTICE OF DISMISSAL WITH PREJUDICE

Plaintiff, Lucy Walker, by and through her counsel of record and pursuant to the provisions of Fed.R.Civ.P. 41(a)(1), hereby dismisses the above-numbered and styled action with prejudice.

Respectfully submitted,

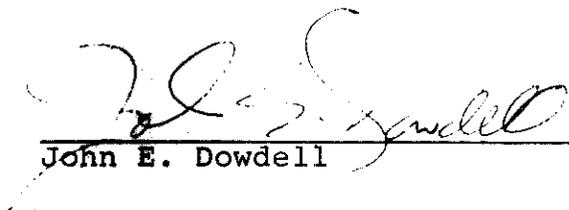

Joel L. Wohlgemuth, OBA #9811
John E. Dowdell, OBA #2460
NORMAN & WOHLGEMUTH
2900 Mid-Continent Tower
Tulsa, Oklahoma 74103
(918) 583-7571

Attorneys for Plaintiff,
Lucy Walker

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of June, 1990, I caused a true and correct copy of the above and foregoing Notice Of Dismissal With Prejudice to be mailed, with proper postage thereon fully prepaid, to the following:

Donald E. Herrold, OBA #4140
Marlin R. Davis, OBA #10777
HERROLD & HERROLD, INC.
7130 South Lewis, Suite 520
Galleria Tower I
Tulsa, Oklahoma 74136



John E. Dowdell

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

JUN 28 1990

NANCY MAE DYKES

Plaintiff,

vs.

SKAGG'S ALPHA BETA, INC.
and PERRY CHANCELLOR,

Defendants.

Clerk
COURT

No. 88-C-1304-B

ORDER

The Complaint in this matter was filed October, 1988. The record fails to reflect any Return of Service indicating service upon any of the Defendants. The case is subject to dismissal without prejudice pursuant to Rule 4 (j), Federal Rules of Civil Procedure.

The Court concludes this matter should be and the same is hereby Dismissed Without Prejudice.

IT IS SO ORDERED this 28 day of June, 1990.

Thomas R. Brett
THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

NOTE: THIS ORDER IS TO BE MAILED BY MOVANT TO ALL PRO SE LITIGANTS IMMEDIATELY. COUNSEL AND RECEIPT.

THIS ORDER IS TO BE MAILED BY MOVANT TO ALL COUNSEL AND IMMEDIATELY. RECEIPT.

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

FILED

JUN 28 1990

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

REKHA PATEL,

Plaintiff,

vs.

UNITED STATES ENERGY CORP.,
et al.,

Defendants.

No. 89-C-701-C

ORDER

The Court has received a letter from defendant Donald White which will be treated as a motion to reconsider the Court's Order of January 24, 1990 by which the Court entered default judgment against White. The United States Magistrate recommended the entry of default when White failed to appear at a status and scheduling conference. No objection to the Report and Recommendation was filed, and the Court entered default judgment.

In his letter, White states (1) that he assumed the filing of an answer was sufficient to fulfill his obligation to the Court, (2) that he cannot afford an attorney or to travel to Tulsa from New Mexico, and (3) that he reiterates his denial of plaintiff's allegations. He asks the Court to vacate the entry of judgment.

A district court may impose sanctions for failure to obey a scheduling order. M.E.N. Co. v. Control Fluidics, Inc., 834 F.2d 869, 872 (10th Cir. 1987). Default judgments are not favored, and there is a strong public policy in favor of resolving lawsuits by a trial on the merits. Frank Keegan & Son v. Callier Steel Pipe &

Tube, 107 F.R.D. 665, 670 (S.D.Fla. 1985). It has been held that, in determining whether to vacate a default judgment, a district court should consider:

(1) whether lifting the default would prejudice the plaintiff; (2) whether the defendant has a *prima facie* meritorious defense; (3) whether the defaulting defendant's conduct is excusable or culpable; and (4) the effectiveness of alternative sanctions.

Emcasco Ins. Co. v. Sambrick,
834 F.2d 71, 73 (3rd Cir. 1987).

This Court's primary concern is with the third element. Defendant White has stated that he cannot afford to hire counsel, and that he did not attend the scheduling conference because he could not afford to travel from Albuquerque to Tulsa. The Court has found no authority holding that lack of funds constitutes culpable conduct in failing to attend a conference. However, lack of funds cannot prevent conclusion of litigation. Vacating the default judgment here would seem to be an exercise in futility. A new scheduling conference date will be set, defendant will fail to appear, and the same ritual will be repeated.

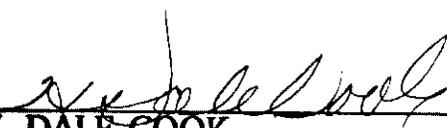
Under the circumstances, the Court has determined that the default judgment shall not be disturbed at this time, but that plaintiff shall be prevented from executing on it at this time.

Defendant White is hereby granted thirty days from the date of this Order in which to secure counsel or to determine to vigorously defend the action pro se. At the end of the thirty day period, if counsel has not entered an appearance, or defendant has not filed an acknowledgement of his intent to appear at all further hearings, the stay of execution shall be lifted. If the appropriate

pleadings are filed within ~~the~~ thirty day period, the default judgment shall be vacated.

It is the Order of the Court that the motion of defendant Donald White to vacate default judgment is hereby denied, under the terms described above.

IT IS SO ORDERED this 26 day of June, 1990.



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

FILED

JUN 28 1990

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

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

HAYES RICHARDSON,
Plaintiff

versus

VIRLA L. MALONE, LEONA
ROSE MALONE and MICHAEL
BURRIS,

Defendants.

Civil Action No. 90-C-346-C

JUDGMENT

This matter comes on for hearing upon the Application and Declaration the Plaintiff duly made for Judgment by Default. It appears that each of the Defendants herein are in default and that the Clerk of the United States District Court for the Northern District of Oklahoma has previously searched the records and entered the default of the Defendants. It further appears upon Plaintiff's Affidavit that the Defendant, Virla L. Malone, is indebted to the Plaintiff in the amount of \$10,079.00; that the Defendant, Leona Rose Malone is jointly and severally indebted with the Defendant, Virla L. Malone, to the Plaintiff in the amount of \$6,750.00; that the Defendant, Michael Burris, is jointly and severally indebted with the Defendant, Virla L. Malone, to the Plaintiff in the amount of \$1,829.00. It further appears that each of the Defendants should be ordered to hold in constructive trust for the benefit of the Plaintiff the following described property:

- a. 1 1979 Oldsmobile ID# 3NK69RX220531.
- b. 1 Mobile Home located on lots 40, 41, and 42, Block 16, Pawhuska Indian Village, Osage County,

Oklahoma.

c. 1 mobile Home, a 1967 Princess Title No.570185303004B, located on Lots 1 and 2, Block 7 of the Pawhuska Indian Village, Osage County, Oklahoma.

It further appears that the Plaintiff is entitled to an award of exemplary damages against the Defendant, Virla L. Malone, in the amount of \$ 0. The Court having heard the argument of counsel and being fully advised, finds that judgment should be entered for the Plaintiff.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff recover from the Defendant, Virla L. Malone, the sum of \$10,079.00 as actual damages and the further sum of \$ 0 as exemplary damages; that the plaintiff recover from the Defendant, Leona Rose Malone, the sum of \$6,750.00 which sum is jointly and severally owed by the Defendant, Virla L. Malone and included in the amount of judgment awarded Plaintiff against her above; that the Plaintiff recover from the Defendant, Michael Burris, the sum of \$1,829.00 which sum is jointly and severally owed by the Defendant, Virla L. Malone, and included in the amount of judgment awarded Plaintiff against her above. In addition to the above sums the Plaintiff should recover from each of the Defendants interest as provided by law, costs in the sum of \$180.00, a reasonable attorney's fee in the sum of \$ 0, for all of which let execution issue.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each of the

Defendants are ordered to hold in Constructive Trust for the benefit of the Plaintiff and the satisfaction of his judgment herein the following described property:

- a. 1 1979 Oldsmobile ID# 3NK69RX220531.
- b. 1 Mobile Home located on lots 40, 41, and 42, Block 16, Pawhuska Indian Village, Osage County, Oklahoma.
- c. 1 mobile Home, a 1967 Princess Title No.570185303004B, located on Lots 1 and 2, Block 7 of the Pawhuska Indian Village, Osage County, Oklahoma.

Judgment rendered this 26 day of June, 1990.

(Signed) H. Dale Cook

UNITED STATES DISTRICT
JUDGE

Approved:

Charles R. Cox
Attorney for Plaintiff

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

FILED

JUN 27 1990

JUDICIAL CLERK
U.S. DISTRICT COURT

SUTHERLAND LUMBER COMPANY,)

Plaintiff,)

vs.)

SIMMONS INDUSTRIES, INC.,)
et al.,)

Defendants.)

No. 89-C-932-C

ORDER

Before the Court is the motion of the plaintiff for voluntary dismissal without prejudice pursuant to Rule 41(a)(2) F.R.Cv.P. Defendants object.

This is an action in which plaintiff sought an injunction prohibiting defendants from constructing and operating chicken houses on property which adjoins property owned by plaintiff. By Order dated January 30, 1990, this Court denied plaintiff's request for a temporary restraining order, and partially granted defendants' motion to abstain. Plaintiff now seeks dismissal, while agreeing to pay defendants' costs. Defendants request that any dismissal be conditioned upon the payment by plaintiff of defendants' attorney fees.

The power of a court to order dismissal without prejudice "upon such terms and conditions as the court deems proper" is a matter of judicial discretion. Moore v. C. R. Anthony Co., 198 F.2d 607, 608 (10th Cir. 1952). Rule 41(a)(2) permits the district court to condition a voluntary dismissal without prejudice upon

payment of attorney fees to the defendant. Cauley v. Wilson, 754 F.2d 769, 771 (7th Cir. 1985). However, the granting of costs and attorney fees is not a prerequisite to an order granting voluntary dismissal. Stevedoring Services of America v. Armilla Intern. B.V., 889 F.2d 919, 921 (9th Cir. 1989). Plaintiff argues that no fees should be awarded because there has been no showing that its action was brought in bad faith, but at least one circuit court has held that plaintiff's good faith is irrelevant. See GAF Corp. V. Transamerica Ins. Co., 665 F.2d 364, 369 (D.C.Cir. 1981).

Ordinarily, it is "somewhat anomalous to require payment of an attorney's fee if the plaintiff would not have been liable for the fee had he lost the case on the merits" 9 C.Wright & A.Miller, Federal Practice and Procedure, §2366 at 179-80 (1971). This is not the situation here. 12 O.S. §940(A) provides:

In any civil action to recover damages for the negligent or willful injury to property and any other incidental costs related to such action, *the prevailing party shall be allowed reasonable attorney's fees, court costs and interest to be set by the court and to be taxed and collected as other costs of the action.*

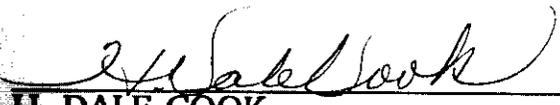
(emphasis added).

See also Marino v. Otis Engineering Corp., 839 F.2d 1404, 1412 (10th Cir. 1988). Considering the totality of circumstances, the Court has concluded that an award of fees is appropriate. The Court has also concluded that defendants' request for \$19,374.35 is excessive. The purpose of a fee award under Rule 41 is to reimburse defendant in view of the risk that the same suit will be refiled and impose duplicative expenses. Much of the expenses in this case involve discovery and scientific studies which can easily be used in a second suit, if need be. The Court will award fees in the amount of \$6,500.00.

It is the Order of the Court that the motion of the plaintiff to dismiss without prejudice is hereby granted.

It is the further Order of the Court that defendants are awarded attorney fees in the amount of \$6,500.00, in addition to court costs.

IT IS SO ORDERED this 26th day of June, 1990.



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

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

AT&T INFORMATION SYSTEMS, INC.,)
a Delaware corporation,)
)
Plaintiff,)
)
vs.)
)
RESORT, INC., an Oklahoma)
corporation,)
)
Defendant.)

Case No. 90-C0037-C

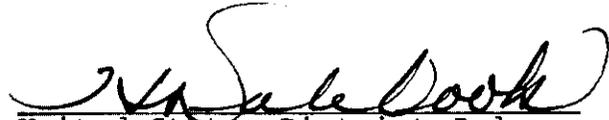
FILED

JUN 27 1990

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

ORDER

NOW on this 27 day of June, 1990, pursuant to the Stipulated Dismissal With Prejudice filed herein by the plaintiff and the defendant, it is ORDERED, ADJUDGED AND DECREED that the Complaint filed in this action be hereby dismissed with prejudice. The parties shall each bear their own attorneys' fees and costs.


United States District Judge

APPROVED AS TO FORM:

HUFFMAN ARRINGTON KIHLE GABERINO & DUNN
A Professional Corporation

By: 
Brad D. Fuller, OBA No. 12300
1000 ONEOK Plaza
Tulsa, Oklahoma 74103

Attorneys for Plaintiff
AT&T Information Systems, Inc.

GABLE & GOTWALS

By: Gene C. Buzzard
Gene C. Buzzard, OBA No. 1396
2000 Fourth National Bank Building
Tulsa, Oklahoma 74103

Attorney for Defendant, Resort, Inc.

LAW OFFICES
HUFFMAN ARRINGTON KIHLE GABERINO & DUNN
A PROFESSIONAL CORPORATION

ROBERT A. HUFFMAN
JOHN L. ARRINGTON, JR.
DONALD A. KIHLE
JOHN A. GABERINO, JR.
C. BURNETT DUNN
MICHAEL V. SNYDER
JOHN M. SHARP
J. CLARKE KENDALL II
CURTIS M. LONG
THOMAS J. KIRBY
ROBERT A. HUFFMAN, JR.
SHEPPARD F. MIERS, JR.
LARRY D. HENRY
CAROLINE B. BENEDIKTSON
SIDNEY K. SWINSON

1000 ONEOK PLAZA
TULSA, OKLAHOMA 74103

(918) 585-8141

TELECOPIER (918) 588-7873

June 26, 1990

JULEY M. ROFFERS
JONATHAN C. NEFF
STUART D. CAMPBELL
BRAD D. FULLER
BARRY K. BEASLEY
JULIE HIRD THOMAS
DEBORAH A. JOSEPH
JEFFREY C. RAMBACH
SUE C. MAYHUE
JEAN ANN HUDSON

OF COUNSEL
GERALD L. HILSHER

HAND DELIVERED

Mr. Jack C. Silver
Federal Court Clerk
Federal Courthouse
333 W. 4th Street
Tulsa, OK 74103

RECEIVED

JUN 26 1990

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

Re: AT&T Information Systems, Inc. v. Resort, Inc.
Case No. 90-C0037-C

Dear Mr. Silver:

Enclosed please find the original and two copies of the Proposed Order and Stipulated Dismissal with Prejudice in the above-referenced case which has been approved as to form by both parties. Please present the Proposed Order and Stipulated Dismissal with Prejudice to Judge Cook for his signature and return two file-stamped copies of both to me in the enclosed self-addressed, postage-paid envelope.

Please call if you have any questions.

Very truly yours,



Brad D. Fuller
For the Firm

BDF:js
Enclosures

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

FILED

JUN 27 1990

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

MERLE LEVITT,
Plaintiff,

v.

No. 90-C-392-E

HILLCREST MEDICAL CENTER, a
corporation,
Defendant.

ORDER OF DISMISSAL

On this the 26th day of June, 1990, came on to be considered the Plaintiff's Application for Order to Dismiss without prejudice. After careful consideration the Court is of the opinion and finds that said Application is meritorious and should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff's action is hereby dismissed without prejudice and the parties will bear their own costs.

Signed and entered this the 26th day of June, 1990.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

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

JUN 27 1990

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

JAMES DEWAYNE KERR,

Petitioner,

vs.

R. MICHEAL CODY,

Respondent.

No. 89-C-969-C

ORDER

Before the Court are the objections to the Report and Recommendation of the Magistrate, wherein the Magistrate recommended petitioner's writ of habeas corpus be denied.

The petitioner, James Dewayne Kerr, is presently incarcerated at the Jess Dunn Correctional Center in Taft, Oklahoma, in the custody of the Oklahoma Department of Corrections.

Petitioner is incarcerated pursuant to a judgment and sentence rendered on October 28, 1983 in the District Court of Mayes County, State of Oklahoma, Case No. CRF-83-20.

Petitioner brings this action asserting several grounds for relief. The Court will focus on ground two raised in the petition which states, in pertinent part,

The state documented the plea bargain (sic), and included in it was my waiving my right to trial by jury. It is a fact that if the plea bargain (sic), was recanted, so was the waiver of trial by jury. I say this because the waiver was a part of the plea bargain (sic). The trial court committed prejudicial error in not re-instating my rights to trial by jury.

Petitioner was charged with Attempted Burglary, Assault with a Dangerous Weapon and Possession of a Firearm (A.F.C.F.). On May 10, 1983 he appeared before William J. Whistler, District Judge for

Mayes County, Oklahoma. Petitioner's court appointed attorney Mr. Randall Elliott, stated:

Your honor, on behalf of Mr. Kerr, pursuant to a plea bargain arrangement that has been struck with the District Attorney's Office, but not to be actually consummated until the 23rd day of May, which I believe is the third week of Your Honor's Jury Docket. We appear for the purpose of waiving our right to Jury Trial.

Thereafter the court inquired into the terms of the plea agreement for the record, and clarified that this was the intentions of the parties to enter into this plea on May 23, 1983 (some thirteen days later).

The court next addressed petitioner directly, and the following colloquy occurred:

JUDGE WHISTLER: And you understand that if the Court accepts this arrangement in toto that at that junction, if you change your mind in the next thirteen days, because that's what that is, 13 days from now, if you change your mind 13 days from now and do not enter a plea of Guilty to the amended charges, that at that point the Court wouldn't -- you don't get to go back to square one.

MR. KERR: Yes sir.

JUDGE WHISTLER: You understand that at that point the Court could, and may upon your application put you back to square one, but you don't have that right. As of right now you have the absolute Constitutional right to a trial by Jury.

MR. KERR: Yes sir.

JUDGE WHISTLER: I can't take it away from you. The President of the United States can't do that, the Supreme Court can't take it away from you. It's yours, it belongs to you. It's given to you by the Constitution. If you enter into this arrangement, you are forfeiting that right and the Court may give it back to you and it may not, and at that point you may have to go to trial, having waived trial by Jury on all three Counts as they are now constituted because the reduction is a part of the plea arrangement, the plea bargain arrangement, do you understand that?

The court then addressed petitioner regarding his competency and voluntariness of waiving his right to a trial by jury. The judge concluded the hearing by stating:

JUDGE WHISTLER: Let the record show the Court is satisfied that the defendant has freely and voluntarily waived his right to a trial by Jury pursuant to a plea bargain arrangement that has been dictated into the record and the Court accepts the waiver of

a trial by Jury and the case is continued until the 23rd day of May 1983 at 9:30 in the morning. Defendant will be allowed to stand on his present bond.

On May 23, 1983, the petitioner failed to appear before the court. His court appointed attorney was allowed to withdraw and a bench warrant was issued. On August 30, 1983 petitioner appeared, pro se, before the court. He declined a court appointed attorney, informing the court that he had raised sufficient funds to hire a lawyer. The court stated:

COURT: Well at this juncture I am ready to schedule your non jury trial and I propose to do that this morning, do you have any objections to scheduling this non jury trial?

DEFENDANT: Yes sir, I want a jury trial.

COURT: Mr. Kerr I believe that you have waived your right to a trial by jury, I believe that you did that in open court and the District Attorney has a

STATE: On May 10th, 1983, he was before the court, Terry McBride represented the State and Randy Elliott represented the defendant.

COURT: You're going to have to file some kind of Motion to Set aside that Waiver.

DEFENDANT: Well sir, I'm not familiar with the law, I just want a jury trial, and my recollection about that time and period I was pretty badly in need of some help psychiatric help or whatever.

COURT: .. has he been examined in Eastern State

DEFENDANT: .. they never got around to it, and I still have a very serious problem, I still feel like I need some help.

COURT: Well

STATE: Your Honor the State would ask that this matter be set down for a non jury trial so that we would have a date for certain.

DEFENDANT: .. it was my understanding that Mr. Hayworth was on his way here, I didn't know anything about it.

COURT: I don't know Mr. Hayworth's except by reputation. Well Mr. Kerr you are confronted with a dilemma (sic) and it- the dilemma (sic) is almost posed by two conflicting constitutional rights that you have. On the one hand you are entitled to a speedy jury trial, a speedy trial, you have already waived as far as I'm concerned you have waived trial by jury unless some compelling reason is demonstrated to this Court why that waiver should be set aside, as far as I'm concerned you have waived that right, but you are

entitled to a speedy trial whether it is jury trial or non jury, and on the other hand you appear now without counsel and you tell me that you think that your family is going to hire you a lawyer. Now if you've got a lawyer - if you are going to hire a lawyer, he needs time to consult with you and to look at this case and go back through the background and look at the minutes and try to figure out where he is, so he needs some time.

DEFENDANT: Yes sir.

COURT: .. on the other hand you're over there in jail and you are entitled to a speedy trial, so I think what I'm really asking in one respect is this, an indication from you which one of these rights you want me to put number one, do you want speed, or do you want the lawyer?

DEFENDANT: I will have to really wait on Mr. Hayworth, Your Honor

Without indicating whether the court would permit a jury trial, the court inquired:

COURT: ... right now the only thing that I'm considering is trying to figure out when to set this case down for trial, I can set it down as early as the second week in September, the week of September 19th, which would really be that is the third week in September, I can set it down as early as that. Do you want it set then or do you want it set later?

DEFENDANT: .. well sir wouldn't that be hard for me to say since I don't know what Mr. Hayworth's situation is, my mother visited me this morning, and my wife is - I guess she is at Mr. Hayworth's down at Muskogee. I believe that my wife is there obtaining him this morning and that is all that I know about.

COURT: .. well in light of that I'm going to schedule this case for trial on Friday, September 23rd at 9 o'clock.

Mr. William Haworth entered an appearance and filed a motion to withdraw waiver of jury trial. On September 23, 1983 the court held a hearing and received testimony regarding petitioner's request. The trial court applied the standard of "manifest injustice" set forth in Rule 32 F.R.Cr.P. (1981) for determining whether to permit petitioner to withdraw his waiver of jury. In so doing, the court concluded that "manifest injustice" had not been shown and denied petitioner's motion to withdraw waiver of trial by jury.

The trial court's decision was affirmed in Kerr v. State of Oklahoma, 738 P.2d 1370 (Okla.Cr.App. 1987).

Under 28 U.S.C. §2254(d) the findings by a state trial and appellate court shall be presumed to be correct, unless one of eight factors listed in section 2254(d) is present. Factor No. 8 states:

... the Federal court on a consideration of such part of the record as a whole concludes that such factual determination is not fairly supported by the record.

28 U.S.C. §2254(d)(8).

The Court has independently reviewed the record of the state court proceedings. After careful consideration of the record, the Court concludes that on May 10, 1983 petitioner waived his right to trial by jury solely on the condition that the plea agreement proposed would be effectuated. The state court made a cursory, and rather confusing, effort to explain to petitioner the consequence of waiver; however it is apparent to this Court that petitioner was conditioning waiver of jury trial upon obtaining the benefits of the proposed plea agreements.

In this instance, the state court accepted the waiver of jury prior to petitioner's plea of guilty to reduced charges. Under these circumstances the court was obligated to inform petitioner the maximum penalty under law of the three counts as charged in the information, in the event the plea agreement was not consummated. Here, however, the prosecutor informed the court of the recommended sentence under the plea agreement, but no mention was made of the maximum sentencing for the three counts as charged. Additionally, the court did not advise petitioner of his right to representation

by counsel if he pursued his right of trial by jury, or the presumption of innocence and the like.

Upon petitioner's default thirteen days later, the plea agreement was no longer enforceable and petitioner immediately reasserted his right to a trial by jury.

At the September 23, 1983 hearing on Kerr's motion to withdraw waiver of jury trial, the state court judge heard testimony which would, at the very least, raise questions regarding the competency and voluntariness of petitioner's waiver of trial by jury. There was evidence regarding petitioner's addiction, at that time, to the drug demerol. Also, petitioner's court appointed attorney, Randall Elliott, filed an application to withdraw as attorney the day prior to petitioner's court appearance on May 10, 1983, which was denied.

Further, the State showed no prejudice that would result to the State if the court permitted petitioner to withdraw waiver of jury trial. See, e.g., U.S. v. Blackner, 721 F.2d 703 (10th Cir. 1983).

Instead of determining whether manifest injustice had occurred, the state court should have made a factual determination as to whether the waiver of trial by jury by petitioner on May 10, 1983 was knowingly, voluntarily and willingly entered into with full knowledge of the consequence of such waiver.

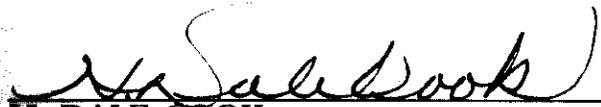
From an independent review of the record, this Court concludes that petitioner waived his right to trial by jury solely as part and parcel of the proposed plea agreement. This is reinforced by the closing remarks of the state court judge on May 10, 1983:

Let the record show the Court is satisfied that the defendant has freely and voluntarily waived his right to a trial by Jury pursuant to a plea arrangement. (emphasis added).

Accordingly, the State of Oklahoma is directed to provide petitioner with a trial by jury to be commenced within ninety (90) days. Failure of the State to commence trial by jury within ninety (90) days will result in the granting of petitioner's writ of habeas corpus.

Respondent is directed to file a status report with this Court within ninety (90) days.

IT IS SO ORDERED this 27th day of June, 1990.



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

FILED

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

JUN 27 1990

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

COMMUNITY BANK & TRUST COMPANY,)
)
 Plaintiff,)
)
 vs.)
)
 UNITED STATES OF AMERICA,)
 ex rel. INTERNAL REVENUE)
 SERVICE, et al.,)
)
 Defendants.)

No. 89-C-503-C

ORDER

Before the Court is the objection of Paul E. Garrison to the Report and Recommendation of the United States Magistrate filed on April 19, 1990.

This is an interpleader action in which the plaintiff deposited \$80,579.87 into the registry of the Court, pursuant to Rule 67 F.R.Cv.P. and Rule 10.1 of the Local Rules. Subsequently, plaintiff and defendants reached a settlement whereby it was agreed that defendants pay plaintiff the total sum of \$1,600.00, of which defendant Bowline Construction (Bowline) is to pay \$300.00, defendant Martin is to pay \$650.00, and defendant Garrison is to pay \$650.00. Bowline and Martin will pay from other sources. The Magistrate recommended that \$650.00 be disbursed from the registry in order to pay Garrison's portion. He further recommended that

WPH-74

the plaintiff be discharged from the action. No objections to this portion of the Recommendation have been filed and it will be affirmed.

On September 21, 1989, the Court entered an Order severing the cross-claim of Garrison and Martin against Bowline and remanding it to state court. On November 17, 1989, Judge Shaffer of the District Court of Tulsa County found in favor of Garrison and Martin. That decision has been appealed by Bowline to the Oklahoma Supreme Court.

Martin has signed a Trust Agreement which requires that the funds will be distributed only after a final decision is reached. The Magistrate found that Judge Shaffer's decision would only be final after the appeal process had exhausted itself. Garrison has not signed the Trust Agreement, but the Magistrate concluded that further piecemeal disbursement and appeal therefrom would only result in duplicative litigation. This Court agrees.

It is the Order of the Court that the objection of Paul Garrison to the Report and Recommendation of the U. S. Magistrate is hereby denied.

It is the further Order of the Court that plaintiff Community Bank and Trust Company is hereby discharged from this action, and that the Court Clerk is hereby directed to withdraw \$650.00 from the funds held in registry on the next renewal date, that the Court Clerk deduct the required fee, and that the remainder be reinvested

as previously. The \$650.00 withdrawn shall be paid to the plaintiff.

IT IS SO ORDERED this 26th day of June, 1990.



H. DALE COOK

Chief Judge, U. S. District Court

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

RENE' MERI TAHMASEBI, a minor, deceased,)
by her natural parents, personal)
representatives, and next of kin,)
ABRAHAM TAHMASEBI and LORRAIN TAHMASEBI,)
husband and wife, and ABRAHAM TAHMASEBI,)
individually, and LORRAIN TAHMASEBI,)
individually,)

Plaintiffs,)

v.)

JANE PHILLIPS EPISCOPAL HOSPITAL, INC.,)
d/b/a JANE PHILLIPS EPISCOPAL-MEMORIAL)
MEDICAL CENTER, Bartlesville, Oklahoma,)
and its agents, servants employees,)
whether specifically named or not, and)
not limited to but including DR. LARRY)
SUMNER, DR. TERRY E. BURGE, DR. DAVID S.)
CAUGHELL, DR. MCFARLAND, DR. T.L.)
JOHANNESSEN, DR. L. JONES, as agents,)
servants and employees of said medical)
center and in their individual capacities)
and with their group or corporations if)
they are part of same, and their)
physician supervisors, named or unnamed,)
if they be residents or interns, and any)
other physician, technician, specialist,)
or other medical personnel along with)
their group or corporation, if they be)
part of same, who treated or should have)
treated Rene' Meri Tahmasebi and/or)
Lorraine Tahmasebi,)

Defendants,)

BARTLESVILLE WOMEN'S CLINIC, INC.,)
an Oklahoma corporation, and DR. RUTH)
THOMPSON,)

Additional)
Party Defendants,)

No. 88-C-1447-C

FILED

JUN 27 1990

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

JANE PHILLIPS EPISCOPAL HOSPITAL, INC.)
d/b/a JANE PHILLIPS EPISCOPAL-MEMORIAL)
MEDICAL CENTER,)
Third-Party Plaintiff,)
COROMETRICS MEDICAL SYSTEMS, INC.,)
Third-Party Defendant.)

ORDER

NOW on this 26 day of June, 1990, it appearing to the Court that this matter has been compromised and settled, this case is herewith dismissed with prejudice to the refiling of a future action.

(Signed) H. Dale Cook

JUDGE OF THE DISTRICT COURT

8-519/LAR/mh

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

FILED

JUN 27 1990

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

KANSAS CITY FIRE & MARINE
INSURANCE COMPANY,

Plaintiff,

vs.

No. 89-C-853-C

PRENTICE ANTWINE CRAWFORD,
MAURICE JEROME BARNES, III,
and STEPHANIE FIELDS,

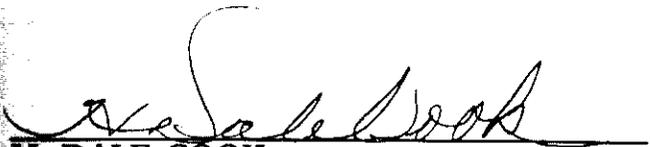
Defendants.

JUDGMENT

This matter came before the Court for consideration of plaintiff's motion for summary judgment. The issues having been duly considered and a decision having been rendered in accordance with the Order filed contemporaneously herewith,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment is entered on behalf of the plaintiff and against defendant Prentice Antwine Crawford in the amount of \$141,387.06, and post judgment interest at the rate of 8.24 percent per annum.

IT IS SO ORDERED this 26 day of June, 1990.



H. DALE COOK

Chief Judge, U. S. District Court

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

JUN 27 1990

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

DAVID WALTER CAMPBELL,)
)
 Petitioner,)
)
 vs.)
)
 HOWARD RAY,)
)
 Respondent.)

No. 89-C-793-C

ORDER

Before the Court is the objection to the Report and Recommendation of the Magistrate filed by petitioner David Walter Campbell. The Magistrate recommended that petitioner's writ of habeas corpus be denied.

Petitioner David Walter Campbell is presently incarcerated at the John Lilley Correctional Center in Boley, Oklahoma, in the custody of the Oklahoma Department of Corrections.

Petitioner plead guilty to Second Degree Murder and was sentenced to fifty-five years to life by the state district court on May 7, 1975. On December 22, 1976, the sentence was modified sua sponte by the court to ten years to life following the Oklahoma Court of Criminal Appeals decision in Smith v. State, 552 P.2d 1167 (Okla.Cr. 1976). In Smith, the court held that under 21 O.S. §701.4 (1975) a trial court did not have any discretion in assessing punishment for persons convicted of Second Degree Murder. The only sentence a trial court could impose under §701.4 was an indeterminate sentence of ten years to life. Smith at 1168.

9

Accordingly, the state moved to modify nunc pro tunc all previous sentences which had become invalid under Smith.

On May 10, 1989 (some thirteen years later) petitioner filed an application for post-conviction relief in the state trial court asserting that ineffective assistance of counsel caused petitioner to be improperly sentenced on May 7, 1975. The application was denied. On appeal, the Oklahoma Court of Criminal Appeals refused to consider the merits of petitioner's claim and raised a procedural bar in denying relief.

The Magistrate recommended denying petitioner's writ of habeas corpus for petitioner's failure to show "cause" and "prejudice" in the state court's application of procedural default.

The Court has independently reviewed the record and finds that the Magistrate's recommendation is affirmed and adopted as the findings and conclusions of this Court.

Accordingly, it is the Order of the Court that petitioner's writ of habeas corpus is hereby DENIED.

IT IS SO ORDERED this 26th day of June, 1990.


H. DALE COOK

Chief Judge, U. S. District Court

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

THOMAS WAYNE DANIELS,

Plaintiff,

v.

RIVERSE CUNDIFF, individually and in his
official capacity as member of the Board
of Trustees of the Town of West Siloam
Springs, Oklahoma; TROY ANDERSON,
individually and in his official
capacity as member of the Board of
Trustees of the Town of West Siloam
Springs, Oklahoma; JOHNNY ROBERTS,
individually and in his official capacity
as City Clerk of the Town of West Siloam
Springs, Oklahoma; and the TOWN OF WEST
SILOAM SPRINGS, OKLAHOMA,

Defendants.

No. 89-C-687-C

FILED

JUN 27 1990

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

ORDER OF DISMISSAL WITH PREJUDICE

NOW on this 26 day of June, 1990, it appearing to the Court that this
matter has been compromised and settled, this case is herewith dismissed with
prejudice to the refiling of future action.

(Signed) H. Dale Cook

JUDGE

156-58/LAR/mh

K

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

BRADLEY E. NOAH,)
)
 Plaintiff,)
)
 -vs-)
)
 CITY OF TULSA, OKLAHOMA,)
 a municipal corporation,)
)
 Defendant.)

No. 89-C-614-C

FILED

JUN 27 1990

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

ORDER OF DISMISSAL

NOW on this 27 day of June, 1990, this matter comes before the Court pursuant to the terms and conditions of the Order Confirming Settlement and Protective Order entered in this case on the 30th day of May, 1990. Upon review of said Order, the Court finds this case should be dismissed with prejudice.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this case should be, and is hereby, dismissed with prejudice.



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

FILED

JUN 27 1990

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

KANSAS CITY FIRE & MARINE
INSURANCE COMPANY,

Plaintiff,

vs.

No. 89-C-853-C

PRENTICE ANTWINE CRAWFORD,
MAURICE JEROME BARNES, III,
and STEPHANIE FIELDS,

Defendants.

ORDER

Before the Court is the motion of the plaintiff for summary judgment as to defendant Crawford. No response has been filed, but the Court has independently reviewed the record.

As a result of a fire destroying the home of Victor Red Eagle, plaintiff was required, under an insurance contract, to pay the Red Eagle estate. Plaintiff seeks recovery from Crawford for intentionally setting the fire.

In support of its motion, plaintiff points to Crawford's criminal conviction for the crime of arson in case no. 88-CR-108-C in this Court. Issues determined in criminal proceedings may be used for collateral estoppel purposes in subsequent civil proceedings. Guenther v. Holmgreen, 738 F.2d 879, 884 (7th Cir. 1984). See also Rule 803(22) F.R.Evid. The Court has concluded that the present motion should be granted.

It is the Order of the Court that the motion of the plaintiff for summary judgment is hereby GRANTED.

IT IS SO ORDERED this 26th day of June, 1990.



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

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUN 27 1990

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ARCHIE E. VOSBERG, JR.;)
 LESYLE ANN VOSBERG; COUNTY)
 TREASURER, Tulsa County,)
 Oklahoma; BOARD OF COUNTY)
 COMMISSIONERS, Tulsa County,)
 Oklahoma; and COLORADO NATIONAL)
 BANK d/b/a ROCKY MOUNTAIN)
 BANKCARD SYSTEM, INC.,)
)
 Defendants.)

CIVIL ACTION NO. 90-C-246-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 26th day
of June, 1990. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Phil Pinnell, Assistant United States Attorney;
the Defendants, County Treasurer, Tulsa County, Oklahoma, and
Board of County Commissioners, Tulsa County, Oklahoma, appear by
J. Dennis Semler, Assistant District Attorney, Tulsa County,
Oklahoma; the Defendant, Colorado National Bank d/b/a Rocky
Mountain Bankcard System, Inc., appears not, having previously
filed its Disclaimer; and the Defendants, Archie E. Vosberg, Jr.
and Lesyle Ann Vosberg, appear not, but make default.

The Court being fully advised and having examined the
file herein finds that the Defendants, Archie E. Vosberg, Jr. and
Lesyle Ann Vosberg, acknowledged receipt of Summons and Complaint
on April 6, 1990 and were served with Summons and Amended

Complaint on April 9, 1990; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on March 26, 1990; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on March 27, 1990.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers on April 11, 1990; that the Defendant, Colorado National Bank d/b/a Rocky Mountain Bankcard System, Inc., filed its Disclaimer on April 16, 1990; and that the Defendants, Archie E. Vosberg, Jr. and Lesyle Ann Vosberg, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that on November 1, 1989, Archie Eugene Vosberg a/k/a Eugene Vosberg and Lesyle Ann Vosberg filed their voluntary petition in bankruptcy in Chapter 7 in the United States Bankruptcy Court, Northern District of Oklahoma, Case No. 89-03315-C. On March 9, 1990, the United States Bankruptcy Court for the Northern District of Oklahoma entered its order modifying the automatic stay afforded the debtors by 11 U.S.C. § 362 and directing abandonment of the real property subject to this foreclosure action and which is described below.

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 Six (6), Block Fifteen (15), of Blocks Ten (10) through Seventeen (17), inclusive, Briarwood Second Addition, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

The Court further finds that on October 27, 1986, the Defendants, Archie E. Vosberg, Jr. and Lesyle Ann Vosberg, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, their mortgage note in the amount of \$62,000.00, payable in monthly installments, with interest thereon at the rate of 9.5 percent per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Archie E. Vosberg, Jr. and Lesyle Ann Vosberg, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated October 27, 1986, covering the above-described property. Said mortgage was recorded on October 27, 1986, in Book 4978, Page 1681, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Archie E. Vosberg, Jr. and Lesyle Ann Vosberg, 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, Archie E. Vosberg, Jr. and Lesyle Ann Vosberg, are indebted to the Plaintiff in the principal sum of \$61,270.24, plus interest at the rate of 9.5 percent per annum from October 1, 1988 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, Colorado National Bank d/b/a Rocky Mountain Bankcard System, Inc., disclaims any right, title, or interest in the subject real property.

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

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment in rem against Defendants, Archie E. Vosberg, Jr. and Lesyle Ann Vosberg, in the principal sum of \$61,270.24, plus interest at the rate of 9.5 percent per annum from October 1, 1988 until judgment, plus interest thereafter at the current legal rate of 8.24 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, Colorado National Bank d/b/a Rocky Mountain Bankcard System, Inc. and County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

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

First:

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

Second:

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

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

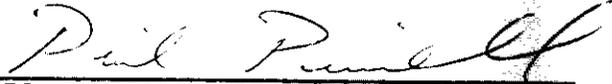
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of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

S/ JAMES O. ELLISON

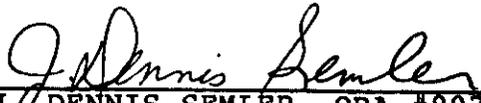
UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney



PHIL PINNELL, OBA #7169
Assistant United States Attorney



J. DENNIS SEMLER, OBA #8076
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma

Judgment of Foreclosure
Civil Action No. 90-C-246-E

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

JUN 27 1990

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.)
)
TIMOTHY R. KELLY; TASHA L.)
KELLY; COUNTY TREASURER, Tulsa)
County, Oklahoma; and BOARD OF)
COUNTY COMMISSIONERS, Tulsa)
County, Oklahoma,)
)
Defendants.)

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

CIVIL ACTION NO. 90-C-304-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 26th day
of June, 1990. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Phil Pinnell, Assistant United States Attorney;
the Defendants, County Treasurer, Tulsa County, Oklahoma, and
Board of County Commissioners, Tulsa County, Oklahoma, appear by
J. Dennis Semler, Assistant District Attorney, Tulsa County,
Oklahoma; and the Defendants, Timothy R. Kelly and Tasha L.
Kelly, appear not, but make default.

The Court being fully advised and having examined the
file herein finds that the Defendants, Timothy R. Kelly and
Tasha L. Kelly, acknowledged receipt of Summons and Complaint on
April 23, 1990; that Defendant, County Treasurer, Tulsa County,
Oklahoma, acknowledged receipt of Summons and Complaint on
April 10, 1990; and that Defendant, Board of County
Commissioners, Tulsa County, Oklahoma, acknowledged receipt of
Summons and Complaint on April 10, 1990.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers on April 30, 1990; and that the Defendants, Timothy R. Kelly and Tasha L. Kelly, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that on April 27, 1988, Timothy R. Kelly and Tasha L. Kelly filed their voluntary petition in bankruptcy in Chapter 7 in the United States Bankruptcy Court, Northern District of Oklahoma, Case No. 88-01163-C. On April 3, 1990, the United States Bankruptcy Court for the Northern District of Oklahoma entered its order modifying the automatic stay afforded the debtors by 11 U.S.C. § 362 and directing abandonment of the real property subject to this foreclosure action and which is described below.

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 TWENTY-TWO (22), BLOCK NINE (9),
KENDALWOOD III, AN ADDITION IN THE CITY OF
GLENPOOL, TULSA COUNTY, STATE OF OKLAHOMA,
ACCORDING TO THE RECORDED AMENDED PLAT
THEREOF.

The Court further finds that on April 9, 1984, the Defendants, Timothy R. Kelly and Tasha L. Kelly, executed and delivered to Commonwealth Mortgage Corporation their mortgage note in the amount of \$58,250.00, 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, Timothy R. Kelly and Tasha L. Kelly, executed and delivered to Commonwealth Mortgage Corporation a mortgage dated April 9, 1984, covering the above-described property. Said mortgage was recorded on April 11, 1984, in Book 4781, Page 1426, in the records of Tulsa County, Oklahoma.

The Court further finds that on June 2, 1989, subject mortgage was assigned to the Secretary of Veterans Affairs. Assignment of Mortgage was recorded on July 19, 1989, in Book 5195, Page 1928, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Timothy R. Kelly and Tasha L. Kelly, 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, Timothy R. Kelly and Tasha L. Kelly, are indebted to the Plaintiff in the principal sum of \$64,201.95, plus interest at the rate of 9.5 percent per annum from March 1, 1988 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

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

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

Timothy R. Kelly and Tasha L. Kelly, in the principal sum of \$64,201.95, plus interest at the rate of 9.5 percent per annum from March 1, 1988 until judgment, plus interest thereafter at the current legal rate of 8.24 percent per annum until paid, plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

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

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that 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.

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

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

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney



PHIL PINNELL, OBA #7169
Assistant United States Attorney



J. DENNIS SEMLER, OBA #8076
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma

Judgment of Foreclosure
Civil Action No. 90-C-304-E

FILED

JUN 27 1990

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

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

CARL SLABBY and MARYBETH SLABBY,)
Individually and as Next Friends)
of KRISTINA SLABBY, a minor child,)
)
Plaintiffs,)

-vs-

No. 88-C-1419-E

THE HMO OF OKLAHOMA,)
a domestic corporation,)
)
Defendant.)

JOURNAL ENTRY OF JUDGMENT

NOW, on this 26th day of June, 1990, the above-styled case comes on for hearing before the undersigned Judge of the United States District Court for the Northern District of Oklahoma. The plaintiffs appear by and through their attorney, Robert Taylor, and the defendant appears by and through its attorney, M.D. Bedingfield, and both parties announce ready for trial on this issue to the Court.

The Court, being fully advised in the premises, finds that Plaintiffs' claims fall under the purview of ERISA, 29 U.S.C. § 1001 et seq. The Court also finds that the plaintiffs have sustained their allegations only as to actual damages past and future and are entitled to judgment accordingly.

The Court further finds that Carl Slabby and Marybeth Slabby, Individually and as parents and next friends of the minor child, Kristina Slabby, have knowingly, willingly and voluntarily caused this action to be prosecuted and this judgment to be entered, and have been advised of the consequences thereof. The Court, therefore, finds that plaintiffs, Carl Slabby and Marybeth Slabby, Individually, should receive judgment in their favor and against the defendant in the sum of \$1,000.00.

The Court further finds that plaintiffs, Carl Slabby and Marybeth Slabby, as parents and next friends of the minor child, Kristina Slabby, should receive judgment in their favor and against the defendant in the amount of \$24,000.00. The Court finds that said judgment is in the best interests of the minor child and is sufficient to cover all damages of the plaintiffs including the future medical expenses of the minor, Kristina Slabby, which are the subject of this litigation,

The Court finds that from the total of \$24,000.00 received by plaintiffs for the benefit of Kristina Slabby, the sum of \$1,701.12 should be separated and paid to plaintiffs' attorneys, Knowles, King & Smith, P.C., as reimbursement of costs, and that from said award to Kristina Slabby, the sum of \$7,432.64 should be separated and paid to plaintiffs' attorneys, Knowles, King & Smith, as an attorney's fee, which the Court finds to be reasonable.

The Court finds that after separating costs and attorney's fees, the balance of the award to Kristina Slabby, in the sum of \$14,866.24, should be deposited with a bank or savings and loan institution, and held at interest for the benefit of such minor, in accordance with Okla. Stat. tit. 12, § 83, and to be withdrawn only by the express order of the Court, or otherwise held until the minor attains the age of majority.

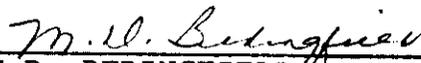
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiffs have and recover judgment for actual damages from the defendant herein as set forth hereinabove.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all parties bear their own costs and attorney's fees.

S/ JAMES O. ELLISON
Judge of the U.S. District Court

APPROVED AS TO FORM:


ROBERT TAYLOR
Attorney for Plaintiffs


M.D. BEDINGFIELD
Attorney for Defendant

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

F I L E D

JUN 27 1990

BRISTOL RESOURCES CORPORATION,)
an Oklahoma corporation,)
)
Plaintiff,)
)
v.)
)
EL PASO NATURAL GAS COMPANY)
a Delaware corporation,)
)
Defendant.)

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

Case No. 88-C1668E

ORDER

The Court, having read the Plaintiff's and Defendant's Stipulation and Application for Dismissal with Prejudice, and being advised of the premises therein, does hereby:

ORDER that any and all **claims** of Bristol Resources Corporation and El Paso Natural Gas Company are dismissed with prejudice to the refileing of a future action arising of the same facts and circumstances, with all **parties** to bear their own costs and attorneys fees.

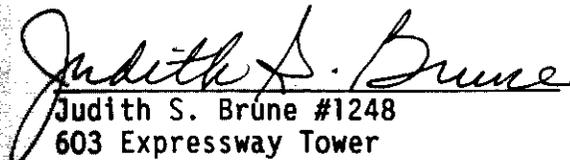
Dated this 26th day of June, 1990.

S/ JAMES O. ELLISON

James O. Ellison, Judge
United States District Court

John C. Meinrath
Senior Attorney
Texas State Bar No. 13910500
Department 0597/100
2400 Lakeside Boulevard
Richardson, Texas 75085
(214) 918-4551

Counsel for Plaintiff,
MCI TELECOMMUNICATIONS CORPORATION


Judith S. Brune #1248
603 Expressway Tower
2431 East 51st Street
Tulsa, Oklahoma 74105

Counsel for Defendant,
RIVERSIDE TELEPHONE COMPANY

/207

FILED
JUN 27 1990

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

THOMAS L. HONEYCUTT,)
)
 Petitioner,)
)
 v.)
)
 RON CHAMPION)
)
 Respondent.)

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

90-C-288-E

ORDER

The court has for consideration the Report and Recommendation of the Magistrate filed April 25, 1990, in which the Magistrate recommended that this action be dismissed without prejudice and that the Clerk of the Court for the Northern District of Oklahoma provide the appropriate forms to petitioner for filing a Civil Rights Complaint pursuant to 42 U.S.C. § 1983. 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 this action is dismissed without prejudice. It is further Ordered that the Clerk of the Court for the Northern District of Oklahoma provide the appropriate forms to petitioner for filing a Civil Rights Complaint pursuant to 42 U.S.C. § 1983.

Dated this 26th day of June, 1990.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

JUN 29 1990 *CH*

MICHAEL A. BREWER,
Plaintiff,

vs.

HOMINY OKLAHOMA COMMUNITY
MEDICAL AUTHORITY, d/b/a
HOMINY CITY HOSPITAL, et al.,

Defendants.

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

No. 89-C-797-E ✓

JUDGMENT

This action came on for consideration 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 THEREFORE ORDERED that the Plaintiff Michael A. Brewer take nothing from the Defendants Hominy Oklahoma Community Medical Authority d/b/a Hominy City Hospital, J. H. Wilcoxson, Jr., Chrissie Fairweather, James Nobel, Herbert Wedell, Michael A. Mitchell and Robert D. Brazil, that the action be dismissed on the merits, and that the Defendants recover of the Plaintiff their costs of action.

ORDERED this 26th day of June, 1990.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

F I L E D

JUN 27 1990 *alt*

DARRELL RAY TUCKER,
Plaintiff,

vs.

HOWARD RAY, et al.,
Defendants.

No. 89-C-978-E ✓

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

O R D E R

The Court has for consideration the Report and Recommendations of the Magistrate dismissing petition for writ of habeas corpus. 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 Recommendations of the Magistrate should be and hereby are adopted by the Court.

IT IS THEREFORE ORDERED that the motion of Respondents to dismiss the petition is granted.

ORDERED this 26th day of June, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

HAP:bj

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

FILED

JUN 27 1990

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

BILLY GEORGE MITCHELL, SR.,)
Administrator of the Estate of)
BRIAN EDWARD MITCHELL, deceased,)
)
Plaintiff,)

vs.)

Case No.: 89 C 559 E

AMERICAN ECONOMY INSURANCE COMPANY,)
a foreign insurance company,)
)
Defendant and)
Third Party Plaintiff,)

vs.)

ESTATE OF BETH ANN BURNETT, STATE)
FARM MUTUAL AUTOMOBILE INSURANCE)
COMPANY, OKLAHOMA FARM BUREAU)
MUTUAL INSURANCE COMPANY and)
FARMERS INSURANCE COMPANY, INC.,)
)
Third Party Defendants.)

ORDER

NOW on this 26th day of June, 1990, there came on
before the undersigned Judge the Joint Application for Approval of
Settlement and Dismissal With Prejudice. This Court finds as follows:

1. Billy George Mitchell, Sr. brought the instant suit as Administrator of the Estate of Brian Edward Mitchell, deceased.
2. That said probate has been dismissed, and that no probate proceedings are now active.
3. By reason of the dismissal of said probate action, and pursuant to the terms of 12 OKLA. STAT. Section 1054, Billy George Mitchell, Sr. and Sandra Shenold are the proper parties in interest as parents and personal representatives of the Estate of Brian Edward Mitchell, deceased, and that

the Application to Substitute Real Parties in Interest, previously filed, should be granted.

4. That Billy George Mitchell, Sr. and Sandra Shenold, as personal representatives and on behalf of all heirs at law, have entered into a settlement with Defendant and Third Party Defendants whereby Defendant and Third Party Defendants agree to pay a total of ONE HUNDRED NINETY-SIX THOUSAND DOLLARS (\$196,000.00) to Plaintiffs, in satisfaction of all claims and third party claims arising from the death of Brian Edward Mitchell, deceased, and that all such claims and third party claims be dismissed with prejudice.

5. That the above referenced settlement is a compromise settlement of the disputed claims, and that same is in the best interest of the Estate of Brian Edward Mitchell, deceased, and of all heirs at law of Brian Edward Mitchell, deceased.

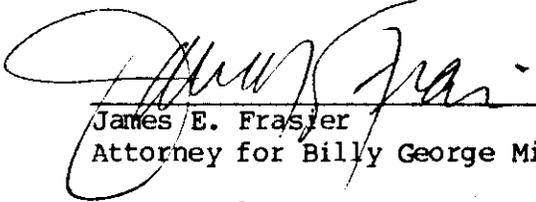
6. That Brian Edward Mitchell, deceased, died instantly and suffered no conscious pain and suffering; that pursuant to the provisions of 12 OKLA. STAT. Section 1053, the above referenced settlement inures to the sole benefit of Billy George Mitchell, Sr. and Sandra Shenold as surviving parents.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above referenced settlement is hereby approved. IT IS FURTHER ORDERED that Billy George Mitchell, Sr. and Sandra Shenold as father and mother and personal representatives of the Estate of Brian Edward Mitchell, deceased, are hereby substituted as party plaintiffs. IT IS FURTHER ORDERED that all claims, third party claims, and causes of action are hereby dismissed with prejudice to the re-filing of same, all parties to bear their own costs and attorney fees.

S/ JAMES O. ELLISON

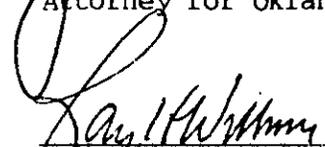
JUDGE OF THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

APPROVAL AS TO FORM AND CONTENT


James E. Frasier
Attorney for Billy George Mitchell, Sr.


Robert H. Taylor
Attorney for State Farm Automobile Insurance


John R. Caslawka
Attorney for Oklahoma Farm Bureau Insurance


Ray H. Wilburn
Attorney for Farmers Insurance


John Gladd
Attorney for Estate of Beth Ann Burnett


Harry A. Parrish
Attorney for American Economy Insurance

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

JUN 27 1990

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

JOHN ZINK COMPANY,

Plaintiff,

vs.

ZINKCO, INC., a corporation,
and JOHN SMITH ZINK,
an individual,

Defendants.

No. 85-C-292-C

ORDER

Before the Court is plaintiff John Zink Company's "Motion for An Order Spreading The Judgment".

In its motion plaintiff is seeking to recover interest on the Court's orders awarding attorney fees on March 7, 1988 in the sum of \$132,128.38, costs on January 15, 1987 in the sum of \$1,141.60 and Court-imposed sanctions on December 17, 1985 in the sum of \$250.00. As of March 21, 1990, plaintiff has received payments totalling \$133,190.18. Defendant contends interest is not recoverable. Judgment was rendered on December 18, 1986 in accordance with the Findings of Fact and Conclusions of Law entered simultaneously, which found plaintiff was entitled to recover reasonable attorney fees and costs against defendants.

The historical rule that costs do not bear interest antedates the modern practice of applying economic and business principles to judicial administration. Cooper Liquor v. Adolph Coors Company,

701 F.2d 542 (5th Cir. 1983). The former rule also reflects the administrative inconvenience to the courts in providing for interest on a sum of money undetermined at the close of litigation. Id.

Courts are now more willing to permit interest on costs and attorney fees since it more nearly compensates the victor for the cost of litigation. Id.

In general, courts are permitting accrual of interest from the date of judgment:

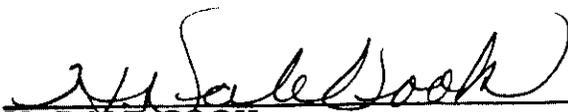
In our view there exists no real distinction between judgments for attorney fees and judgments for other items of damages [O]nce a judgment is obtained, interest thereon is mandatory without regard to the elements of which the judgment is composed.

R.W.T. et al. v. Dalton, 721 F.2d 1225, 1234 (8th Cir. 1983) citing Perkins v. Standard Oil Co., 487 F.2d 672 (9th Cir. 1973).

The relevant judgment for purposes of determining when interest begins to accrue is the judgment establishing the right to fees or costs. If the amount of costs is later determined by the Clerk, interest will nevertheless run from the date of judgment permitting costs. Cooper Liquor, 701 F.2d at 545.

The Court finds plaintiff is entitled to interest from the date of judgment, December 18, 1986, on the award of attorney fees and costs. Plaintiff is not permitted interest on the imposition of sanctions on December 17, 1985.

IT IS SO ORDERED this 26th day of June, 1990.


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

F I L E D

JUN 27 1990

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

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

PATSY J. BISHOP,

Plaintiff,

vs.

FACET ENTERPRISES, INC.,

Defendant.

Case No. 89-C-645-E

JOURNAL ENTRY OF JUDGMENT

NOW on this 26th day of June, 1990, this cause comes on regularly to be heard as ordered. The Court finds the Plaintiff has been duly served with notice of this hearing as provided by law. The Plaintiff, Patsy J. Bishop, appears not having previously approved the Journal Entry by her attorney of record. The Defendant appears through its attorney of record, Helen Kannady.

The Court finds that on the oral motion of the Defendant, the request for Rule 11 Sanctions is withdrawn.

The Court further finds on the agreement of the parties that the Defendant is awarded a judgment against the Plaintiff in the amount of Three Thousand Five Hundred Dollars (\$3,500.00) as reasonable attorney's fees and costs of this matter.

IT IS THEREFORE THE ORDER OF THE COURT that the Defendant is awarded a judgment against the Plaintiff in the amount of Three Thousand Five Hundred Dollars (\$3,500.00).

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:



JEFF NIX,
Attorney for Plaintiff



HELEN KANNADY,
Attorney for Defendant

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

KENNETH WAYNE FORD,
a/k/a KENNETH FORD,

Defendant.

Civil Action No. 89-C-1064-B

DEFAULT JUDGMENT

This matter comes on for consideration this 26th day of June, 1990, the Plaintiff appearing by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Catherine J. Depew, Assistant United States Attorney, and the Defendant, Kenneth Wayne Ford, a/k/a Kenneth Ford, appearing not.

The Court being fully advised and having examined the court file finds that Defendant, Kenneth Wayne Ford, a/k/a Kenneth Ford, was served with Summons and Complaint on March 29, 1990, by service upon an adult with whom he resides. 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,

Kenneth Wayne Ford, a/k/a Kenneth Ford, for the principal amount of \$674.05, plus accrued interest of \$132.53 as of November 16, 1989, plus interest thereafter at the rate of four (4) percent per annum until judgment, plus interest thereafter at the current legal rate of 8.24 percent per annum until paid, plus costs of this action.

S/ THOMAS R. BRETT

United States District Judge

mmp

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA JUN 26 1990

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

IN RE: DONALD DEAN WALKER, a/k/a DONALD F. WALKER, Debtor. No. 89-C-1070-C

ORDER

Before the Court is the appeal of the debtor from the Order of the bankruptcy court entered on December 12, 1989, now reported as In re Walker, 108 B.R. 769 (Bankr. N.D.Okla. 1989). In that Order, the bankruptcy court upheld the objections of the trustee to debtor's claim of exemption in three individual retirement accounts. Debtor appeals.

Generally, all legal or equitable interests of the debtor in property as of the commencement of the case become part of the bankruptcy estate. 11 U.S.C. §541(a)(1). An express exclusion is contained in §541(c)(2) which states:

A restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable nonbankruptcy law is enforceable in a case under this title.

The court in In re Goff, 706 F.2d 574, 580 (5th Cir. 1983) held that Congress intended to exclude only trust funds in the nature of "spendthrift trusts"1 from the property of the estate. The bankruptcy court below also adopted this holding. 108 B.R. at 773.

1A "spendthrift trust" is a trust created to provide a fund for the maintenance of the beneficiary, and at the same time to secure it against his improvidence or incapacity. Newell v. Tubbs, 84 P.2d 820, 821 (Colo. 1938). See also In re Moody, 837 F.2d 719, 723 (5th Cir. 1988).

7

Accord, In re Burns, 108 B.R. 308, 312 (Bankr. W.D.Okla. 1989). The court below went on to conclude that the IRA accounts involved here were "self-settled" (i.e., created by the debtor himself) and thus not genuine spendthrift trusts. The court below noted the decision of the Oklahoma Supreme Court in Greening Donald Co., Ltd. v. Oklahoma Wire Rope Products, Inc., 766 P.2d 970, 973 (Okla. 1988) which specifically adopted this interpretation but took a broad view of protection of a participant's interest in such an account. However, the bankruptcy court concluded that the Oklahoma Supreme Court could not have meant what it said. The bankruptcy court found that the debtor's interest was not excluded under §541(c)(2). Inasmuch as an IRA is not a spendthrift trust, this Court agrees.

Next, the bankruptcy court considered whether the funds were exempt. The Bankruptcy Code provides for both a federal and state exemption scheme. The states may "opt out" of the federal scheme and use their own state scheme. 11 U.S.C. §522(b)(1). Oklahoma has opted out of the federal scheme. See 31 O.S. §1(B). The bankruptcy court noted that 31 O.S. §1(A)(20) specifically exempts IRAs. However, the court went on to conclude that the statute represents an unconstitutional impairment of contract as to debts incurred prior to the effective date of the statute, that being April 16, 1987, relying upon its analysis in In re Garrison, 108 B.R. 760 (Bankr. N.D.Okla. 1989). It is undisputed that most of the debtor's debts were incurred in 1984.

It is true that the Contracts Clause is not to be interpreted literally, but that its primary focus was upon legislation that was designed to repudiate or adjust pre-existing debtor-creditor relationships that obligors were unable to satisfy. Keystone Bituminous Coal Ass'n. v. DeBenedictis, 480 U.S. 470, 502-03 (1987). One treatise states the following:

In determining whether a state law affecting an individual's ability to carry out obligations under contract is an improper impairment of contract, the court must go through a three step analytical process. First, the court must ask whether the state law has "operated as a substantial impairment of a contractual relationship." ...

If a state law does constitute a substantial impairment of rights and obligations in private contracts, the court, in the second step of its inquiry, must ask whether the state law is designed to promote a significant and legitimate public purpose. ...

In the third step of the inquiry, the court must determine whether the law adjusting the contract obligations and rights was a reasonable and narrowly tailored means of promoting the significant public purpose identified in step two of the inquiry rather than an unjustifiable attempt to merely change the obligation of parties to a private contract.

R. Rotunda, J. Novak & J. Young, Treatise on Constitutional Law: Substance and Procedure, §15.8 at 102 (1986).

These three steps are also reflected in Energy Reserves Group, Inc. v. The Kansas Power and Light Company, 459 U.S. 400 (1983). This Court finds highly persuasive the analysis set forth in In re Punke, 68 B.R. 936 (Bankr. N.D. Iowa 1987) in which that court upheld an increase in the Iowa exemption for farm machinery and equipment against constitutional challenge. The Punke court reasoned that creditors' reasonable expectations had not been substantially impaired because of the long history behind Iowa exemption regulation. Oklahoma too has such a history. 31 O.S. §1(A)(20) was apparently passed in response to the bankruptcy court's decision in In re Goldberg, 59 B.R. 201 (Bankr. N.D. Okla.

1986), holding that Keogh plans are not excluded from the property of a bankruptcy estate and are not exempt. The court in Goldberg took a narrow view of the exemption in 60 O.S. §328. The debts involved herein were incurred prior to the Goldberg decision. The debts were thus incurred under the broad view of exemption which has now been legislatively restored. No substantial impairment has occurred.

Further, the legislation in question is designed to promote a significant and legitimate public purpose. The exemption laws are intended for the protection of the family. Anderson v. Canaday, 131 P. 697, 698 (Okla. 1913). Clearly, this is a proper exercise of the state's police power.

Finally, this Court finds that the statute was reasonable and narrowly tailored to accomplish its purpose. Exemption statutes are to be liberally construed. Phelan v. Lacey, 151 P. 1070, 1071 (Okla. 1915). Unless the state itself is a contracting party, courts properly defer to legislative judgment as to necessity and reasonableness. Energy Reserves Group, 459 U.S. at 412-13. For all these reasons, the Court disagrees with the bankruptcy court's conclusion of unconstitutionality.

One final issue must be addressed. The court below expressly found that these retirement annuities were "non-ERISA-qualified plans." 108 B.R. at 773. Nevertheless, appellee argues that the Oklahoma statute is preempted by ERISA. This Court adopts the contrary conclusion in the Court below, 108 B.R. at 775, and in In

re Ridgway, 108 B.R. 294, 296 (Bankr. N.D.Okla. 1989) and rejects appellee's argument.

It is the Order of the Court that the Order of the bankruptcy court is hereby reversed. The trustee's Objection to Debtor's Claim of exemption is denied.

IT IS SO ORDERED this 26th day of June, 1990.



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

✓

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

FILED

JUN 26 1990

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

BOBBY BIGPOND and)
JUDY BIGPOND,)

Plaintiffs,)

vs.)

NO. 89-C-930-C

ALLSTATE INSURANCE COMPANY,)
a foreign corporation; and)
BEAUCHAMP CLAIMS SERVICE,)
INC., an Oklahoma corporation,)

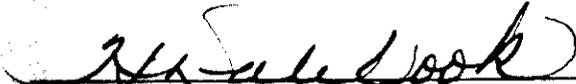
Defendants.)

ORDER OF DISMISSAL WITHOUT PREJUDICE

NOW on this 26 day of June, 1990, upon the Notice of Dismissal Without Prejudice of plaintiffs, Bobby and Judy Bigpond, the court finds:

1. That the state action filed in Creek County has been dismissed without prejudice;
2. That neither of the defendants, Allstate nor Beauchamp Claims Service, has filed an answer nor a motion for summary judgment; and
3. That said plaintiffs have voluntarily dismissed their cause without prejudice.

IT IS THEREFORE ORDERED that plaintiffs' cause of action be dismissed without prejudice.



JUDGE OF THE U. S. DISTRICT COURT

age or older, giving rise to the inference that age played a leading factor in selection of employees to terminate.

Defendant contends the only factor considered in retaining employees was their job qualifications and that a purely subjective evaluation was used to make this determination.

The Court has independently reviewed the record and concludes the Magistrate's recommendation, in part, should be reversed.

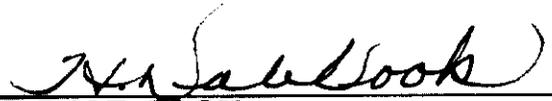
Summary judgment will not lie if the dispute about a material fact is genuine. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 106 S.Ct. 2505, 2510 (1986). Summary judgment cannot serve as a substitute for trial when different inferences can be construed from the facts presented in the pleadings. Subjective factors can be considered in weighing defendant's decision as to which employees should be terminated in a reorganization plan. However, subjective factors should not be considered in isolation. "[I]t is also apparent subjective decision making provides an opportunity for unlawful discrimination." Burris v. United Telephone Co., 683 F.2d 339, 342 (10th Cir. cert. denied, 459 U.S. 1071, citing Bauer v. Bailar, 647 F.2d 1037, 1046 (10th Cir. 1981).

Accordingly, after considering the pleadings liberally in favor of the plaintiffs and considering all factual inferences tending to show triable issues, the Court concludes that summary judgment is inappropriate under the pleadings as presented to the Court.

It is therefore the Order of the Court that defendant's separate motions for summary judgment as against Jack Hubeli, E.R.

Swift, Betty Rippetoe, Shirley Laster and James O'Rourke is hereby DENIED.

IT IS SO ORDERED this 26th day of June, 1990.



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

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

F I L E D
JUN 23 1990 6

CAMCO, INCORPORATED,)
)
 Plaintiff,)
)
 vs.)
)
 BAKER HUGHES PRODUCTION TOOLS,)
 INC., and BAKER HUGHES INCORPORATED,)
)
 Defendants.)

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

No. 89-C-525-B

ORDER

Currently before the Court for consideration is Defendants' Motion to Transfer the case to the Southern District of Texas pursuant to 28 U.S.C. §1404(a). Title 28, section 1404(a) provides:

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

After reviewing the pleadings and the attached affidavits, it appears that all trial counsel are based in Houston, the bulk of the discovery is to be conducted in Houston, and most of the witnesses, including the individual who invented the alleged offending product, are in Houston. Although Plaintiff chose Oklahoma as its forum, Houston is Plaintiff's principal place of business and Plaintiff would not be prejudiced by having to litigate in that forum. A plaintiff's choice of forum is given less weight when the forum chosen is outside its home jurisdiction. Stewart v. Capitol Area Permanente Medical Group, 720 F.Supp. 3,

5 (D.D.C. 1989); Alexander & Alexander, Inc. v. Muldoon, 685 F.Supp. 346, 349 (S.D.N.Y. 1988); S.C. Johnson & Son, Inc. v. Gillette Co., 571 F.Supp. 1185 (N.D.Ill. 1983). The Court concludes the Defendants have sustained their burden of showing that the Southern District of Texas would be more convenient for the parties and in the interest of justice. Therefore, Defendant's Motion to Transfer is hereby SUSTAINED and the case is transferred to the Southern District of Texas, Houston Division.

IT IS SO ORDERED, this 26th day of June, 1990.

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

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

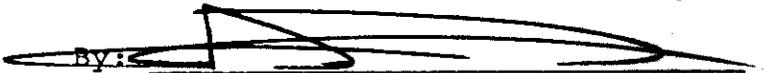
or Williams cases, the intended result of this Order being that the common costs be collected once and paid once.



HONORABLE THOMAS R. BRETT
U.S. DISTRICT JUDGE

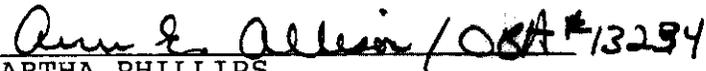
APPROVED AS TO FORM:

NORMAN & EDEM
ATTORNEYS FOR PLAINTIFFS

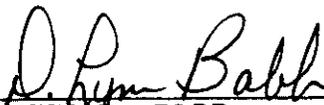


JOHN W. NORMAN - OBA #6699
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

THOMAS, GLASS, ATKINSON, HASKINS,
NELLIS & BOUDREAUX
ATTORNEYS FOR EAGLE-PICHER INDUSTRIES, INC.

By:  / OBA #13254
for: MARTHA PHILLIPS
525 South Main, Suite 501
Tulsa, OK 74103
918/582-8877 (O)
918/585-8096 (F)

PIERCE COUCH HENDRICKSON JOHNSON & BAYSINGER
ATTORNEYS FOR OWENS-CORNING FIBERGLAS CORP.

By: 
D. LYNN P. BABB
1109 W. Francis Avenue
P.O. Box 26350
Oklahoma City, OK 73146-0350
405/235-1661 (O)
405/235-2904 (F)

Court hereby adopts the reasoning and authority set forth in that opinion.

It is the Order of the Court that the appeal of the trustee is hereby denied. The Order of the bankruptcy court is hereby affirmed in all respects.

IT IS SO ORDERED this 26th day of June, 1990.



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

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

SHERMAN S. BLALOCK; VENNIE JEAN)

BLALOCK a/k/a VENNIE J. BLALOCK)

a/k/a V. JEAN BLALOCK a/k/a)

VENNIE BLALOCK; STATE OF)

OKLAHOMA ex rel. OKLAHOMA TAX)

COMMISSION; COUNTY TREASURER,)

Rogers County, Oklahoma; and)

BOARD OF COUNTY COMMISSIONERS,)

Rogers County, Oklahoma,)

Defendants.)

CIVIL ACTION NO. 90-C-249-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 25th day
of June, 1990. 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, Rogers County,
Oklahoma, and Board of County Commissioners, Rogers County,
Oklahoma, appear by Ernest E. Haynes, Jr., Assistant District
Attorney, Rogers County, Oklahoma; the Defendant, State of
Oklahoma ex rel. Oklahoma Tax Commission, appears not, having
previously filed its Disclaimer; and the Defendants, Sherman S.
Blalock and Vennie Jean Blalock a/k/a Vennie J. Blalock a/k/a
V. Jean Blalock a/k/a Vennie Blalock, appear not, but make
default.

The Court being fully advised and having examined the
file herein finds that the Defendants, Sherman S. Blalock and

Vennie Jean Blalock a/k/a Vennie J. Blalock a/k/a V. Jean Blalock a/k/a Vennie Blalock, acknowledged receipt of Summons and Complaint on or about April 23, 1990; that Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, acknowledged receipt of Summons and Complaint on March 23, 1990; that Defendant, County Treasurer, Rogers County, Oklahoma, acknowledged receipt of Summons and Complaint on March 23, 1990; and that Defendant, Board of County Commissioners, Rogers County, Oklahoma, acknowledged receipt of Summons and Complaint on March 26, 1990.

It appears that the Defendants, County Treasurer, Rogers County, Oklahoma, and Board of County Commissioners, Rogers County, Oklahoma, filed their Answer on March 30, 1990; that the Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, filed its Disclaimer on March 30, 1990; and that the Defendants, Sherman S. Blalock and Vennie Jean Blalock a/k/a Vennie J. Blalock a/k/a V. Jean Blalock a/k/a Vennie Blalock, 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 Rogers County, Oklahoma, within the Northern Judicial District of Oklahoma:

The South Half (S/2) of the Northwest Quarter (NW/4) of the Southeast Quarter (SE/4) of the Northeast Quarter (NE/4) of Section 32, Township 19 North, Range 17 East of the I.B.&M., Rogers County, Oklahoma, according to the U.S. Government Survey thereof, also known as Route 1, Box 884, Inola, Oklahoma 74036.

The Court further finds that on December 23, 1985, Sherman S. Blalock and Vennie Jean Blalock executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, their mortgage note in the amount of \$62,000.00, payable in monthly installments, with interest thereon at the rate of eleven percent (11%) per annum.

The Court further finds that as security for the payment of the above-described note, Sherman S. Blalock and Vennie Jean Blalock executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated December 23, 1985, covering the above-described property. Said mortgage was recorded on December 23, 1985, in Book 720, Page 535, in the records of Rogers County, Oklahoma.

The Court further finds that the Defendants, Sherman S. Blalock and Vennie Jean Blalock a/k/a Vennie J. Blalock a/k/a V. Jean Blalock a/k/a Vennie Blalock, 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, Sherman S. Blalock and Vennie Jean Blalock a/k/a Vennie J. Blalock a/k/a V. Jean Blalock a/k/a Vennie Blalock, are indebted to the Plaintiff in the principal sum of \$67,506.24, plus interest at the rate of 8.5 percent per annum from April 1, 1989 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, Rogers 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 \$13.59 which became a lien on the property as of 1989. Said lien is inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, disclaims any right, title, or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants, Sherman S. Blalock and Vennie Jean Blalock a/k/a Vennie J. Blalock a/k/a V. Jean Blalock a/k/a Vennie Blalock, in the principal sum of \$67,506.24, plus interest at the rate of 8.5 percent per annum from April 1, 1989 until judgment, plus interest thereafter at the current legal rate of 8.24 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, Rogers County, Oklahoma, have and recover judgment in the amount of \$13.59 for personal property taxes for the year 1989, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, has no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Sherman S. Blalock and Vennie Jean Blalock a/k/a Vennie J. Blalock a/k/a V. Jean Blalock a/k/a Vennie Blalock, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisal the real property involved herein and apply the proceeds of the sale as follows:

First:

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

Second:

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

Third:

In payment of Defendants, County Treasurer and Board of County Commissioners, Rogers County, Oklahoma, in the amount of \$13.59, 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.

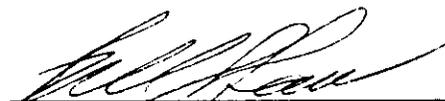
S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney


NANCY NESBITT BLEVINS, OBA #6634
Assistant United States Attorney


ERNEST E. HAYNES, JR., OBA #4007 10127
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Rogers County, Oklahoma

Judgment of Foreclosure
Civil Action No. 90-C-249-B

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 CLARENCE J. MILLER a/k/a)
 CLARENCE JUNIOR MILLER;)
 MILDRED J. MILLER a/k/a)
 MILDRED JUANITA MILLER;)
 COUNTY TREASURER, Tulsa County,)
 Oklahoma; and BOARD OF COUNTY)
 COMMISSIONERS, Tulsa County,)
 Oklahoma,)
)
 Defendants.)

FILED

JUN 25 1990

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

CIVIL ACTION NO. 90-C-0056-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 25th day
of June, 1990. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Phil Pinnell, Assistant United States Attorney;
the Defendants, County Treasurer, Tulsa County, Oklahoma, and
Board of County Commissioners, Tulsa County, Oklahoma, appear by
J. Dennis Semler, Assistant District Attorney, Tulsa County,
Oklahoma; and the Defendants, Clarence J. Miller a/k/a Clarence
Junior Miller and Mildred J. Miller a/k/a Mildred Juanita Miller,
appear not, but make default.

The Court being fully advised and having examined the
file herein finds that the Defendants, Clarence J. Miller a/k/a
Clarence Junior Miller and Mildred J. Miller a/k/a Mildred
Juanita Miller, were served with Summons and Complaint on
March 29, 1990; that Defendant, County Treasurer, Tulsa County,

Oklahoma, acknowledged receipt of Summons and Complaint on January 29, 1990; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on April 4, 1990.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers on February 15, 1990; and that the Defendants, Clarence J. Miller a/k/a Clarence Junior Miller and Mildred J. Miller a/k/a Mildred Juanita Miller, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that on October 24, 1988, Clarence Junior Miller and Mildred Juanita Miller filed their voluntary petition in bankruptcy in Chapter 7 in the United States Bankruptcy Court, Northern District of Oklahoma, Case No. 88-B-3211-W. Discharge of Debtor was entered on February 3, 1989, in the United States Bankruptcy Court for the Northern District of Oklahoma. Subject bankruptcy case was closed on May 24, 1989.

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 Thirteen (13), Block One (1), DOLLIE-MAC ADDITION, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

The Court further finds that on February 10, 1987, Clarence J. Miller and Mildred J. Miller executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, their mortgage note in the amount of \$43,000.00, payable in monthly installments, with interest thereon at the rate of nine percent (9%) per annum.

The Court further finds that as security for the payment of the above-described note, Clarence J. Miller and Mildred J. Miller executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated February 10, 1987, covering the above-described property. Said mortgage was recorded on February 13, 1987, in Book 5001, Page 2739, in the records of Tulsa County, Oklahoma.

The Court further finds that Defendants, Clarence J. Miller a/k/a Clarence Junior Miller and Mildred J. Miller a/k/a Mildred Juanita Miller, 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 Defendants, Clarence J. Miller a/k/a Clarence Junior Miller and Mildred J. Miller a/k/a Mildred Juanita Miller, are indebted to the Plaintiff in the principal sum of \$42,522.26, plus interest at the rate of 9 percent per annum from October 1, 1988 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

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

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment in rem against Defendants, Clarence J. Miller a/k/a Clarence Junior Miller and Mildred J. Miller a/k/a Mildred Juanita Miller, in the principal sum of \$42,522.26, plus interest at the rate of 9 percent per annum from October 1, 1988 until judgment, plus interest thereafter at the current legal rate of 5.24 percent per annum until paid, plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

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

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

First:

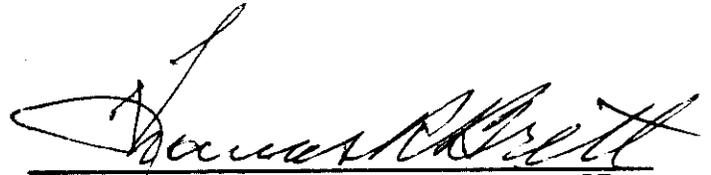
In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

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

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

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


UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney


PHIL PINNELL, OBA #7169
Assistant United States Attorney


J. DENNIS SEMLER, OBA #8076
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma

Judgment of Foreclosure
Civil Action No. 90-C-0056-B

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

FILED

JUN 25 1990

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

ROBERT L. BLAYDES and JEWELL M.
BLAYDES, Plaintiff's Spouse,

Plaintiffs,

-vs-

NO. 88-C-1201 B

ANCHOR PACKING COMPANY, a
corporation, et al,

Defendants.

ORDER OF DISMISSAL

Now on this 25th day of June, 1990, the Court has
for its consideration the Stipulation for Dismissal jointly filed in the above-
styled and numbered cause by Plaintiffs and the Defendant, NRM Corporation.
Based upon the representations and request of these parties as set forth in the
foregoing stipulation, it is

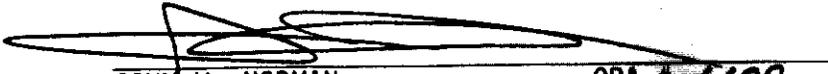
ORDERED that Plaintiffs' Complaint and claims for relief against
Defendant, NRM Corporation, is hereby dismissed without prejudice.

IT IS FURTHER ORDERED that each party shall bear its own costs.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED:



JOHN W. NORMAN
of NORMAN & EDEM
Renaissance Centre East
127 N.W. 10th Street
Oklahoma City, Oklahoma 73103-4903
Telephone: 405/272-0200
ATTORNEYS FOR PLAINTIFFS

OBA # 6699

Eileen Morris

KENNETH W. ELLIOTT

OBA #2686

EILEEN M. MORRIS

OBA #10899

of ELLIOTT AND MORRIS

119 N. Robinson, Suite 310

Oklahoma City, Oklahoma 73102-4601

Telephone: 405/236-3600

ATTORNEYS FOR NRM CORPORATION

FILED

JUN 25 1990

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

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

MARGARET WICK,)	
)	
Plaintiff,)	
)	
vs.)	No. 86-C-638-E
)	
118677 ONTARIO LIMITED,)	
)	
Defendant.)	

JUDGMENT

This action came on upon the offer of the defendant, 118677 Ontario Limited, to allow judgment to be taken against it by the plaintiff, Margaret Wick, for the sum of Fifty-Two Thousand Thirteen Dollars and Twenty-Five Cents (\$52,013.25), together with costs accrued to November 18, 1988, and the acceptance of said offer by said plaintiff, Margaret Wick,

IT IS ORDERED AND ADJUDGED that the plaintiff, Margaret Wick, recover of the defendant, 118677 Ontario Limited, the sum of Fifty-Two Thousand Thirteen Dollars and Twenty-Five Cents (\$52,013.25), with interest thereon at the rate provided by law and her costs of action.

Dated at Tulsa, Oklahoma, this 25th day of June, 1990.


Clerk of Court

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

JUN 25 1990

FIRST OKLAHOMA SAVINGS BANK,)
F.A.,)
)
Plaintiff,)
)
v.)
)
MANHATTAN LEASING, INC., et al,)
)
Defendants.)

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

88-C-1333-E

ORDER

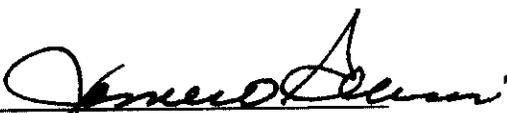
The Court has for consideration the Report and Recommendation of the United States Magistrate filed May 31, 1990 in which the Magistrate recommended that deficiency judgment be entered against Manhattan in the sum of \$273,767.53 and against Martino for 10% of that amount or \$27,376.75, together with interest in the amount of 15% per annum until paid. Said judgment should only be issued, however, should the Court confirm the sale of the real property, used here to calculate the final amount owed.

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 United States Magistrate should be and hereby is adopted and affirmed.

It is, therefore, Ordered that the recommendations of the Magistrate are hereby adopted as set forth above.

Dated this 22^d day of June, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

JUN 23 1990

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

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

BILLY FRANKLIN WILLIAMS,
Plaintiff,

No. 88-C-716-B

and

JAY WILLIAM BLAIR and MILDRED L.
BLAIR,
Plaintiffs,

No. 88-C-720-B

vs.

EAGLE-PICHER INDUSTRIES, INC., and
OWENS-CORNING FIBERGLAS CORPORATION,
Defendants.

ORDER

Currently before the Court is the Order to Show Cause why sanctions should not be imposed for submitting erroneous invoices in the Bills of Costs in the above cases.¹ The facts giving rise to this Order are set forth in the Court's Order dated May 14, 1990.

After reviewing Plaintiffs' Counsel's Response, the Court concludes a sanction should be imposed for reimbursement of attorneys' fees in opposing the Bill of Costs and the Appeal therefrom, and further as a sanction for Fed.R.Civ.P. 11

¹The Court notes the Order to Show Cause arose from the Court's Order on Plaintiff's Appeal of the Taxing of Costs in 88-C-716-B only. After reviewing the Bill of Costs in both 88-C-716-B and 88-C-720-B, the Court found the same Rule 11 violations occurred in both cases. Plaintiffs' counsel's Response addresses the Bills of Costs in both cases.

violations.

It is therefore Ordered that Plaintiffs' counsel pay each of the above Defendants within 15 days from the date of this Order, the sum of \$250 for each of the two cases herein, for a total amount of \$1000.00 (\$500 to Eagle-Picher Industries, Inc. and \$500 to Owens-Corning Fiberglas Corporation).

IT IS SO ORDERED, this 25th day of June, 1990.

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

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

JWN/ta
06/12/90

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

FILED
JUN 20 1990

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

BILLY FRANKLIN WILLIAMS,

Plaintiff,

vs.

EAGLE-PICHER INDUSTRIES, INC., and
OWENS-CORNING FIBERGLAS CORPORATION,

Defendants.

No. 88-C-716-B ✓

ORDER REGARDING COSTS

WHEREAS the above-styled cause (Williams) was consolidated for trial of common issues with the cases of Powell v. Eagle-Picher Industries, Inc., et al., No. 88-C-555-E (Powell), and Blair v. Eagle-Picher Industries, Inc., et al., No. 88-C-720-B (Blair), and

WHEREAS certain common costs were incurred by Williams, Blair and Powell for the benefit of all Plaintiffs, and whereas each Plaintiff is entitled to collect said common costs, but Defendants are required to pay same only once,

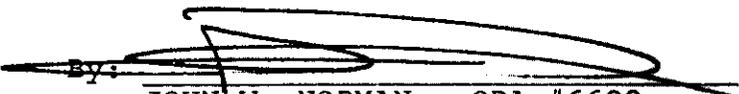
IT IS THEREFORE ORDERED ADJUDGED AND DECREED that Plaintiff Williams have and recover Plaintiff-specific costs in the amount of \$1,085.20, common costs in the amount of \$6,244.92, unless said common costs have otherwise been paid in the Blair or

• Powell cases, the intended result of this Order being that the common costs be collected once and paid once.


HONORABLE THOMAS R. BRETT
U.S. DISTRICT JUDGE

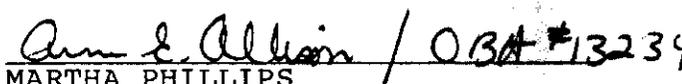
APPROVED AS TO FORM:

NORMAN & EDEM
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

THOMAS, GLASS, ATKINSON, HASKINS,
NELLIS & BOUDREAUX
ATTORNEYS FOR EAGLE-PICHER INDUSTRIES, INC.

By:  / OBA #13234

MARTHA PHILLIPS
525 South Main, Suite 501
Tulsa, OK 74103
918/582-8877 (O)
918/585-8096 (F)

PIERCE COUCH HENDRICKSON JOHNSON & BAYSINGER
ATTORNEYS FOR OWENS-CORNING FIBERGLAS CORP.

By: 

D. LYNN BABB
1109 N. Francis Avenue
P.O. Box 26350
Oklahoma City, OK 73146-0350
405/235-1661 (O)
405/235-2904 (F)

FILED

JUL 23 1990

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

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

BILLY FRANKLIN WILLIAMS,
Plaintiff,

No. 88-C-716-B

and

JAY WILLIAM BLAIR and MILDRED L.
BLAIR,

No. 88-C-720-B

Plaintiffs,

vs.

EAGLE-PICHER INDUSTRIES, INC., and
OWENS-CORNING FIBERGLAS CORPORATION,

Defendants.

ORDER

Currently before the Court is the Order to Show Cause why sanctions should not be imposed for submitting erroneous invoices in the Bills of Costs in the above cases.¹ The facts giving rise to this Order are set forth in the Court's Order dated May 14, 1990.

After reviewing Plaintiffs' Counsel's Response, the Court concludes a sanction should be imposed for reimbursement of attorneys' fees in opposing the Bill of Costs and the Appeal therefrom, and further as a sanction for Fed.R.Civ.P. 11

¹The Court notes the Order to Show Cause arose from the Court's Order on Plaintiff's Appeal of the Taxing of Costs in 88-C-716-B only. After reviewing the Bill of Costs in both 88-C-716-B and 88-C-720-B, the Court found the same Rule 11 violations occurred in both cases. Plaintiffs' counsel's Response addresses the Bills of Costs in both cases.

violations.

It is therefore Ordered that Plaintiffs' counsel pay each of the above Defendants within 15 days from the date of this Order, the sum of \$250 for each of the two cases herein, for a total amount of \$1000.00 (\$500 to Eagle-Picher Industries, Inc. and \$500 to Owens-Corning Fiberglas Corporation).

IT IS SO ORDERED, this 25th day of June, 1990.

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

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 25 1990

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

TODD M. HAMILTON, a/k/a
TODD MACLEAN HAMILTON,

Defendant.

Civil Action No. 90-C-369-B

DEFAULT JUDGMENT

This matter comes on for consideration this 25th day of
JUNE, 1990, the Plaintiff appearing by Tony M. Graham,
United States Attorney for the Northern District of Oklahoma,
through Catherine J. Depew, Assistant United States Attorney, and
the Defendant, Todd M. Hamilton, a/k/a Todd Maclean Hamilton,
appearing not.

The Court being fully advised and having examined the
court file finds that Defendant, Todd M. Hamilton,
a/k/a Todd Maclean Hamilton, acknowledged receipt of Summons and
Complaint on May 17, 1990. 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, Todd M.
Hamilton, a/k/a Todd Maclean Hamilton, for the principal amount of

\$13,866.67, plus accrued interest of \$1,344.95 as of March 31, 1990, plus interest thereafter at the rate of four (4) percent per annum until judgment, plus interest thereafter at the current legal rate of 8.24 percent per annum until paid, plus costs of this action.

S/ THOMAS R. BRETT

United States District Judge

mmp

FILED

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

JUN 25 1990

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

KATHY BARRINGER, Administratrix of the)
Estate of JOE BARRINGER, Deceased,)
)
Plaintiff,)
)
v.)
)
WAL-MART STORES, INC., and ACTION)
PRODUCTS COMPANY,)
)
Defendants.)

Case No. 87-C-1015B

ORDER OF DISMISSAL WITH PREJUDICE

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

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above-entitled action be, and it is hereby, dismissed, without costs to either Plaintiff or Defendants and with prejudice to the Plaintiff.

Dated this 25th day of ~~May~~^{June}, 1990.

S/ THOMAS R. BRETT

Honorable Thomas R. Brett
Judge of the District Court

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

F I L E D

JUN 25 1990

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

SINCLAIR OIL CORPORATION,)
a Wyoming corporation,)
)
Plaintiff,)
)
vs.)
)
EAGLE GRASS, INC., d/b/a)
EAGLE PETROLEUM, an Oklahoma)
corporation; ERVEMA J. NAVE,)
an individual; ART NAVE, an)
individual; and CAROL NAVE,)
an individual,)
)
Defendants.)

Case No. 89-C00010-B

ORDER OF DISMISSAL WITH PREJUDICE

On application of Plaintiff, Sinclair Oil Corporation, and Defendants Eagle Grass, Inc., Ervema Nave, Art Nave and Carol Nave, seeking to dismiss their respective claims and counterclaims in the above referenced case, for the reason that a settlement has been reached, it is hereby

ORDERED that the above-referenced action be dismissed with prejudice to the refiling thereof.

DATED this 25 day of June, 1990.

S/ THOMAS R. BENT
JUDGE OF THE UNITED STATES
DISTRICT COURT FOR THE
NORTHERN DISTRICT OF
OKLAHOMA

FILED

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

JUN 25 1990

KANSAS CITY LIFE INSURANCE)
COMPANY, a Missouri corporation,)
)
Plaintiff,)
)
v.)
)
ADTEL, INC., an Oklahoma)
corporation, LARRY H. WINGET, and)
JAMES R. ECKHART,)
)
Defendants.)

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

Case No. 89-C-889B

ADMINISTRATIVE CLOSING ORDER

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

IF, within 60 days of a final adjudication of the bankruptcy proceedings, the parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

IT IS SO ORDERED this 25 day of June, 1990.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

DeLayne N. Etheridge, OBA #12283
Albright & Associates
A Professional Corporation
2601 Fourth National Bank Building
15 West Sixth Street
Tulsa, Oklahoma 74119
(918) 583-5800

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

PEGGY J. O'DONNELL,

Plaintiff,

vs.

RICHARD S. SCHWEIKER,
Secretary of Health and
Human Services,

Defendant.

No. 83-C-628-E

FILED

JUN 25 1990

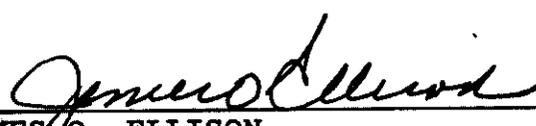
Jack C. Silver, Clerk
U.S. DISTRICT COURT

ORDER

The Court has for consideration the Report and Recommendation of the Magistrate filed February 6, 1990. 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 Report and Recommendation of the Magistrate should be and hereby are adopted by the Court.

IT IS THEREFORE ORDERED that the decision of the Secretary of Health and Human Services that Plaintiff is not disabled and denying Plaintiff's application for disability insurance benefits should be and is hereby affirmed.

ORDERED this 22^d day of June, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

ANITA LYNN FOSTER,

Plaintiff,

vs.

CHRISTOPHER C. McCONNELL,
and CHARLES G. McCONNELL,

Defendants.

F I L E D

JUN 25 1990

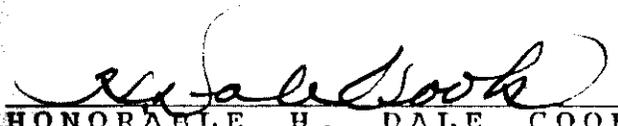
Jack C. Silver, Clerk
U.S. DISTRICT COURT

No: 89-C-697-C

O R D E R

NOW ON on this 25th day of June, 1990,
plaintiff's Application for Dismissal with Prejudice came on for
hearing. The Court being fully advised in the premises finds
that said Application should be sustained and the defendants,
Christopher C. McConnell and Charles G. McConnell, should be
dismissed from the above entitled action with prejudice.

IT IS THEREFORE, ORDERED, ADJUDGED and DECREED that
plaintiff's Application for Dismissal With Prejudice be sustained
and the above captioned action be dismissed with prejudice as to
defendants, Christopher C. McConnell and Charles G. McConnell.


HONORABLE H. DALE COOK,
U.S. District Judge for the
Northern District of Oklahoma

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

W. E. GIBSON, JR.; ALLEN W.
LAMBERT a/k/a ALLAN WAYNE
LAMBERT; SEARS, ROEBUCK &
COMPANY, a New York corporation;
COUNTY TREASURER, Tulsa County,
Oklahoma; and BOARD OF COUNTY
COMMISSIONERS, Tulsa County,
Oklahoma,

Defendants.

FILED
JUN 25 1990
Jack C. Silver, Clerk
U.S. DISTRICT COURT

CIVIL ACTION NO. 89-C-1056-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 25th day
of June, 1990. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Peter Bernhardt, Assistant United States
Attorney; the Defendants, County Treasurer, Tulsa County,
Oklahoma, and Board of County Commissioners, Tulsa County,
Oklahoma, appear by J. Dennis Semler, Assistant District
Attorney, Tulsa County, Oklahoma; the Defendant, W. E. Gibson,
Jr., appears pro se; the Defendant, Allen W. Lambert a/k/a Allan
Wayne Lambert, appears not, having previously filed his
Disclaimer; and the Defendant, Sears, Roebuck & Company, a New
York corporation, appears not, having previously filed its
Disclaimer.

The Court being fully advised and having examined the
file herein finds that the Defendant, W. E. Gibson, Jr.,
acknowledged receipt of Summons and Complaint on January 3, 1990;

that Defendant, Allen W. Lambert a/k/a Allan Wayne Lambert, was served with Summons and Complaint on February 21, 1990; that Defendant, Sears, Roebuck & Company, a New York corporation, acknowledged receipt of Summons and Complaint on January 10, 1990; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on December 22, 1989; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on December 22, 1989.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers on January 10, 1990; that the Defendant, W. E. Gibson, Jr., filed his Answer on January 16, 1990; that the Defendant, Allen W. Lambert a/k/a Allan Wayne Lambert, filed his Disclaimer on March 8, 1990; that the Defendant, Sears, Roebuck & Company, a New York corporation, filed its Answer on February 6, 1990 and its Disclaimer on May 23, 1990.

The Court further finds that on June 14, 1988, Allan Wayne Lambert filed his voluntary petition in bankruptcy in the United States Bankruptcy Court, Northern District of Oklahoma, Case No. 88-01712. On October 7, 1988, a Discharge of Debtor was entered in the United States Bankruptcy Court, Northern District of Oklahoma, releasing debtor of all dischargeable debts.

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 Five (5), Block Nineteen (19), THE CINNAMON TREE, an Addition to the City of Glenpool, Tulsa County, State of Oklahoma, according to the recorded Plat thereof.

The Court further finds that on July 25, 1985, the Defendant, W. E. Gibson, Jr., executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, his mortgage note in the amount of \$28,400.00, payable in monthly installments, with interest thereon at the rate of eleven and one-half percent (11.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendant, W. E. Gibson, Jr., executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated July 25, 1985, covering the above-described property. Said mortgage was recorded on July 30, 1985, in Book 4880, Page 1513, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendant, W. E. Gibson, Jr., made default under the terms of the aforesaid note and mortgage by reason of his failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, W. E. Gibson, Jr., is indebted to the Plaintiff in the principal sum of \$28,062.06, plus interest at the rate of 11.5 percent per annum from April 1, 1988 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 \$246.00, plus penalties and interest, for the year 1989. Said lien is superior to the interest of the Plaintiff, United States of America.

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 personal property taxes in the amount of \$2.00 which became a lien on the property as of 1988. Said lien is inferior 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, Allen W. Lambert a/k/a Allan Wayne Lambert, disclaims any right, title, or interest in the subject real property.

The Court further finds that the Defendant, Sears, Roebuck & Company, a New York corporation, disclaims any right, title, or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment in rem in the principal sum of \$28,062.06, plus interest at the rate of 11.5 percent per annum from April 1, 1988 until judgment, plus interest thereafter at the current legal rate of 8.242 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 \$246.00, plus penalties and interest, for ad valorem taxes for the year 1989, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, County Treasurer, Tulsa County, Oklahoma, have and recover judgment in the amount of \$2.00 for personal property taxes for the year 1988, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Allen W. Lambert a/k/a Allan Wayne Lambert, Sears, Roebuck & Company, a New York corporation, and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

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

First:

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

Second:

In payment of the Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of \$246.00, 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;

Fourth:

In payment of the Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of \$2.00, personal property taxes which are currently due and owing.

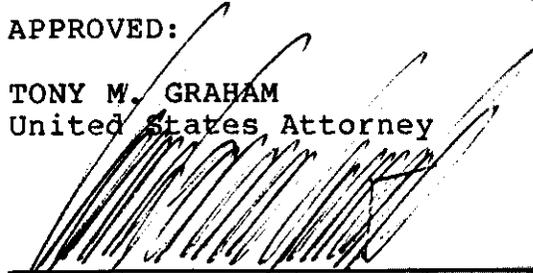
The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

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.


UNITED STATES DISTRICT JUDGE

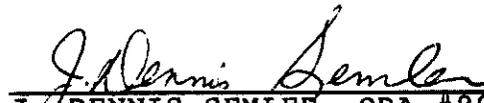
APPROVED:

TONY M. GRAHAM
United States Attorney


PETER BERNHARDT, OBA #741
Assistant United States Attorney

 4-June-1990
W. E. GIBSON, JR.


J. MICHAEL MORGAN, OBA #6391
Attorney for Defendant,
Sears, Roebuck & Company, a New York corporation


J. DENNIS SEMLER, OBA #8076
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma

Judgment of Foreclosure
Civil Action No. 89-C-1056-B

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

FILED

JUN 25 1990

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

LIZZIE MAE JOHNSON,
Plaintiff,

vs.

Case No. 88-C-1250-P

WAL-MART STORES, INC.,
a Delaware corporation,
Defendant.

ORDER OF DISMISSAL WITH PREJUDICE

This matter comes before the Court on the Joint Stipulation of Dismissal with Prejudice by the parties. The parties represent to the Court they have entered into an agreement for Order of Dismissal in this Order with no finding of liability.

IT IS THEREFORE ORDERED that this matter is dismissed with prejudice with no finding of liability or award of costs on the part of Defendant. Each party shall bear their own attorney's fees and costs.



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

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

TURNER BROTHERS, INC.,)

Plaintiff,)

v.)

No. 86-C-646-E)

TRANSWESTERN MINING COMPANY,)

Defendant.)

STIPULATED DISMISSAL WITH PREJUDICE

Pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties hereby agree that all claims of Plaintiff, Turner Brothers, Inc. ("TBI"), against Defendant, Transwestern Mining Company ("Transwestern"), are hereby dismissed with prejudice. The parties further agree that all counterclaims of Defendant Transwestern are similarly hereby dismissed with prejudice. These dismissals are specifically without prejudice to, and in no way effect, earlier Judgments obtained in this litigation by Transwestern, including the Judgment that Transwestern owes nothing to TBI, and that TBI owes \$274,506.00 to Transwestern.



Robert J. Petrick
Bank of Oklahoma Tower
1710 One Williams Center
Tulsa, Oklahoma 74172
(918) 583-1818

Attorneys for the Plaintiff,
Turner Brothers, Inc.

DOERNER, STUART, SAUNDERS,
DANIEL & ANDERSON

Richard P. Hix
Jon E. Brightmire

By: _____

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

Attorneys for the Defendant,
Transwestern Mining Company

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

FILED

JUN 20 1990

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

GERALDINE PARKER,
Plaintiff,
vs.
GRAND BAHAMA HOTEL CO., INC.,
a Delaware corporation,
Defendant.

No. 89-C-848-B

JOINT STIPULATION OF DISMISSAL WITH PREJUDICE

Come now the parties herein and acknowledge compromise settlement of all issues and therefore jointly stipulate and agree that plaintiff's cause should be dismissed with prejudice and the parties to bear their respective costs.

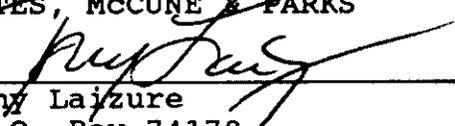
Done and dated this 12th day of June, 1990.

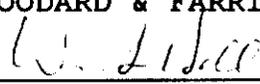
GERALDINE PARKER, Plaintiff

GRAND BAHAMA HOTEL CO., INC.,
Defendant

STIPE, GOSSETT, STIPE, HARPER,
ESTES, MCCUNE & PARKS

FELDMAN, HALL, FRANDEN,
WOODARD & FARRIS

By 
Tony Laizure
P. O. Box 74170
Tulsa, OK 74170
(918) 745-6084

By 
Wm. S. Hall, OBA #3739
525 South Main, Suite 1400
Tulsa, OK 74103-4409
(918) 583-7129

ATTORNEYS FOR PLAINTIFF

ATTORNEYS FOR DEFENDANT

UNITED STATES DISTRICT COURT

**NORTHERN DISTRICT OF OKLAHOMA
CLERK'S OFFICE
UNITED STATES COURT HOUSE
TULSA, OKLAHOMA 74103**

(918) 581-7796
(FTS) 745-7796

**JACK C. SILVER
CLERK**

June 20, 1990

**Secretary of Health & Human Services
Office of Hearings & Appeals
Attn: Division of Civil Act
P.O. Box 3300
Arlington, VA 22203**

RE: Remand of our Civil Case No. 89-C-361-E

Dear Sir:

An order having been made remanding the above-numbered case to your office, we are transmitting a certified copy of the order.

Very truly yours,

JACK C. SILVER, CLERK

By:

151
D. Testerman, Deputy Clerk

cc: All counsel of record

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

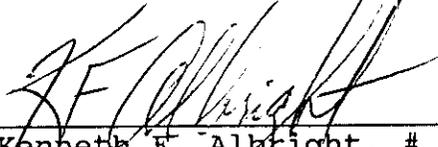
KANSAS CITY LIFE INSURANCE)
COMPANY, a Missouri corporation,)
)
Plaintiff,)
)
v.)
)
ADTEL, INC., an Oklahoma)
corporation, LARRY H. WINGET, and)
JAMES R. ECKHART,)
)
Defendants.)

JUN 20 1993
JACK H. SILVER, CLERK
U.S. DISTRICT COURT

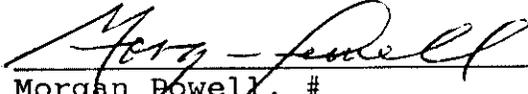
Case No. 89-C-889B

STIPULATION OF DISMISSAL WITH PREJUDICE

The Plaintiff Kansas City Life Insurance Company ("Kansas City Life") and the Defendant, James R. Eckhart ("Eckhart"), pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, do hereby stipulate to the dismissal with prejudice of Eckhart from the above styled action for the reason that for good and valuable consideration, the parties have entered into a compromise and settlement of all issues set out in this litigation. Pursuant to that certain Administrative Closing Order filed in the above styled action, Kansas City Life does hereby expressly reserve all claims and causes of action against the Defendants, Adtel, Inc. and Larry H. Winget subject to the final adjudication and disposition of such Defendants pending bankruptcies.


Kenneth F. Albright, # 181
2601 Fourth National Bank Bldg
15 West Sixth Street
Tulsa, Oklahoma 74119
(918) 583-5800

Attorney for Kansas City
Life Insurance Company


Morgan Powell, #
2150 East 15th Street
Tulsa, Oklahoma 74104
(918) 747-4600

Attorney for James R. Eckhart

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

JUN 20 1990

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

SUNBELT RAILROAD HISTORICAL)
TRUST,)

Plaintiff,)

v.)

No. 89-C-728-E

CONTINENTAL RAIL COMPANY,)
a Division of IBS, Inc.,)

Defendant.)

JOINT DISMISSAL WITH PREJUDICE

Plaintiff, Sunbelt Railroad Historical Trust, by and through its attorneys, Barrow, Gaddis, Griffith & Grimm, by Allen E. Barrow, Jr.; and Defendant, Continental Rail Company, a Division of IBS, Inc., by and through its attorneys, Huffman Arrington Kihle Gaberino & Dunn, by Stuart D. Campbell, hereby jointly dismiss the above-styled and numbered litigation with prejudice, including all claims and counterclaims, asserted or which may have been asserted therein.

Dated this 19 day of June, 1990.

HUFFMAN ARRINGTON KIHLE GABERINO & DUNN
A Professional Corporation

By: 
Stuart D. Campbell (OBA #11246)

1000 ONEOK Plaza
Tulsa, Oklahoma 74103
918/585-8141

Attorneys for Defendant, Continental
Rail Company, a Division of IBS, Inc.

BARROW, GADDIS, GRIFFITH & GRIMM

By Allen E. Barrow, Jr.
Allen E. Barrow, Jr. (OBA #263)

610 South Main, Suite 300
Tulsa, Oklahoma 74119-1226

Attorneys for Plaintiff,
Sunbelt Railroad Historical Trust

CERTIFICATE OF MAILING

I, Stuart D. Campbell, hereby certify that on the 19 day of June, 1990, a true, correct and exact copy of the foregoing Joint Dismissal With Prejudice was mailed with postage fully prepaid thereon to the following:

Allen E. Barrow, Jr., Esq.
Barrow, Gaddis, Griffith & Grimm
610 South Main, Suite 300
Tulsa, Oklahoma 74119-1226

Attorneys for Plaintiff,
Sunbelt Railroad Historical Trust

Stuart D. Campbell
Stuart D. Campbell

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

F I L E D

JAMES W. HARVILLE,)
)
 Plaintiff,)
)
 v.)
)
 LOUIS W. SULLIVAN, M.D.)
 SECRETARY OF HEALTH AND)
 HUMAN SERVICES,)
)
 Defendant.)

JUN 19 1990

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

89-C-361-E

ORDER

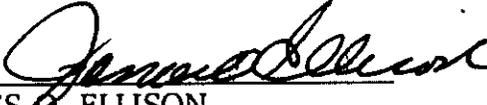
The court has for consideration the Findings and Recommendations of the Magistrate filed May 16, 1990, in which the Magistrate recommended that this case be remanded for consideration by a vocational expert to ascertain if an individual with plaintiff's type of physical limitation, personality disorder, age, education and training can maintain employment in any job that exists in the national economy. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

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

It is therefore Ordered that this case is remanded for consideration by a vocational expert to ascertain if an individual with plaintiff's type of physical limitation, personality disorder, age, education and training can maintain employment in any job that exists in the national economy.

TIME STUDY CASE
Record Time Spent by Judge or Magistrate

Dated this 18th day of June, 1990.



JAMES D. ELLISON
UNITED STATES DISTRICT JUDGE

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

JO ETTA DONESSA RAMSEY,)
)
Petitioner,)
)
v.)
)
OKLAHOMA DEPARTMENT OF)
CORRECTIONS,)
)
Defendant.)

89-C-1030-E

~~FILED~~

~~JUN 14 1990~~

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

FILED

JUN 19 1990

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

ORDER

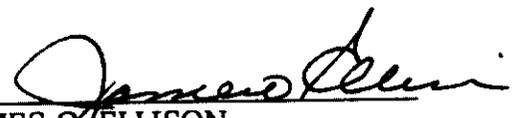
The Court has for consideration the Report and Recommendation of the United States Magistrate filed May 25, 1990 in which the Magistrate recommended that the Petition for a Writ of Habeas corpus **be denied**.

No exceptions or objections **have been** filed and the time for filing such exceptions or objections has expired.

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

It is, therefore, Ordered that the Petition for a Writ of Habeas Corpus is denied.

Dated this 19th day of June, 1990.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

JUN 19 1989

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

DARRIN R. VILLARREAL, by and)
through his mother and next)
friend, JANETTA VILLARREAL,)
and JANET VILLARREAL,)
individually,)

Plaintiffs,)

vs.)

Case No. 89-C-737-E

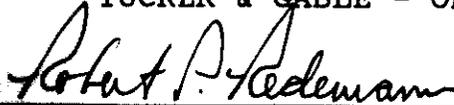
BUSKE LINES, INC., an)
Illinois corporation, and)
NEW HAMPSHIRE INSURANCE)
COMPANY,)

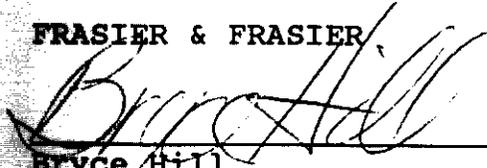
Defendants.)

STIPULATION OF DISMISSAL

The parties hereto respectfully request that the above-styled and numbered cause be dismissed with prejudice as the parties have reached a settlement, and that this matter be stricken from the court's docket.

RHODES, HIERONYMUS, JONES,
TUCKER & GABLE - OBA #36


ROBERT P. REDEMANN
2800 Fourth National Building
Tulsa, Oklahoma 74119
(918) 582-1173
Attorneys for Defendants

FRASIER & FRASIER

Bryce Hill
P.O. Box 799
Tulsa, Oklahoma 74101
Attorneys for Plaintiffs

CERTIFICATE OF MAILING

I hereby certify that on the 19th day of June, 1990, a true and correct copy of the foregoing was mailed with proper postage thereon prepaid to Bryce A. Hill, P.O. Box 799, Tulsa, OK 74101-0799.

Robert A. Sedemann

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

FILED

JUN 19 1990

ROBERT L. GLOVER,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

89-CR-56-E

90-C-328-E

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

ORDER

The court has for consideration the Report and Recommendation of the Magistrate filed May 17, 1990, in which the Magistrate recommended that movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 be dismissed. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

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

It is therefore Ordered that movant Robert L. Glover's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 is dismissed.

Dated this 19th day of June, 1990.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

JUN 19 1990

BANK OF OKLAHOMA, N.A.,
Grove Branch, formerly
Bank of Oklahoma, Grove,

Plaintiff,

vs.

THE ISLANDS MARINA, LTD.,
et al.,

Defendants.

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

Case Number 88-C-1335-E

ORDER GRANTING DEFICIENCY JUDGMENT

Upon consideration of the Motion of Defendant Bank of the Lakes for Order granting deficiency on judgment, such Motion being filed herein on October 26, 1989, the Court finds that Bank of the Lakes is entitled to the relief requested in its Motion, and further finds that Defendants Charles Gary James and Patricia Kay James have not responded to the Motion, although having proper notice on the Motion, it is therefore

ORDERED that Defendant Bank of the Lakes shall be and is hereby granted a deficiency on its judgment against Defendants Charles Gary James and Patricia Kay James, jointly and severally, on Bank of the Lakes' first cause of action, in the amount of

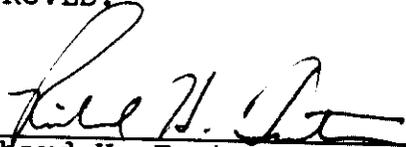
\$17,132.89, plus interest thereafter at the rate of 10% per annum.

DATED this 19th day of June, 1990.

S/ JAMES O. ELLISON

HON. JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

APPROVED:


Richard H. Foster
DOERNER, STUART, SAUNDERS,
DANIEL & ANDERSON
1000 Atlas Life Building
Tulsa, Oklahoma 74103
(918) 582-1211

Attorneys for Defendant
Bank of the Lakes

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

F I L E D

JUN 19 1990

FEDERAL DEPOSIT INSURANCE CORPORATION,)
)
)
Plaintiff,)
)
)
vs.)
)
GRAYFOX OPERATING COMPANY, an)
Oklahoma Corporation; GARY D.)
JONSON; W. L. RIEMAN d/b/a)
HILL'S TANK TRUCK SERVICE; and)
TRICO INDUSTRIES, INC.,)
)
Defendants.)

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

Case No. 88-C-163-E

AGREED DEFICIENCY JUDGMENT

This matter comes before the Court on the Motion of the Plaintiff, The Federal Deposit Insurance Corporation ("FDIC"), for Leave to Enter a Deficiency Judgment herein filed on February 20, 1990. Movant appears by its attorneys, Gable & Gotwals, and the Defendants, Grayfox Operating Company, an Oklahoma corporation, and Gary D. Jonson, appear by their attorney of record, Philip R. Campbell.

The Court upon consideration of said Motion and pursuant to agreement of the parties as indicated by the signatures of their counsel of record as set forth below, finds that the fair and reasonable market value of the mortgaged property as of the date of the Sheriff's Sale herein, November 21, 1989, was \$50,000.00.

The Court further finds that the amount of the Judgment rendered herein in favor of the FDIC was the principal sum of \$175,478.13 with accrued interest up to and including October 17, 1988, in the amount of \$36,320.78, together with all costs and attorney's fees herein and with interest continuing to accrue on the above amounts at the rate of 8.15% per annum (collectively the "Indebtedness"). The FDIC accordingly is entitled to a Deficiency Judgment against the Defendants, Grayfox Operating Company and Gary D. Jonson, jointly and severally, for the amount of the Indebtedness, less the market value of the Property in the sum of \$50,000.00, less \$7,473.73 which the parties

agree is the fair and reasonable market value of certain stock pledged to the FDIC now held at Prudential-Bache Securities.

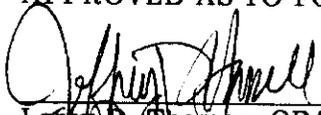
IT IS, ACCORDINGLY, ORDERED, ADJUDGED AND DECREED by the Court that the Plaintiff, FDIC, have and recover of and from the Defendants, Grayfox Operating Company and Gary D. Jonson, jointly and severally, the principal amount of \$175,478.13 with accrued interest up to and including October 17, 1988 in the amount of \$36,320.78, together with all costs and expenses incurred by the FDIC in this action, including attorney's fees approved by this Court pursuant to local rules after entry of this Deficiency Judgment, less and except \$50,000.00, the fair and reasonable market value of the Property as of the date of Sheriff's Sale, and less \$7,473.73, the fair and reasonable market value of stock pledged to the FDIC now held by Prudential-Bache Securities, together with interest accruing on the above amounts at the rate of 8.15% per annum from and after November 21, 1989, the date of Sheriff's Sale, and all costs of this action, for all of which let execution issue.

IT IS SO ORDERED this 19 day of June, 1990.

S/ JAMES O. FURBER

JUDGE OF THE DISTRICT COURT

APPROVED AS TO FORM:



Larry D. Thomas, OBA #8945
Jeffrey D. Hassell, OBA #12325
Gable & Gotwals, Inc.
2000 Fourth National Bank Bldg.
Tulsa, Oklahoma 74119
(918) 582-9201

ATTORNEYS FOR THE FEDERAL
DEPOSIT INSURANCE CORPORATION



PHILIP R. CAMPBELL
1208 South Utica Tower
1924 South Utica
Tulsa, Oklahoma 74114

ATTORNEY FOR GRAYFOX OPERATING
COMPANY AND GARY D. JONSON

FILED

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

JUN 19 1990

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

RANDY GAIL ROMBACH,)
)
 Plaintiff,)
)
 vs.)
)
 DR. ALEX LIZZARAGA, DR.)
 RODRIGUEZ RAMIREZ, JOHN DOE)
 NO. 1, JOHN DOE NO. 2 AND)
 JOHN DOE NO. 3,)
)
 Defendants.)

No. 88-C-1017E

ORDER

NOW on this 19th day of June, 1990, this matter comes on before this Court upon the Motion To Dismiss of the Defendants, Dr. Alejandro Lizarraga and Dr. Rodriguez Ramirez, Presenting Defenses of Lack of Capacity to Be Sued (Improper Parties Defendant) and Lack of Subject Matter Jurisdiction. The Court, having reviewed the Motion and Brief of the Defendants, and otherwise considered the Court file, finds that the Plaintiff has totally failed to respond thereto within the time period allowed by law.

The Court therefore finds that the named Defendants, Dr. Alejandro Lizarraga and Dr. Rodriguez Ramirez, are employees of the State of Oklahoma, are not proper parties Defendant and lack the capacity to be sued hereunder under applicable state law, found at 51 O.S.Supp.1987, § 152.1 and 51 O.S.Supp.1987, § 163(D). The Court further finds that the Plaintiff has failed to allege compliance with the Oklahoma Governmental Tort Claims

Act, which would be required to confer subject matter jurisdiction over an action against the proper party Defendant, State of Oklahoma, as established under 51 O.S.Supp.1987, § 151 et seq.

The Court therefore concludes that the action as to the Defendants, Lizarraga and Ramirez, should be and is hereby DISMISSED.

IT IS SO ORDERED.



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

lmd: C4DISM25
TM-88-025

FILED

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

JUN 19 1990

CATHY MOORE,

Plaintiff,

v.

STANLEY GLANZ, et al,

Defendants.

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

89-C-902-E

ORDER

The court has for consideration the Report and Recommendation of the Magistrate filed April 30, 1990, in which the Magistrate recommended that plaintiff's Motion to Vacate Judgment be denied, that plaintiff's Motion to Tax Costs and Attorneys' Fees be denied, and that defendants' request for sanctions be denied. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

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

It is therefore Ordered that plaintiff's Motion to Vacate Judgment is denied, plaintiff's Motion to Tax Costs and Attorneys' Fees is denied, and defendants' request for sanctions is denied.

Dated this 19th day of June, 1990.



JAMES G. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

JUN 18 1990

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

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

PEGGY BAKOS,)
)
 Plaintiff,)
)
 vs.)
)
 QUEEN CITY HOME HEALTH CARE)
 COMPANY, a foreign corporation,)
)
 Defendant.)

Case No. 89-C-171-E

DISMISSAL WITH PREJUDICE BY STIPULATION

COME NOW the Plaintiff, Peggy Bakos, and the Defendant, Queen City Home Health Care Company, a foreign corporation, and, by stipulation, dismiss this suit with prejudice pursuant to Rule 41(A)(1) of the Federal Rules of Civil Procedure.

This dismissal is based on the ground that the parties have reached an agreement for settlement.

Respectfully submitted,



James E. Frasier
Frasier & Frasier
1700 Southwest Boulevard
P.O. Box 799
Tulsa, Oklahoma 74101



Mike Barkley
Scott B. Wood
BARKLEY, RODOLF, SILVA,
McCARTHY & RODOLF
1700 Mid-Continent Tower
401 South Boston Avenue
Tulsa, Oklahoma 74103
918/ 599-9991

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

B. L. HINSON, et al.,
Plaintiffs,
vs.
LOREN FREDERICK, et al.,
Defendants.

No. 90-C-327-E

FILED

JUN 18 1990

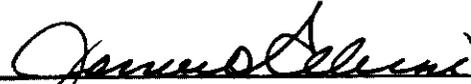
Jack C. Silver, Clerk
U.S. DISTRICT COURT

ORDER

This matter is before the Court on the motion of Plaintiffs to remand this matter to the state district court from whence it was removed. Defendants do not oppose remand and have withdrawn their Petition for Removal.

Accordingly, it is therefore ordered that this matter is remanded to the state district court.

ORDERED this 15th day of June, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

The statutory threshold for receiving a fee under this statute, as with 42 U.S.C. § 1988 (Civil Rights Attorney Fee Act), is easily met. Plaintiff must merely "succeed on any significant issue in litigation which achieves some of the benefit the parties sought in bringing suit." Hensley v. Eckerhart, 461 U.S. 424, 433 (1983) (quoting Nadeau v. Helgemoe, 581 F.2d 275, 278-79 (1st Cir. 1978)). However, the Court must then decide what fee is reasonable. Hensley v. Eckerhart, 461 U.S. at 433.

The calculation of a reasonable attorney fee begins with the process of calculating the "lodestar." See Lindy Bros. Builders, Inc. v. American Radiator & Standard Sanitary Corp., 487 F.2d 161, 167 (3d Cir. 1973). The "lodestar" is the product of multiplying the reasonable number of hours expended times a reasonable hourly rate. Hensley v. Eckerhart, 461 U.S. at 433; Wulf v. City of Wichita, 883 F.2d 842, 875-76 (10th Cir. 1989). Then, starting from the lodestar, the Court must make such further adjustments as are necessary to derive a reasonable fee.

A. The Lodestar

The plaintiff's requested lodestar of reasonable hourly rates times reasonable number of hours results in the following calculations:¹

¹There was no serious challenge by Skaggs to the hourly rate, any duplication, or the hours actually expended as claimed, except for some unproductive hours discussed in note 2 below. The Johnson factors are also not subject to dispute. Johnson v. Georgia Highway Express, Inc., 488 F.2d 714, 717-19 (5th Cir. 1984), cited in, Hensley v. Eckerhart, 461 U.S. at 429-30 & n.3.

Tom L. Armstrong	239.00 hours	x \$150.00	= \$ 35,850.00
Logan V. Moss	340.75 hours	x \$100.00	= \$ 34,075.00
Jeannie C. Henry	30.75 hours	x \$ 30.00	= \$ 922.50
Jeannie C. Henry	22.00 hours	x \$ 80.00	= \$ 1,760.00
Kenneth L. Wire	26.25 hours	x \$ 80.00	= \$ 2,100.00
Regina K. Tetik	<u>.25</u> hours	x \$ 30.00	= \$ <u>7.50</u>

Totals: 659.00 hours \$ 74,715.00

Taylor's Brief at 6 (Apr. 24, 1990).

The Court should adjust the lodestar to derive a reasonable fee based on the prevailing party's quantum of success. Hensley v. Eckerhart, 461 U.S. at 438 & n.14. Plaintiff attained only limited success on her claims. At trial she would have prevailed only on her constructive discharge and retaliation claims, and would have been unsuccessful on her discrimination and equal pay claims. The parties were apprised of the Court's inclination to rule in this regard, and subsequently, just as a 58-page order was prepared to be entered and published, the parties announced settlement on liability and damages. There is no doubt that but for the Court's announced anticipated ruling on the critical issues in this case, the settlement would not have occurred. However, settlement excluded attorney fees and costs thus necessitating the instant Order.² This settlement agreement should be distinguished

²The parties have stipulated that Taylor is a prevailing party for purposes of awarding attorney fees. Joint Letter to the Court at 2 (June 7, 1990). Even though Taylor did not receive a judicial determination on the merits of her claims, the Court finds that she is entitled to fees in this case. Maher v. Gagne, 448 U.S. 122, 129 (1980); Luethje v. Peavine School Dist., 872 F.2d 352, 354 (10th Cir. 1989).

Although Skaggs stipulated that Taylor was a prevailing party there was no admission of fault by Skaggs. Further, the parties agreed that the terms of their settlement agreement on the merits should be kept confidential. Although the Court will not require

from a March 5, 1987, settlement agreement on the sex discrimination claim, which plaintiff alleged had been subsequently breached. Plaintiff then brought suit on that claim and the other three.

A prevailing party may be entitled to attorney fees and costs resulting from unsuccessful claims if there is a sufficient nexus between them and the meritorious claims. Hensley v. Eckerhart, 461 U.S. at 434-35. While the discrimination claim based on a lack of promotion, involved events prior to the signing of the first settlement agreement on March 5, 1987, the Court finds that all of plaintiff's claims are closely related and arose from a common core of facts. City of Riverside v. Rivera, 477 U.S. 561, 570 (1986). Indeed, but for the second settlement on the liability issue in this case, the Court was inclined to find that plaintiff need not file a second EEOC complaint on the subsequent claims as it would be redundant. While it is also true that the discrimination and equal pay claims involved different locations and, with the exception of Mike Goulet and Charles Findley, different management personnel, the Court is convinced that the constructive discharge and retaliation claims are factually interconnected with the discrimination and equal pay claims as they were intertwined with a pervasive, and institutionalized pattern of sex discrimination within the Skaggs organization. See Ramos v. Lamm, 713 F.2d 546,

the parties to divulge the amount of the settlement, if any, or any other specific terms, the Court must take into consideration the circumstances surrounding the announced settlement which gave rise to Taylor's status as a "prevailing party."

556 (10th Cir. 1983).

However, the Court cannot grant plaintiff all of the attorney fees she requests on her various claims. "[T]he most critical factor is the degree of success obtained." Id.; Hensley v. Eckerhart, 461 U.S. at 438 & n.14. The disparate treatment and impact models arguably supported a claimed pattern of discrimination. But, as the Court informed the parties, it was prepared to find that this issue had been settled, and was not a part of this lawsuit, except to lay a foundation for the constructive discharge and retaliation claims. The Court was prepared to find that plaintiff wanted to have her cake and eat it too regarding the first settlement agreement on her discrimination claim. Therefore, it is not proper that the Court award full fees for this second helping. Significant time was spent at trial on Taylor's effort to undo a settlement agreement she had knowingly and willingly entered into. Although apparently raised in good faith, the settlement agreement issue was not a close call. It was a substantial claim and it undoubtedly inhibited compromise and settlement prior to trial.

As conceded by Skaggs, it was helpful for plaintiff to provide background of the discrimination claim, but the Court finds the requested fees to be clearly excessive under these circumstances. Ramos v. Lamm, 713 F.2d at 556; Skaggs' Supplemental Response at 4 (May 3, 1990). "The result is what matters." Hensley v. Eckerhart, 461 U.S. at 435. Plaintiff requests the following fees

regarding the validity of the Settlement Agreement and the Equal Pay Act:

a.	02/09/89	1	hour
b.	02/11/89	6	hours
c.	02/13/89	5	hours
d.	02/14/89	5	hours
e.	02/16/89	1.5	hours
f.	06/29/89	1.75	hours
g.	10/27/89	2.5	hours
h.	10/31/89	3	hours
i.	11/21/89	<u>.5</u>	hours

TOTAL: 26.25 hours x 100 = \$ 2,625

Supplemental Affidavit of Tom Armstrong (Apr. 30, 1990).³

With all due consideration the Court must find that this claim should be reduced by 75%, or a reduction of \$1,968.75.⁴ The Court upholds Skaggs' objection to time spent meeting with Jessica Gledhill, plaintiff's therapist, as compensatory damages are

³The Court accepts Armstrong's affidavit as the only evidence before the Court on this matter. Skaggs made a general objection to the hours represented in the affidavit, and further highlighted unproductive hours, but waived cross-examination and presented no evidence on this issue. See Skaggs' Supplemental Brief at 4 & Ex. B (May 3, 1990); Skaggs' Letter at 1 (May 23, 1990).

⁴Mathematical approaches comparing the total number of issues in the case with those actually prevailed upon have been generally rejected because they ignore many relevant factors including the relative importance of the issues. Hensley v. Eckerhart, 461 U.S. at 435 n.11; Ramos v. Lamm, 713 F.2d at 556-57 n.7. However, the Court "may simply reduce the award to account for the limited success." Hensley v. Eckerhart, 461 U.S. at 436-37. An exact allocation appears to be impossible at this point, and the district court's determination is reviewed by an abuse of discretion standard. Id. at 437; Avila v. Coca-Cola Co., 849 F.2d 511, 514-15 (11th Cir. 1988). Under all of the circumstances of this case the Court finds that a 25% attorney fee award on the unsuccessful claims to be reasonable. "Where the documentation of hours is inadequate, the district court may reduce the award accordingly." Hensley v. Eckerhart, 461 U.S. at 433. No sympathy is given by appeal courts if claims are not particularized. Id. at 437 n.12.

unrecoverable under Title VII. See Pearson v. Western Elec. Co., 542 F.2d 1150, 1151-52 (10th Cir. 1976) (only equitable remedies are authorized). Contra Williams v. Trans World Airlines, Inc., 660 F.2d 1267, 1272-73 (8th Cir. 1981) (Award of compensatory damages for humiliation or emotional suffering is an appropriate remedy for deprivation of a constitutional deprivation.) (disagreed with by Muldrew v. Anheuser-Busch, Inc., 728 F.2d 989, 922 & n.2 (8th Cir. 1984)). According to the Court's calculation, Logan Moss submitted a claim of 24.25 hours for entries that included at least partial time spent with Jessica Gledhill. Moss' hourly rate of \$100 times this number of hours accounts for a total sum of \$2,425. With due consideration the Court finds that this amount should be reduced by 50% or a reduction of \$1,212.50 "A reduced fee award is appropriate if the relief, however significant, is limited in comparison to the scope of the litigation as a whole." Hensley v. Eckerhart, 461 U.S. at 440. Therefore, the lodestar request of \$74,715 should be reduced to a modified total of \$71,533.75.

B. Enhancement

Plaintiff requests a 100% enhancement of fees to compensate for risks taken in this contingency fee case. Plaintiff provides an affidavit of Louis W. Bullock, a prominent civil rights attorney, who provides support for the enhancement based on risk, and alternatively urges a 25% enhancement based on efficiency. See Clayton v. Thurman, 775 F.2d 1096, 1098 (10th Cir. 1985) (A 33% enhancement fee was affirmed on appeal, which had been awarded by an en banc Court of the Northern District of Oklahoma based on

Bullock's level of skill and competence.); and O'Rourke v. City of Norman, No. CIV-85-10-P, slip op. at 7 (Apr. 2, 1990) (Cauthron, Mag.) (Finding that Bullock is an experienced and talented lawyer demonstrating special expertise in civil rights litigation.). Bullock suggests that this type of case is risky because it is time consuming, and differs from most litigation because it creates a negative cash flow, which results in law firm strain, and potential bankruptcy. Further, Bullock suggests that civil rights cases are less lucrative than other types of contingency fee cases, and consequently more risky. In Bullock's opinion, plaintiff would have faced difficulties in finding other counsel. Conversely, Skaggs argues that enhancement should be reserved for those rare cases involving superior service and exceptional success. Hensley v. Eckerhart, 461 U.S. at 435.

As the transcript of the trial of this case will reflect, the Court was not particularly impressed with the trial efficiency in this case by plaintiff's counsel, nor is there any demonstrative basis for the award of any genius factor. Ramos v. Lamm, 713 F.2d at 557. Indeed, much of the outset of the case was devoted to the Court explaining to counsel various problems the plaintiff's attorneys were encountering in presenting their evidentiary matters. After more than a day of disorganized presentation, the case then proceeded fairly smoothly, as the trial transcript will reflect. Moreover, the tenacious resolve to fight for the original settlement agreement claim exhibited further inefficiency, if anything. The risk of losing a suit is measured by "how unsettled

the applicable law is with respect to the issues posed by the case and by how likely it is that the facts could be decided against the complainant." Pennsylvania v. Delaware Valley Citizens' Council for Clean Air, 483 U.S. _____, 107 S. Ct. 3078, 3081 (1978) (plurality opinion). The claims that were meritorious in this case were not so risky in the Court's view that competent civil rights attorneys would have been reluctant to advocate them. Id. at 3091 (O'Connor, J., concurring in part and concurring in judgment) (citing the plurality at 3089). In fact, the Court sincerely believes that had a narrower, and more reasonable approach been targeted by plaintiff's counsel, this entire matter would have been resolved without any litigation. The Court is sensitive to the risks of negative cash flow and the very real risk of expending time on claims that ultimately prove to be unfruitful. Also, the Court finds that plaintiff's counsel agreed to take nothing if unsuccessful. However, the circumstances of this case and this particular settlement cannot be ignored. It is clear that attorney fee awards are not to provide windfalls to attorneys and there should be no double counting. Blum v. Stenson, 465 U.S. 886, 897, 899 (1984). Further, the fee applicant carries the burden of proving that any adjustment is necessary. Id. at 898. In this regard plaintiff's counsel has not proven that his success was exceptional. Id. at 899.

Contingency factors as a basis for enhancement are viewed with caution in this Circuit. Ramos v. Lamm, 713 F.2d at 558. The contingency factor is problematical because it penalizes losing

parties with the strongest and most reasonable defense, which means it penalizes the least culpable. Pennsylvania v. Delaware Valley Citizens' Council for Clean Air, 107 S. Ct. at 3083. It further encourages marginal litigation and in effect causes an unsuccessful defendant to subsidize other, unsuccessful litigation. Id. This result turns the prevailing-party policy of the fee-shifting statute on its head. Id. at 3083-84.

Moreover, plaintiff has not met her burden of proving that she faced substantial difficulties in finding counsel, and in fact was successful on her very first try. See id. at 3089 n.12; Id. at 3091 (O'Connor, J.) (concurring in part and concurring in judgment with plurality). Any enhancement fee is DENIED.

C. Out-Of-Pocket Expenses

Plaintiff claims an amount of \$9,082.86 for out-of-pocket expenses. 28 U.S.C. §§ 1920 & 1988. Skaggs initially challenged \$6,022.51 of this amount, but then made major concessions in its supplemental brief.⁵

Plaintiff is only entitled to those costs reasonably necessary and which are normally itemized and billed to clients. Hensley v. Eckerhart, 461 U.S. at 434. The only evidence before the Court is the affidavit of plaintiff's counsel that the costs are normally itemized and billed to clients, and this issue has not been challenged by Skaggs. Skaggs takes major issue only with the fact

⁵Skaggs initially disputed \$11,105.37 in expenses, but Dr. John Bonham's fees appear to be overstated by \$5,082.86 in Skaggs' exhibit regarding costs. Skaggs' Supplemental Response at Ex. B. (May 3, 1990).

that plaintiff should not be reimbursed for costs on issues on which she did not prevail. The Court agrees in part, but for the reasons stated under the attorney fee section above, plaintiff should be partially reimbursed for costs related to her unsuccessful, but interconnected claims. The parties have not provided the Court with much assistance in deriving a reasonable cost figure under this analysis and with all due consideration the Court finds that plaintiff's total costs should be reduced by 15%, or a monetary reduction of \$1,362.43, for a modified cost award of \$7,720.43.

III. CONCLUSION

Accordingly, plaintiff is awarded an attorney fee in the amount of \$71,533.75 and costs in the amount of \$7,720.43, for a total award of \$79,254.18.

IT IS SO ORDERED THIS _____ DAY OF JUNE, 1990.



LAYNE R. PHILLIPS
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OKLAHOMA

CLERK'S OFFICE

UNITED STATES COURT HOUSE

TULSA, OKLAHOMA 74103

JACK C. SILVER
CLERK

entered
(818) 581-7796
(FTS) 736-7798

June 18, 1990

TO: Counsel/Parties of Record

RE: Case # 89-C-352-C
Morse vs. American Airlines

This is to advise you that Chief Judge H. Dale Cook entered the following Minute Order this date in the above case:

Plaintiff's application for attorney fees and costs is untimely under Local Rule 6G and is therefore denied.

Very truly yours,

JACK C. SILVER, CLERK

By: *J. Mills*
Deputy Clerk

FILED

JUN 18 1990

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

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

WALTER S. MILLER,

Plaintiff,

v.

ALLSTATE INSURANCE COMPANY, a foreign
insurer,

Third-Party Plaintiff
and Defendant,

v.

TAMMY MICHELLE INGRAM,

Third-Party Defendant.

No. 89-C-353-E

TIME STUDY CASE
Record Time Spent by Judge or Magistrate

ORDER OF DISMISSAL WITH PREJUDICE

NOW ON this 15th day of June, 1990, it appearing to the Court that the Plaintiff's claims and the third-party claims have been compromised and settled, this case is herewith dismissed with prejudice to the refileing of a future action.

S/ JAMES O. ELLISON

Judge of the District Court

FILED

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

JUN 18 1990

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

BENNY W. TATE,

Plaintiff,

vs.

Case No. 86-C-587-E

TEXACO, INC., J.C. GRANT,
R.K. TIERNAN, and E.R.
FREEMAN,

Defendants.

ORDER ALLOWING DISMISSAL

This matter having come before the Court this 15th day
of June, 1990, upon the parties' Joint Stipulation
of Dismissal With Prejudice and for good cause shown,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that this action
be dismissed with prejudiced to the filing of a future action,
the parties to bear their own costs and attorney fees.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

FILED

JUN 18 1990

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

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

ADAIR STATE BANK,
Plaintiff,
vs.
AMERICAN CASUALTY CO.,
Defendant.

No. 87-C-45-E ✓

ORDER

This matter is before the Court on the motion of Adair State Bank (Adair) for expenses including reasonable attorneys' fees under Okla.Stat.tit. 36 §3629(B). Adair prevailed in this action on its claim that its insurer, American Casualty Company (American), breached its agreement to provide coverage under blanket and excess fidelity bonds for losses resulting from the dishonest or fraudulent acts of Adair's employees. Adair suffered losses as a result of a check-kiting scheme initiated by its former president, and this Court has held that the blanket and excess fidelity bonds issued by American provided coverage for Adair's losses. (Findings of Fact and Conclusions of Law, Sept. 28, 1989).

In this diversity case Oklahoma law applies to the matter of attorney fees. Rockwood Ins. Co. v. Clark Equipment Co., 713 F.2d 577, 579 (10th Cir. 1983). Okla.Stat.tit. 36 §3629(B) provides, in part:

It shall be the duty of the insurer, receiving a proof of loss, to submit a written offer of settlement or rejection of the claim to the insured within 90 days of receipt of that proof of loss. Upon a judgment rendered to either party, costs and attorney fees shall be

allowable to the prevailing party. For purposes of this section, the prevailing party is the insurer in those cases where the judgment does not exceed the written offer of settlement. In all other judgments the insured shall be the prevailing party.

As the prevailing party, Adair is entitled to reasonable attorneys' fees.

The factors to be considered in determining a reasonable fee are codified at Rule 1.5(a) of the Oklahoma Rules of Professional Conduct:

1. The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
2. The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
3. The fee customarily charged in the locality for similar legal services;
4. The amount involved and the results obtained;
5. The time limitations imposed by the client or by the circumstances;
6. The nature and length of the professional relationship with the client;
7. The experience, reputation, and ability of the lawyer or lawyers performing the services; and whether the fee is fixed or contingent.

Okla.Stat.tit. 5, Ch. 1, App. 3-A. Other factors to be considered include the risk of non-recovery and awards in similar cases. Oliver's Sports Center, Inc. v. National Standard Ins. Co., 615 P.2d 291, 295 (Okla. 1980).

In this case Adair prevailed upon its breach of contract claim, but was unsuccessful on its claim that American breached the

contract for insurance in bad faith (Order of Sept. 26, 1988). The Court finds that the fees awarded should be adjusted to reflect this loss. The Court heard evidence that between 125-150 hours were devoted to the bad faith claim and that these hours constitute approximately \$21,000 of the fees requested.

The Court finds that the hourly rates charged by the attorneys and the rates attributable to legal interns and assistants are reasonable. The Court finds that the fees for legal interns and assistants may be awarded separately as part of the fee for legal services. An hourly rate of \$150.00 for attorneys Nelson, Edmonds and Hargraves is reasonable for their services.

The risk of non-recovery in this case was fair and preparation of the case required knowledge of banking procedures. However, the Court cannot find that the case necessitated the number of lawyers who worked on the case. The Court finds that some downward adjustment of the award must be made for duplication of services. As the court noted in Ramos v. Lamm:

The more lawyers representing a side of the litigation, the greater the likelihood will be for duplication of services. The Court should assess the possibility that reported hours include duplication by reviewing with particular care the number of lawyers present at hearings, depositions, and other discovery proceedings, and by evaluating the roles played by the lawyers in the litigation generally. The Court can look to how many lawyers the other side utilized in similar situations as an indication of the effort required. Because utilizing more than one lawyer may be reasonable in some situations ... we decline to require an automatic reduction of reported hours to adjust for multiple representation or potential duplication. However, the district court should give particular attention to the possibility of duplication.

713 F.2d 546, 554 (10th Cir. 1983).

In consideration of the above factors the Court finds \$250,000.00 to be reasonable attorneys' fees in this case.

IT IS THEREFORE ORDERED that the application of Plaintiff Adair State Bank for attorney fees is sustained and Plaintiff is awarded the sum of \$250,000.00.

ORDERED this 15th day of June, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

JUN 18 1990 *JS*

LINDA TAYLOR AND ROBERT
TURNER,

Plaintiffs,

vs.

No. 89-C-1003-E ✓

UNITED STATES OF AMERICA,

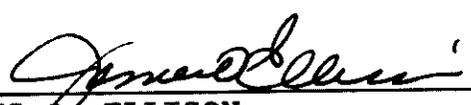
Defendant.

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

ORDER

This matter is before the Court on the motion of the United States to dismiss this action. Plaintiffs filed this action seeking the return of seized property which has been the subject of administrative forfeiture proceedings, and a related case in which the United States has filed a complaint for forfeiture in rem, "United States of America v. \$7,523.09 et al" case no. 90-C-41-E, pending before this Court. The United States is not subject to suit under the forfeiture statutes and the complaint is accordingly dismissed.

ORDERED this 15th day of June, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE