

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

DANNY J. VARNELL,

Plaintiff,

v.

LOUIS W. SULLIVAN, M.D.,
SECRETARY OF HEALTH AND
HUMAN SERVICES,

Defendant.

86-C-1055-E

F I L E D

OCT 15 1990

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

ORDER

The court has for consideration the Report and Recommendation of the Magistrate filed September 19, 1990, in which the Magistrate recommended that plaintiff's Application for Attorney's Fees 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 Application for Attorney's Fees pursuant to the Equal Access to Justice Act is denied.

Dated this 15th day of October, 1990.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

OCT 17 1990

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

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

YAZOO MANUFACTURING COMPANY, INC.,
a Mississippi corporation,

Plaintiff,

vs.

SOUTHLAND INVESTMENT PROPERTIES,
INC., an Oklahoma corporation,
d/b/a Southland Distributors, and
LARRY L. ABBOUD,

Defendants.

Case No. 90-C-773-E

Stipulation of

DISMISSAL WITHOUT PREJUDICE

Plaintiff, Yazoo Manufacturing Company, Inc., pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, hereby voluntarily dismisses the captioned action without prejudice to refiling the same.

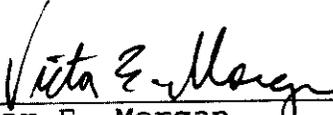
Victor E. Morgan

Neal Tomlins, OBA #10499
Victor E. Morgan, OBA #12419
BAKER, HOSTER, McSPADDEN,
CLARK, RASURE & SLICKER
800 Kennedy Building
Tulsa, Oklahoma 74103
(918) 592-5555

Attorneys for Plaintiff,
Yazoo Manufacturing Company, Inc.

CERTIFICATE OF MAILING

I hereby certify that on the 15th day of October, 1990,
a true and correct copy of the above and foregoing Dismissal
Without Prejudice was mailed, postage prepaid, to Joe M.
Bohannon, 1512 South Denver, Tulsa, Oklahoma 74119, attorney for
Defendants.



Victor E. Morgan

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

FILED

OCT 15 1990

ANTHONY BARNHART SHATOS,)
)
 Petitioner,)
)
 v.)
)
 EDWARD EVANS, WARDEN)
 and THE ATTORNEY)
 GENERAL OF THE STATE)
 OF OKLAHOMA,)
)
 Respondents.)

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

90-C-551-E

ORDER

The court has for consideration the Report and Recommendation of the Magistrate filed September 7, 1990, in which the Magistrate recommended that petitioner's petition for a writ of habeas corpus 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 petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is dismissed.

Dated this 15th day of October, 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

OCT 15 1990

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

TULSTAR ENERGY GROUP, INC.,)

Plaintiff,)

vs.)

No. 90-C-313-E

KOCH INDUSTRIES, INC.,)

Defendant and
Third-Party Plaintiff,)

and)

DONALD L. CORDES, et al.,)

Defendants,)

vs.)

MARK HEALY, et al.,)

Third-Party Defendants.)

O R D E R

This matter comes before the Court on the motion of Defendants to dismiss Count III of the Plaintiff's counterclaim alleging conversion. Following review of the arguments and the applicable authorities the Court finds as follows.

Tulstar's claim against Defendants is based upon the fact that Koch purchased oil or gas from certain leases. Koch suspended payment until the resolution of various title problems, and problems with division orders. Koch argues that any sums owed to Tulstar are the result of a debtor-creditor relationship and are treated by law as choses-in-action which are not subject to conversion under Oklahoma law. The Court agrees. A right to receive

money shown to be due does not provide the basis of a conversion claim. Steenbergen v. First Federal Savings and Loan, 753 P.2d 1330, 1332 (Okla. 1987). Tulstar's counterclaim in Count III fails to state a claim for relief, and is, therefore, subject to dismissal.

IT IS THEREFORE ORDERED that Count III of Plaintiff's counterclaim alleging conversion is dismissed.

ORDERED this 11th day of October, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Otasco
only

FILED

OCT 15 1990

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

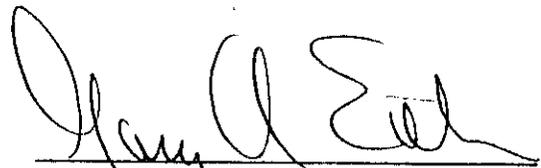
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ATLANTIC RICHFIELD COMPANY,)
)
 Plaintiff,)
)
 v.)
)
 UNIT RIG & EQUIPMENT CO.,)
)
 ET. AL.,)
)
 Defendants.)

CASE NO. 90-C-859-C

NOTICE OF DISMISSAL WITHOUT PREJUDICE
OF DEFENDANT, OTASCO INC., ONLY

Now on this 15th day of October, 1990, all parties hereto please take notice that pursuant to Rule 41 (a) of the Federal Rules of Civil Procedure the Plaintiff hereby dismisses without prejudice this action against Defendant Otasco Inc., only, and expressly and specifically reserves its causes of action against all other defendants.



Gary A. Eaton
OBA #2598
Attorney at Law
1717 East 15th St.
Tulsa, OK 74104
918 743 8717

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

LOCAL AMERICA BANK OF TULSA)
F.S.B.,)
)
Plaintiff,)
)
vs.)
)
R & S INCOME PROPERTIES, a)
limited partnership; et al.,)
)
Defendants.)
)
and)
)
LOCAL AMERICA BANK OF TULSA)
F.S.B.,)
)
Plaintiff,)
)
vs.)
)
LYNN APARTMENTS, LTD., a)
limited partnership; et al.,)
)
Defendants.)
)
and)
)
LOCAL AMERICA BANK OF TULSA,)
F.S.B.,)
)
Plaintiff,)
)
vs.)
)
CRESTHILL PROPERTIES, an)
Oklahoma partnership, et al.,)
)
Defendants.)

Case No. 89-C-744-C
(Consolidated)

89-C-745-C
89-C-746-C

FILED

OCT 15 1990

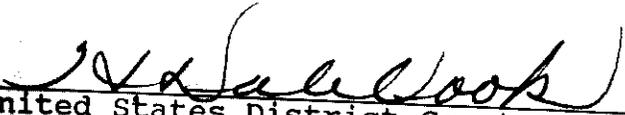
Jack C. Silver, Clerk
U.S. DISTRICT COURT

ORDER OF DISMISSAL WITHOUT PREJUDICE

This matter comes on before me, the undersigned Judge of the United States District Court for the Northern District of Oklahoma, on the 12th day of oct, 1990, pursuant to the Motion of the Plaintiff, Local America Bank of Tulsa, F.S.B.,

to dismiss the above-captioned action without prejudice. For good cause shown, the Court finds that the Motion should be granted.

IT IS THEREFORE ORDERED that all claims asserted by the Plaintiff in the above-captioned consolidated action against all Defendants are hereby dismissed without prejudice, each party to pay its own costs


United States District Court Judge

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

LOCAL AMERICA BANK OF TULSA
F.S.B.,

Plaintiff,

vs.

R & S INCOME PROPERTIES, a
limited partnership; et al.,

Defendants.

and

LOCAL AMERICA BANK OF TULSA
F.S.B.,

Plaintiff,

vs.

LYNN APARTMENTS, LTD., a
limited partnership; et al.,

Defendants.

and

LOCAL AMERICA BANK OF TULSA,
F.S.B.,

Plaintiff,

vs.

CRESTHILL PROPERTIES, an
Oklahoma partnership, et al.,

Defendants.

Case No. 89-C-744-C
(Consolidated)

89-C-745-C
89-C-746-C

FILED

OCT 15 1990

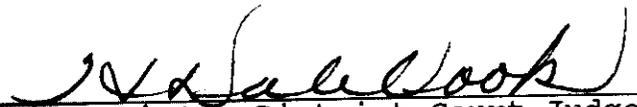
Jack C. Silver, Clerk
U.S. DISTRICT COURT

ORDER OF DISMISSAL WITHOUT PREJUDICE

This matter comes on before me, the undersigned Judge of the
United States District Court for the Northern District of
Oklahoma, on the 12th day of oct, 1990, pursuant to
the Motion of the Plaintiff, Local America Bank of Tulsa, F.S.B.,

to dismiss the above-captioned action without prejudice. For good cause shown, the Court finds that the Motion should be granted.

IT IS THEREFORE ORDERED that all claims asserted by the Plaintiff in the above-captioned consolidated action against all Defendants are hereby dismissed without prejudice, each party to pay its own costs


United States District Court Judge

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

LOCAL AMERICA BANK OF TULSA
F.S.B.,

Plaintiff,

vs.

R & S INCOME PROPERTIES, a
limited partnership; et al.,

Defendants.

and

LOCAL AMERICA BANK OF TULSA
F.S.B.,

Plaintiff,

vs.

LYNN APARTMENTS, LTD., a
limited partnership; et al.,

Defendants.

and

LOCAL AMERICA BANK OF TULSA,
F.S.B.,

Plaintiff,

vs.

CRESTHILL PROPERTIES, an
Oklahoma partnership, et al.,

Defendants.

Case No. 89-C-744-C
(Consolidated)

89-C-745-C
89-C-746-C

FILED

OCT 15 1990

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

ORDER OF DISMISSAL WITHOUT PREJUDICE

This matter comes on before me, the undersigned Judge of the United States District Court for the Northern District of Oklahoma, on the 12th day of oct, 1990, pursuant to the Motion of the Plaintiff, Local America Bank of Tulsa, F.S.B.,

6/23

to dismiss the above-captioned action without prejudice. For good cause shown, the Court finds that the Motion should be granted.

IT IS THEREFORE ORDERED that all claims asserted by the Plaintiff in the above-captioned consolidated action against all Defendants are hereby dismissed without prejudice, each party to pay its own costs


United States District Court Judge

entered

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

KARL G. OLTMANN,
Plaintiff,

v.

UNITED STATES OF AMERICA,
Defendant.

Civil No.: 90-C-281-C

UNITED STATES OF AMERICA,
Counterclaimant,

v.

KARL G. OLTMANN, HOWARD G.
SHIPP, CHRIS McGLORY and
JULIUS A. LEACH,
Counterdefendants.

FILED

OCT 15 1990

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

JUDGMENT

AND NOW, this 12th day of October, 1990, upon
motion of the United States of America, and for cause shown, the
United States is granted judgment by default against Julius A.
Leach in the amount of \$39,653.30, plus interest according to law
from March 20, 1985, the date of the assessment.

[Handwritten Signature]

NOTE: THIS ORDER IS TO BE MAILED
BY MAIL TO ALL COUNCIL AND
THESE DEFENDANTS IMMEDIATELY
UPON RECEIPT.

CERTIFICATE OF SERVICE

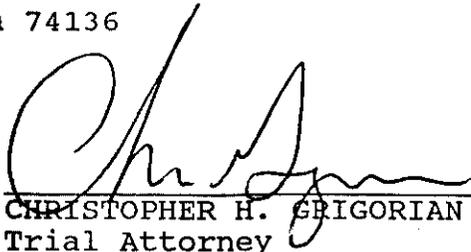
IT IS HEREBY CERTIFIED that service of the foregoing REQUEST TO CLERK FOR DEFAULT JUDGMENT, DECLARATION IN SUPPORT OF REQUEST FOR DEFAULT JUDGMENT has this 4th day of October, 1990, been made on the following by mailing true and correct copies thereof to:

Chris McGlory
2313 N.W. 112th
Oklahoma City, Oklahoma 73120

Ted M. Riseling
Randee Koger
Riseling & Associates, P.C.
P.O. Box 52561
Tulsa, Oklahoma 74152

E. John Eagleton, Esquire
Charles D. Harrison, Esquire
Thomas G Potts, Esquire
Houston & Klein, Inc.
320 South Boston
Suite 700
Tulsa, Oklahoma 74103

Julius A. Leach
7823 "E" South Wheeling
Building 36
Tulsa, Oklahoma 74136


CHRISTOPHER H. GRIGORIAN
Trial Attorney
Tax Division
U.S. Department of Justice
P.O. Box 7238
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 514-6520
(FTS) 368-6520

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

OCT 15 1990

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

DENNIS R. LEWIS,

Plaintiff,

vs.

No. 89-C-954-C

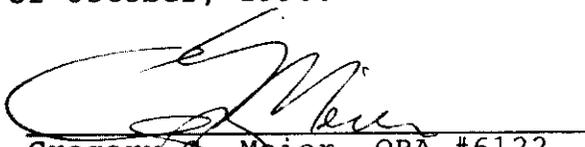
FARMERS ALLIANCE MUTUAL INSURANCE
COMPANY,

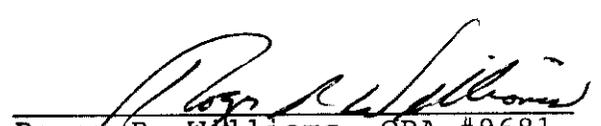
Defendants.

ot
STIPULATION FOR DISMISSAL

COMES NOW the Plaintiff, Dennis R. Lewis, by his Attorney, Gregory G. Meier, and the Defendant, Farmers Alliance Mutual Insurance Company, by its Attorney, Roger R. Williams, and hereby stipulate that the claim of the Plaintiff, Dennis R. Lewis, may be Dismissed with Prejudice to the bringing of a future action for the same, for the reason that all claims involved in this cause have been fully settled and compromised.

Dated this 15th day of October, 1990.


Gregory G. Meier, OBA #6122
RICHARDSON, MEIER & ASSOC., P.C.
5727 South Lewis, Suite 520
Tulsa, Oklahoma 74105
(918) 492-7674
ATTORNEY FOR PLAINTIFF


Roger R. Williams, OBA #9681
WILLIAMS, CLARK, BAKER, HOWARD
AND EARL, P.A.
1605 South Denver
Tulsa, Oklahoma 74119
(918) 583-1124
ATTORNEY FOR DEFENDANT

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

OCT 12 1990

ANNETTE SLAHOR ALLOWAY,)
)
Plaintiff,)
)
vs.)
)
PRUDENTIAL-BACHE SECURITIES,)
INC., and THEODORE E. LARSON,)
)
Defendants.)

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

Case No. 89-C-443-B

ORDER OF DISMISSAL WITH PREJUDICE

This matter came before the Court upon the motion of Plaintiff Annette Slahor Alloway for an Order of Dismissal With Prejudice of Plaintiff's action filed herein against Defendants Prudential-Bache Securities, Inc. ("Pru-Bache") and Theodore E. Larson ("Larson"), the Court having examined the Motion finds that Plaintiff and Defendants Pru-Bache and Larson have entered into a Settlement Agreement and that Plaintiff has requested the Court to dismiss the claims against the Defendants with prejudice to any further action, and the Court having fully advised in the premises, finds that the action should be dismissed.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that Plaintiff's action filed herein against Defendants Pru-Bache and Larson be and the same is hereby dismissed with prejudice to any further action.

DATED this 12th day of October, 1990.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

7/15/90
OCT 12 1990
U.S. DISTRICT COURT

TOWN EAST I, a California
Limited Partnership,

Plaintiff,

vs.

PIZZA HUT OF FLORIDA, INC.,
a Florida corporation; et al.,

Defendants.

Case No. 89-C-1069-B

STIPULATION FOR OF
DISMISSAL WITH PREJUDICE

Pursuant to Rule 41(a)(1)(ii) the parties hereto, Plaintiff Town East I, and Defendants Pizza Hut of Florida, Inc., Central Development, Inc., Retail Management Corporation, MFY Industries, Inc. and David's Incorporated hereby stipulate and agree that Plaintiff's Complaint and claims for relief against the Defendants shall be dismissed with prejudice. It is further stipulated and agreed that Defendants' claims against the Plaintiff shall be dismissed with prejudice.

It is further stipulated and agreed that each party shall bear its own costs.

Dated this 11th day of October, 1990.

Respectfully submitted,

FELDMAN, HALL, FRANDEN,
WOODARD & FARRIS

[Handwritten signature]
BY: Anthony P. Sutton
Park Center - Suite 1400
525 South Main
Tulsa, Oklahoma 74103

ATTORNEYS FOR PLAINTIFF

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

By:

Mark Blongewicz

Mark K. Blongewicz, OBA #6889
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, Oklahoma 74172
(918) 588-3087

ATTORNEYS FOR DEFENDANTS

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

FILED

OCT 11 1990

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

CCI CORPORATION, a Delaware corporation,
Plaintiff,
vs.
UNITED STATES OF AMERICA,
Defendant.

No. 89-C-673-B

ORDER

The Court has before it the Motion for Summary Judgment of Defendant CCI Corporation ("CCI") and the Cross-Motion for Summary Judgment of the Defendant, United States of America (U.S.A.). The parties concede that the facts are undisputed. The United States of America states at page 2 of its Response Brief, "while the issue of whether an established retail price exists is generally one of fact, in this instance there is no genuine issue of fact, but merely a dispute as to the legal conclusion to be drawn from undisputed facts."

The undisputed facts set out in Plaintiff's Brief in Support of Its Motion for Summary Judgment Pursuant to Fed.R.Civ.P. 56 and Local Rule 15B are as follows:

1. CCI is a corporation organized under the laws of the State of Delaware, with its principal place of business located in Tulsa, Oklahoma. [Affidavit of Joseph Klein, Plaintiff's Exhibit A in Support of Motion for Summary Judgment, ¶2.]

2. This court has jurisdiction to hear this matter under 28 U.S.C. § 1346(a). CCI is entitled to maintain this action under the authority of Flora v. United States, 362 U.S. 145, 80 S.Ct.

630, 4 L.Ed.2d 623 (1960) and Lucia v. United States, 474 F.2d 565 (5th Cir. 1973). [Answer of the U.S.A. ¶2].

3. Venue is proper in this court under 28 U.S.C. § 1402(a). [Answer of the U.S.A. ¶3.]

4. The U.S.A. is named as a party pursuant to 26 U.S.C. § 7422(f). The actions which form the basis of Crane's Complaint were taken by the U.S.A. through its officials or agencies, including the Internal Revenue Service. [Answer of the U.S.A. at ¶5.]

5. During the period of January 1, 1969, through December 31, 1971, CCI operated a division under the name of Crane Carrier Company ("Crane"). Crane was in the business of designing and manufacturing chassis for the carriage of concrete mixers. [Affidavit of Joseph Klein, Plaintiff's Exhibit A in Support of Motion for Summary Judgment, ¶3.]

6. During the three-year period between 1969 and 1971, Crane made approximately 1,000 retail sales of ready mix concrete truck chassis ("carriers"). [CCI Response to Interrogatory No. 1(a) and 1(b); Deposition of Stewart Metz, Exhibit B at pp. 12-13.] The total tax excluded price of Crane's sales of carriers between 1969 and 1971 totaled almost \$18,000,000. Crane timely paid the U.S.A. approximately \$1,800,000 in excise taxes on those sales. [Complaint at ¶7.]

7. Between 1969 and 1971 approximately 80% of Crane's carrier sales were made at retail by Crane's sales staff to the end users of the product. [Deposition of Stewart Metz, Exhibit B at

pp. 9, 13-14, 28-29.] The remaining 20% of Crane's sales during that period of time were made to independent "dealers" or retailers who in turn sold Crane's carriers to an end user. [Id. at pp. 14, 16 and 25.]

8. In 1967, Crane established a Sales Engineering Department, headed by Stewart Metz ("Metz"). As the head of the Sales Engineering Department, Metz had the responsibility of producing specification sheets and list prices for the standard carriers and options manufactured and sold by Crane. [Deposition of Metz at p. 10.] Prior to 1967, Crane did not have price lists and typewritten specifications for the standard carriers and available options it sold at retail. [Id. at pp. 16-17].

9. In 1967, Metz prepared written price lists (the "1967 Price List") for the standard models of carriers made by Crane. [Deposition of Metz, Exhibit B at pp. 16-17, 51-52, 53-54.] The 1967 Price List was sent to Crane's sales staff by Metz with an accompanying letter in 1967. [Deposition of Metz at pp. 53-54; a true and correct copy of Metz' transmittal letter of 1967 and the 1967 Price List attached as Exhibit C to Plaintiff's Brief in Support of Motion for Summary Judgment.]

10. In 1967, Metz advised Crane's sales staff that "the standard discount structure to be used with [the 1967] Price List is as follows:

The net selling price is 20% of List Price
...." [Exhibit C, p. 1 to Plaintiff's Brief
in Support of Motion for Summary Judgment.]

<u>Quantity of Units</u>	<u>Models 700 thru 800</u>	<u>Models 900 thru 1500</u>
1-4	0	
5-9	2%	0
10-14	3%	3%
15-19	4%	4%
		5%

[Exhibit C, p. 1, Deposition of Metz, Exhibit B at p. 55.] Crane maintained the same quantity discount structure for the sale of carriers after 1967. [Deposition of Stewart Metz, Exhibit B, pp. 55-56.] Accordingly, in 1967 the minimum discount from list price for the sale of one carrier was 20%. [Metz Deposition, Exhibit B, at pp. 20-21, 54-55, 63-64.]

11. Based on changes in manufacturing costs, the price list for the carriers sold by Crane would change periodically. [Metz Deposition, Exhibit B at pp. 21-23; A copy of the Price List in effect for 1968 is attached as Exhibit D; Deposition of Metz, Exhibit B at pp. 49-50].

12. Crane prepared and distributed price lists and specification sheets for its basic carriers and options to its sales force during the 1969-1971 time frame. [Metz Deposition, Exhibit B at pp. 51-52]. Due to the passage of time, Crane has been unable to locate its price lists and specification sheets for the years of 1969, 1970 and 1971. [Id.]

13. The discount structure from list price available to Crane's sales staff for carriers made and sold by Crane changed in 1970. Beginning in 1970, retail sales made by Crane's salesmen could be discounted at a list price less a minimum of 20%, plus an additional amount not to exceed 7%. Sales to "dealers" could be

discounted at a minimum of list less 20%, plus an additional amount not to exceed 10%. Accessories and alternate specifications to the basic mixers could be discounted at the minimum of 20%, plus an additional amount not to exceed 5%. [Metz Deposition, Exhibit B, at pp. 24-27]. This discount structure was in effect during 1970 and 1971. [Id. at p. 27.] As a general rule, the salesmen would take the list price of the basic carrier, add the list price of the options selected by the customer, and discount the total by a minimum of 20%. [Id. at p. 21.] Metz notified Crane's sales staff of the change in the discount structure in a letter dated June 9, 1970, a true and correct copy of which is attached as Exhibit E to Plaintiff's Brief in Support of Motion for Summary Judgment. The minimum discount for carriers sold between 1969 and 1971 was 20% of list price. [Deposition of Metz, Exhibit B at pp. 59, 69.]

14. The compensation paid to Crane's sales staff between 1969-1971 was tied to the list price of the mixer less 20% less an additional discount. The smaller the discount taken after the 20% was deducted from list price, the larger the salesmen's commission. [Metz Deposition, Exhibit B at pp. 25-26, 56-57].

15. Between 1966 and 1969, Crane manufactured carriers and held them in inventory to be sold to customers at a future date. A list of the stock trucks inventoried during the 1966-69 time period is attached to a company memorandum prepared by Stewart Metz in July of 1975, a true and correct copy of which is attached as Exhibit F to Plaintiff's Brief in Support of Motion for Summary Judgment. [Metz Deposition, Exhibit B at pp. 52-53, 57-58.] For

the first five months of 1969, Crane had 56 trucks in inventory. [Exhibit F to Plaintiff's Brief in Support of Motion for Summary Judgment, p. 4.] "Stock" carriers were manufactured and inventories by Crane during the 1969, 1970 and 1971 time period. [Metz Deposition, Exhibit B at p. 58.]

16. Crane's engineering department did not prepare cost bids for each sales order that was submitted by Crane's sales staff for the years of 1969, 1970 and 1971. [Metz Deposition, Exhibit B at p. 60].

17. The average profit mark-up for carriers built and inventoried for stock did not differ from the profit mark-up on an individual order placed by a customer for a carrier not in stock. [Metz Deposition, Exhibit B at p. 60.]

18. Each of the carriers manufactured and sold by Crane between 1969 and 1971 were not "custom built" for Crane's customers from the ground up. Crane would add accessories or change certain options on the standard models they made depending on what the customer wanted. The carriers were not customized or re-engineered each time a sale was made. [Metz Deposition, Exhibit B at pp. 60-61, 65-66.]

19. The Internal Revenue Service conducted an audit of the excise tax paid by Crane between 1969 and 1971. On August 8, 1978, CCI received demand for payment from the Internal Revenue Service for additional excise tax allegedly due on the carriers sold between 1969 and 1971. In concluding that CCI owed additional excise tax, the Internal Revenue Service determined that Crane did

not have an "established retail price" for the sale of its carriers. Therefore, the Internal Revenue Service concluded that the excise tax due on Crane's sale of carriers should be based on the higher of the following constructive sales prices: 75% of the actual sales price (excluding the amount representing excise tax) or the total cost to manufacture and sell the carriers plus ten percent. But in any case where the application of either of these constructive sales prices resulted in a tax that would exceed tax based on the actual price for which the Carriers were sold, the excise tax was computed on the price for which the Carriers were sold (10/110th of the total sales price including tax). [Affidavit of Joseph Klein, Exhibit A at paragraph 4.]

20. The Internal Revenue Service, in the report prepared by its agent after examining Crane's carrier sales between 1969-1971, concluded that Crane's sales ranged between list less 20% and list less 20% less 10%. According to the examining agent, generally the sales were "from 20% less 4% to 20% less 6%." A true and correct copy of the revenue agent's corrected report is attached as Exhibit G to Plaintiff's Brief in Support of Motion for Summary Judgment.

21. Between 1969 and 1971, CCI paid excise tax on the sales of its carriers in an amount which exceeded 10% of the following formula: (List price of each carrier - 20%) times 75%. [Affidavit of Joseph Klein, Exhibit A at paragraph 5.]

22. CCI protested the demand for payment of additional taxes, penalty and interest, and CCI and the Internal Revenue Service executed various consents extending the period of limitation for

assessment while attempting to negotiate a resolution of this dispute. [Affidavit of Joseph Klein, Exhibit A at paragraph 6.]

23. On July 2, 1985, the Internal Revenue Service issued assessments against CCI for additional excise taxes, interest and penalties for each quarter in the period of 1969 through 1971, itemized as follows:

<u>Taxable Calendar Quarter Ended</u>	<u>Assessed Amount as of July 2, 1985</u>
1. 3-31-69	Tax: 3,407.01 Ftd penalty: 416.45 Interest: 349.09 Total: 4,172.55
2. 6-30-69	Tax: 11,132.91 Ftd penalty: 220.73 Interest: 14,508.68 Total: 25,862.32
3. 12-31-69	Tax: 945.93 Ftd penalty: 10.27 Interest: 1,711.66 Total: 2,667.86
4. 3-31-70	Tax: 15,460.90 Ftd penalty: 2,555.51 Interest: 27,661.98 Total: 45,678.39
5. 6-30-70	Tax: -0- Ftd penalty: 503.46 Interest: -0- Total: 503.46
6. 9-30-70	Tax: -0- Ftd penalty: 283.20 Interest: -0- Total: 283.20
7. 12-31-70	Tax: 8,776.63 Ftd penalty: 2,629.73 Interest: 15,163.58 Total: 26,569.94

8.	3-31-71	Tax:	-0-
		Ftd penalty:	3,761.57
		Interest:	-0-
		Total:	3,761.57
9.	6-30-71	Tax:	1,654.57
		Ftd penalty:	5,689.36
		Interest:	2,790.97
		Total:	10,134.90
10.	9-30-71	Tax:	8,006.12
		Ftd penalty:	826.70
		Interest:	13,341.23
		Total:	22,174.05
11.	12-31-71	Tax:	8,028.01
		Ftd penalty:	464.95
		Interest:	13,213.54
		Total:	21,706.50

[Affidavit of Joseph Klein. Exhibit A at paragraph 7.]

24. On August 31, 1987, CCI tendered to the Internal Revenue Service payment in the amount of \$1,105.10 for all excise tax, accrued interest and penalties for the quarter of July 1, 1969 through September 30, 1969. CCI at the same time filed a request for a refund of the \$1,105.10 and a request that all other taxes, penalties and interest for the remaining quarters in the three-year period of 1969 through 1971 be abated. [Affidavit of Joseph Klein, Plaintiff's Exhibit A to Motion for Summary Judgment, ¶8.]

25. The Internal Revenue Service, on February 11, 1988. denied CCI's claim for refund. [Affidavit of Joseph Klein, Exhibit A at paragraph 9.]

The issue presented here is whether the IRS in issuing its assessment used the proper method of calculating excise tax for the 1969, 1970 and 1971 periods in question relative to CCI's subject concrete mixer chassis and accessories. It is the IRS' position

that CCI had no established retail price for the subject chassis so the Government is entitled to collect excise tax based upon a higher constructive sale price. CCI asserts that it had an established retail price for the chassis which was list price less 20%. Therefore, CCI maintains that excise taxes should have been calculated on the basis of a constructive sale price equaling 75% of CCI's established retail price. The U.S.A. has also filed a counterclaim against CCI seeking to recover additional excise tax of \$57,412.00, plus \$88,740.00 interest and failure to deposit penalties equaling \$17,361.00.

The truck chassis manufactured by CCI during the years involved fall under the provisions contained in § 4061(a)(1) of the Internal Revenue Code of 1954, which imposed a federal excise tax of 10% on the "price" for which the truck chassis were sold. The excise tax imposed by § 4061(a) was to be based upon the price which the manufacturer charges to a wholesale distributor not to exceed the actual sales price. See, 26 U.S.C. § 4216(b) (1958). "Wholesale distributors" are defined as persons who customarily resell to others who in turn resell. Temporary Reg. § 148.1-5(d), T.D. 6355, 1959-1 C.B. 795.

However, where the goods in question, as here, are sold at retail by a manufacturer who does not regularly sell to wholesale distributors, § 4216(b)(1) provides that the excise tax "shall be computed on the price for which such articles are sold, in the ordinary course of trade, by manufacturers or producers thereof, as determined by the Secretary. Id. Section 4216(b)(1) directs

the Secretary of Treasury to establish a "constructive sales price" which shall be used as the tax base for calculation of federal excise taxes under § 4061(a). The Commissioner of the IRS, as the authorized delegate of the Secretary of the Treasury, has determined that where sales are made at retail by a manufacturer who does not regularly sell to wholesale distributors, the constructive sales price for sales of truck chassis will be 75% of the "established retail price" of the chassis. Rev. Rul. 68-519, 1968-2 C.B. 513, citing Rev. Rul. 54-61, 1954-61, 1954-1 C.B. 259.

In the event the manufacturer does not maintain an established retail price, the Commissioner has determined that the constructive sales price for truck chassis is to be determined by using the higher of (1) 75% of the actual sales price charged to the customer (net of tax), or (2) the total cost to manufacture and sell the truck chassis plus 10%. Rev. Rul. 69-580, 1969-2 C.B. 209, citing Rev. Rul. 68-202, 1968-1 C.B. 477. Copies of Revenue Rulings 68-519, 1968-2 C.B. 513, citing Rev. Rul. 54-61, 1954-61, 1954-1 C.B. 259; Rev. Rul. 69-580, 1969-2 C.B. 209, citing Rev. Rul. 68-202, 1968-1 C.B. 477 are attached as Exhibits A, B and C.

Thus, the dispute between CCI and the IRS centers in the ultimate question of whether or not CCI had an established retail price for the subject truck chassis during the relevant tax years.

There appears to be no applicable case authority so the Court must look to the revenue rulings for guidance and give them appropriate "weight." Carle Foundation v. United States of America, 611 F.2d 1192, 1195 (7th Cir. 1979).

In Rev.Rul. 68-519, 1968-2 C.B. 513, Exhibit A attached, the Commissioner of Internal Revenue in the last paragraph thereof stated as follows:

"If a manufacturer selling exclusively at retail always sells at a certain discount off his published list price, that discounted price is his 'established retail price' for the article. However, since the manufacturer in the instant case sells at retail at varying discounts off list price, the price resulting from the minimum discount off list is his established retail price for the chassis for the purpose of computing a constructive sales price."

The IRS asserts the CCI truck chassis were customized for the majority of sales and there was no established retail price so Rev.Rul. 69-580 applies, not Rev. Ruls. 54-61 and 68-519.

The undisputed facts establish that between January 1969 and May 1970 the highest price CCI offered to sell an article was list less 20%. The record also established that after June 1970 CCI maintained price lists for each chassis and their sales staff utilized those price lists in negotiating sales to retail customers. The evidence also establishes that such negotiations began with a standard minimum discount from list price of 20%. Additional price discounts were discretionary not to exceed 7% for direct retail sales and 10% for sales to independent dealers. Sales commissions were tied directly to the list price less the minimum 20% discount with the commission being reduced for discounts taken in excess of 20%. Thus, the Court concludes that CCI's pricing conduct comes within the holding in Rev.Rul. 68-519 and that CCI had an established retail price for the subject truck

chassis.

Summary judgment is appropriate under Fed.R.Civ.P. 56 when the record establishes "there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Celotex Corp. v. Catrett, 477 U.S. 317, 106 S.Ct. 2548, 91 L.Ed.2d 265, 274 (1986); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986). The "... ultimate purpose of summary judgment is to pierce the allegations of the pleadings and to show there are no genuine issues of material fact. If there is an absence of material issues, then the movant is entitled to judgment as a matter of law." Commercial Iron & Metal Company v. Bache & Co., Inc., 478 F.2d 39, 41 (10th Cir. 1973); Ando v. Great Western Sugar Company, 475 F.2d 531, 535 (10th Cir. 1973).

Accordingly, the Motion for Summary Judgment of the Plaintiff CCI Corporation is hereby **SUSTAINED**. The subject assessments of taxes, penalties and interest for the remaining quarters in the three-year period of 1969 through 1971 are hereby abated and CCI is granted judgment for a refund in the amount of \$1,105.10 for the excise tax, accrued interest and penalties for the quarter of July 1, 1969 through September 30, 1969, which it paid. Further, for the above stated reasons, the Government's Motion for Summary Judgment is hereby **OVERRULED** and CCI Corporation is granted judgment on said Counterclaim.

A separate Judgment in keeping with this Order will be filed contemporaneous herewith.

IT IS SO ORDERED this 11th day of October, 1990.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE



Citation
Rev. Rul. 68-519
1968-2 C.B. 513
Obsoleted by 79-32.

FOUND DOCUMENT

Database Mode
FTX-RR P

Method for determining a constructive sale price for truck and truck trailer chassis where the manufacturer never sells for as much as his retail list price.

Advice has been requested as to the method for computing the manufacturers excise tax imposed by section 4061(a)(1) of the Internal Revenue Code of 1954, when truck and trailer chassis are sold at retail by the manufacturer thereof under the circumstances described below.

A manufacturer of truck and truck trailer chassis subject to the manufacturers excise tax imposed by section 4061(a)(1) of the Code, sells these articles to franchised dealers who resell at retail (i.e., to consumers). The manufacturer also sells his chassis at retail through his own factory branch outlets. The manufacturer maintains a retail price list which is available to his franchised dealers and also to his branch outlets. However, there is no requirement that the dealers or the branch outlets sell chassis at the retail list prices. In practice, the factory branch outlets negotiate each transaction with the customer, and as a consequence every sale is made at a discount off the price stated in the retail price list.

The manufacturer has requested the Internal Revenue Service to determine a constructive sale price, under the authority granted by section 4216(b)(1) of the Code, for his sales of chassis at retail through his branch outlets.

Section 4061(a)(1) of the Code imposes a tax on certain enumerated articles, including chassis and bodies for automobile trucks, sold by the manufacturer, producer, or importer. This tax is based on the price for which the articles are sold.

Section 4216(b)(1)(A) of the Code provides that if an article is sold at retail the tax shall be computed on the price for which such articles are sold, in the ordinary course of trade, by manufacturers or producers thereof, as determined by the Secretary or his delegate. The computation shall be on whichever of the following prices is the lower: (i) the price for which such article is sold, or (ii) the highest price for which such articles are sold to wholesale distributors, in the ordinary course of trade, by manufacturers or producers thereof, as determined by the Secretary or his delegate.

Section 148.1--5(b) of the temporary rules, Treasury Decision 6355, C.B. 1959--1, 795, provides that where a manufacturer, producer, or importer sells an article at retail, the tax on his retail sale ordinarily will be computed upon the highest price for which similar articles are sold by him to wholesale distributors. However, in such cases it must be shown that he has an established bona fide practice of selling such articles in substantial quantities to wholesale distributors. If he has no such sales to wholesale distributors, a fair market price will be determined by the Commissioner. In any case the price so determined shall not be in excess of the actual price for which the article is sold by him at retail. For purposes of section 148.1--5 of the temporary rules, the term 'wholesale distributors' means persons who customarily resell to others who in turn resell.

Where a manufacturer does not sell similar articles to wholesale distributors, the constructive sale price for the manufacturers sales of truck and trailer

chassis at retail has been determined to be 75 percent of the established retail price of the chassis, subject to the adjustments provided by section 4216(a) of the Code. See Rev. Rul. 54--61, C.B. 1954--1, 259. However, where the constructive sale price so determined is less than the manufacturer's cost of the chassis in condition ready for delivery, the manufacturer's excise tax shall be computed by using the manufacturer's cost as the tax base. For a method that may be used to compute an actual excise tax-excluded sale price, see Revenue Ruling 68--202, C.B. 1968--1, 477.

The facts in this case raise an additional problem in determining a constructive sale price. Ordinarily, a manufacturer's retail price list provides a basis for determining the 'established retail price' of articles sold by the manufacturer. In the instant case, however, the manufacturer never sells his chassis at list price, but always sells at a price less than list. Under these circumstances, should the manufacturer's list price for chassis be considered his 'established retail price' for the chassis?

For purposes of section 4216(b)(1) of the Code, the term 'established retail price' is the highest price for which a manufacturer sells or offers to sell a single article for use by an independent purchaser who would not ordinarily be expected to buy more than one.

Since the manufacturer in this case never sells a chassis for as much as his retail list price, his retail list prices do not come within the meaning of 'established retail price'. In one sense the list prices may be considered the prices at which the manufacturer offers to sell his chassis. However, the realities of the situation and the continuing sales practices and policies of the manufacturer negate the existence of any substantive relationship between the purported list prices and the prices at which he actually sells. Accordingly, in determining the manufacturer's 'established retail price' under the facts of this case, the retail list prices are only suggested prices and should not be considered prices at which the manufacturer sells or offers to sell his chassis.

If a manufacturer selling exclusively at retail always sells at a certain discount off his published list price that discounted price is his 'established retail price' for the article. However, since the manufacturer in the instant case sells at retail at varying discounts off list price, the price resulting from the minimum discount off list is his 'established retail price' for the chassis for purposes of computing a constructive sale price.



Citation
 Rev. Rul. 69-580
 1969-2 C.B. 209
 Obsoleted by 79-32.

FOUND DOCUMENT

Database Mode
 FTX-RR P

Constructive sale price to be used by a company manufacturing and selling heavy-duty truck chassis only on special order and at a price determined, in part, by the contractual negotiation in each individual case.

The Internal Revenue Service has been asked to determine a constructive sale price, under the authority provided by section 4216(b)(1) of the Internal Revenue Code of 1954, for motor vehicle articles sold at retail under the circumstances described below.

A company is engaged in the manufacture and sale of heavy-duty truck chassis that are subject to the manufacturers excise tax imposed by section 4061(a)(1) of the Code. The company does not sell the chassis through independent dealers and does not maintain an inventory of truck chassis for sale. The chassis are manufactured pursuant to special orders submitted by individual consumers through the company's regional salesmen. When placing an order, the customer selects one of several basic model truck chassis offered by the company and also supplies the company with information as to the conditions under which the truck chassis will operate and the specifications and options desired. The company furnishes the customer with price lists of the basic models but only as a starting point for purposes of negotiating the contract. The actual price charged by the company is based on its estimated cost plus a varying profit percentage. Since the manufacturer has a contract assuring sale of the finished chassis before going into production, the profit markup involved in this type of transaction is normally much lower than the markup involved where a company manufactures chassis and inventories them for future sale.

Section 4216(b)(1)(A) of the Code provides that if an article is sold at retail, the manufacturers excise tax shall (if based on the price for which the article is sold) be computed on the price for which such articles are sold, in the ordinary course of trade, by manufacturers or producers thereof, as determined by the Secretary of the Treasury or his delegate. The section further provides that, in the case of an article sold at retail, the computation shall be on whichever of the following prices is the lower: (i) the price for which such article is sold, or (ii) the highest price for which such articles are sold to wholesale distributors, in the ordinary course of trade, by manufacturers or producers thereof, as determined by the Secretary or his delegate.

Section 148.1--5(b)(1) of the temporary rules, Treasury Decision 6355, C.B. 1959--1, 795, provides that where a manufacturer, producer, or importer sells an article at retail, the tax on his retail sale ordinarily will be computed upon the highest price for which similar articles are sold by him to wholesale distributors. However, in such cases it must be shown that he has an established bona fide practice of selling such articles in substantial quantities to wholesale distributors. If he has no such sales to wholesale distributors, a fair market price will be determined by the Commissioner. In any case the price so determined shall not be in excess of the actual price for which the article is sold by him at retail.

Where a manufacturer does not sell similar articles to wholesale distributors, the constructive sale price for the manufacturer's sales of truck and trailer

chassis at retail has been determined to be 75 percent of the established retail price of the chassis. See Rev. Rul. 54--61, C.B. 1954--1, 259.

In Revenue Ruling 68--519, C.B. 1968--2, 513, the problem of determining an 'established retail price' was considered in a situation where articles are never sold by the manufacturer at the published retail list price, but always for less than list price. Revenue Ruling 68--519 holds that in such a situation the 'established retail price' is the price resulting from the minimum discount off the retail list price. That Revenue Ruling also defines 'established retail price' for purposes of section 4216(b)(1) of the Code as 'the highest price for which a manufacturer sells or offers to sell a single article for use by an independent purchaser who would not ordinarily be expected to buy more than one.'

Revenue Ruling 68--202, C.B. 1968--1, 477, covers a situation wherein a manufacturer of automotive chassis and bodies sells at retail under such circumstances that he does not have an 'established retail price' for the articles. That Revenue Ruling holds that the constructive sale price (tax exclusive) in that situation is whichever of the following amounts is the higher: (1) 75 percent of the actual sale price (excluding the amount representing manufacturers excise tax), or (2) the total cost to manufacture and sell the chassis or body, plus ten percent.

The specific question presented in this case is whether (a) the facts are such that the manufacturer has available an 'established retail price' so that the constructive sale price should be computed under the holding in Revenue Ruling 68--519, or (b) the facts are such that there is no 'established retail price' and the constructive sale price should be computed under the holding in Revenue Ruling 68--202.

Although the company maintains list prices for its basic model truck chassis and for optional equipment, the actual selling price of the delivered chassis under a special order contract will always be less than, and will fluctuate irregularly from, the sum of the list prices for the basic model and the optional equipment. Consequently, there is absent from the circumstances in this case a regular selling pattern evidencing a 'highest price for which the manufacturer regularly sells or offers to sell' taxable articles (a condition that was essential to the conclusion reached in Revenue Rulings 54--61 and 68--519). Furthermore, as indicated previously, the average profit markup in the type of transaction described in the instant case is substantially lower than in those cases where articles are manufactured and inventoried for sale without the benefit of prior contracts to sell, as in the situations contained in Revenue Rulings 54--61 and 68--519.

Accordingly, under the facts presented in the instant case there is no 'established retail price' available, and it is held that the constructive sale price is to be computed under the method set forth in Revenue Ruling 68--202. Therefore, under the provisions of that Revenue Ruling, the constructive sale price (tax exclusive) to be used by the company is the higher of (1) 75 percent of the actual sale price charged the customer (excluding the amount representing manufacturers excise tax), or (2) the total cost to manufacture and sell the completed truck chassis, plus ten percent. The tax due is computed at the applicable statutory percentage of the higher of (1) or (2).

However, in any case in which application of the foregoing constructive sale price results in a tax that would exceed the tax based on the actual price for

Rev. Rul. 69-580

PAGE 3

which the chassis are sold, the tax should be computed on the price for which the chassis are sold.

Internal Revenue Service
Rev. Rul. 69-580
END OF DOCUMENT

Citation
Rev. Rul. 68-202
1968-1 C.B. 477
Obsoleted by 79-32.

FOUND DOCUMENT

Database Mode
FTX-RR P

A formula is provided for constructing a sale price under section 4216(b)(1) of the Internal Revenue Code of 1954 for automotive chassis and bodies sold at retail by a manufacturer who does not offer the articles for sale at an established retail price .

Revenue Ruling 54--61, C.B. 1954--1, 259, distinguished.

The Internal Revenue Service has been asked to construct a sale price, under the authority provided by section 4216(b)(1) of the Internal Revenue Code of 1954, for motor vehicle articles sold at retail under the circumstances described below.

A manufacturer of truck chassis and bodies obtained a contract by competitive bid. Under the contract the manufacturer was required to manufacture and supply a large quantity of trucks made to certain specifications. The trucks consist of bodies and chassis subject to the manufacturers excise tax imposed by section 4061(a)(1) of the Code. Because of their unique design, the manufacturer does not offer the trucks for sale to anyone but the contract purchaser. The purchaser acquires the trucks for use rather than for resale.

The manufacturer contends that, although the trucks are sold in a wholesale lot, for purposes of section 4216(b)(1) of the Code the sale is a sale at retail, because the sale is to a purchaser who is going to use the articles rather than resell them.

The specific question presented is whether the manufacturer may compute his manufacturers excise tax liability on the sale in question in accordance with the constructive sale price formula provided in Revenue Ruling 54--61, C.B. 1954--1, 259. That Revenue Ruling outlines a method for computing manufacturers excise tax liability on sales of automotive bodies at retail.

Section 4061(a)(1) of the Code imposes a tax upon the sale by the manufacturer, producer, or importer of automobile truck chassis, and automobile truck bodies, truck and bus trailer and semitrailer chassis, and truck and bus trailer and semitrailer bodies (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof).

Section 4216(b)(1)(A) of the Code provides that if an article is sold at retail, the manufacturers excise tax shall (if based on the price for which the article is sold) be computed on the price for which such articles are sold, in the ordinary course of trade, by manufacturers or producers thereof, as determined by the Secretary of the Treasury or his delegate. The section further provides that, in the case of an article sold at retail, the computation shall be on whichever of the following prices is the lower: (i) the price for which such article is sold, or (ii) the highest price for which such articles are sold to wholesale distributors, in the ordinary course of trade, by manufacturers or producers thereof, as determined by the Secretary or his delegate.

Section 148.1--5(b)(1) of the temporary regulations relating to constructive sale price provides that where a manufacturer, producer, or importer sells an article at retail, the tax on his retail sale ordinarily will be computed upon the highest price for which similar articles are sold by him to wholesale

distributors. However, in such cases it must be shown that he has an established bona fide practice of selling such articles in substantial quantities to wholesale distributors. If he has no such sales to wholesale distributors, a fair market price will be determined by the Commissioner. In any case the price so determined shall not be in excess of the actual price for which the article is sold by him at retail.

Revenue Ruling 54--61, issued under section 3441(b)(1) of the Internal Revenue Code of 1939, the predecessor of section 4216(b)(1)(A) of the 1954 Code, provides, in the case of truck or truck trailer bodies sold only at retail, that the constructive sale price of such bodies is 75 percent of the established retail price subject to the adjustments provided in section 3441(a) of the 1939 Code (section 4216(a) of the 1954 Code).

The Service agrees, for purposes of the constructive sale price provisions of section 4216(b) of the Code, that a sale at retail is a sale for consumption, as distinguished from a sale for purposes of resale. Accordingly, the excise tax base for the sale in question must be constructed pursuant to the provisions of section 4216(b)(1) of the Code. However, the formula provided by Revenue Ruling 54--61 for constructing a sale price under section 4216(b)(1) is acceptable only with respect to the sale 'at retail' transacted under the circumstances outlined in that Revenue Ruling.

An essential factual element of Revenue Ruling 54--61 is the presence of an 'established retail price' for the article involved. By 'established retail price' is meant the highest price for which a manufacturer regularly sells, or offers to sell, a single article to an independent purchaser who would not ordinarily be expected to buy more than one. No such price is present in the facts of the instant case, and for this reason Revenue Ruling 54--61 is not applicable.

It is held that in the case of a sale at retail where there is no 'established retail price,' the constructive sale price (tax exclusive) of trailer chassis and bodies is whichever of the following amounts is the higher: (1) 75 percent of the actual sale price (excluding the amount representing manufacturers excise tax), or (2) the total cost to manufacture and sell the chassis or body, plus ten percent. The tax due is computed at the applicable statutory percentage of the higher of (1) or (2).

However, in any case in which application of the foregoing constructive sale price computation results in a tax that would exceed tax based on the actual price for which the articles are sold, the tax should be computed on the price for which the articles are sold ($\frac{10}{110}$ ths of the total sale price including tax).

For purposes of computing the tentative constructive sale price (1) above, the term 'actual sale price' means the price for which articles are sold as defined in section 4216(a) of the Code. Accordingly, there should be included any charges for delivery of chassis and bodies to the purchaser and any charges for insuring the shipments. There should be excluded any expenses actually incurred in delivering the articles and in insuring shipment to the purchaser. The amount of the manufacturers excise tax incurred by the manufacturer on the sale also is excluded, whether or not stated as a separate charge.

If only the total sale price (including tax) is known, the 'actual sale price' may be computed by a formula, as follows:

$$S/1+rt = \text{Actual Sale Price}$$

's' represents the total sale price (including tax) after adding any charges for, and deducting actual expenses incurred in, delivering and insuring the chassis and bodies;

'r' represents the applicable rate of tax (10 percent in this case); and

't' represents the adjustment factor (75 percent in this case).

Illustratively, if a chassis or body were sold for a total price (including tax) of \$2,150, the 'actual sale price' would be \$2,000 (\$2,150 divided by 1.075). The tentative constructive sale price would be \$1,500 (75% of \$2,000), and the tax would be \$150 (10% of \$1,500).

Revenue Ruling 54--61 is distinguished.

Internal Revenue Service
Rev. Rul. 68-202
END OF DOCUMENT

FILED

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

OCT 11 1990

CCI CORPORATION, a Delaware
corporation,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

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

No. 89-C-673-B

J U D G M E N T

In accordance with the Order Sustaining the Motion for Summary Judgment of the Plaintiff CCI Corporation, IT IS HEREBY ORDERED AND ADJUDGED that judgment be entered in favor of the Plaintiff, CCI Corporation, and against the Defendant, IT IS FURTHER ORDERED the subject assessments of taxes, penalties and interest for the remaining quarters in the three-year period of 1969 through 1971 are hereby abated and CCI Corporation is granted judgment for a refund in the amount of \$1,105.10 for the excise tax, accrued interest and penalties for the quarter of July 1, 1969 through September 30, 1969, which it paid. Further, the Government's Motion for Summary Judgment is hereby OVERRULED and CCI Corporation is granted judgment on said Counterclaim. Costs are assessed against the Defendant if timely applied for under Local Rule 6, each party to bear its own attorneys fees.

DATED this 11th day of October, 1990.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

F I L E D

IN THE UNITED STATES DISTRICT COURT FOR **OCT 11 1990**
THE NORTHERN DISTRICT OF OKLAHOMA

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

CITYTRUST, a corporation,)
)
)
 Plaintiff,)
)
)
 vs.)
)
)
 MAX A. HEIDENREICH and)
 KATHLEEN HEIDENREICH,)
)
)
 Defendants.)

Case No. 87-C-836-B

NUNC PRO TUNC ORDER CORRECTING CLERICAL ERROR
IN DEFAULT JUDGMENT BY THE CLERK

This cause came on for consideration upon the motion of Citytrust, plaintiff herein, for a Nunc Pro Tunc Order correcting a clerical mistake in the Default Judgment By The Clerk entered herein on April 5, 1988. The Court having considered the same, and the motion appearing to the Court to be well taken, and the Court being of the opinion that no notice of hearing upon the said motion is needed or appropriate.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Default Judgment By The Clerk entered herein on April 5, 1988, be in the same is hereby corrected, Nunc Pro Tunc, to read as follows:

The defendants Max A. Heidenreich and Kathleen Heidenreich having failed to plead or otherwise to defend this action and their default having been entered, upon application of the plaintiff and upon affidavit that defendants are indebted to plaintiffs in the sum of \$40,810.09, and that defendants are not infants or incompetent persons and are not in the military service of the United States.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that plaintiff have and recover judgment against the defendants, and each of them jointly and severally, in the sum of \$40,810.09, with interest at the rate of 18% per annum from April 1, 1988, until paid in full, and for costs including a reasonable attorneys' fee to be fixed by the Court.

DATED this 11 day of Oct., 1990.


United States District Judge

APPROVED FOR ENTRY:



JOHN HAUCK, JR.
LYTLE SOULE & CURLEE
1200 Robinson Renaissance
119 North Robinson
Oklahoma City, Oklahoma 73102
(405) 235-7471

Attorneys for CityTrust

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 11 1990

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FRANKLIN AND UNDERWOOD PROPERTIES,
an Oklahoma general partnership;
CIMARRON FEDERAL SAVINGS AND LOAN
ASSOCIATION, as Successor to
Phoenix Federal Savings and Loan
Association; E.W. FISHER, III;
TALLANT RENTAL PROPERTIES, INC.,
formerly named Tallant Development
Corporation; COUNTY TREASURER,
Tulsa County, Oklahoma; and BOARD
OF COUNTY COMMISSIONERS, Tulsa
County, Oklahoma,

Defendants.

CIVIL ACTION NO. 90-C-412-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 11th day
of October, 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, Franklin and Underwood Properties
appears not, having previously filed their Disclaimer; and the
Defendants, Cimarron Federal Savings & Loan Association, as
Successor to Phoenix Federal Savings and Loan Association, E. W.
Fisher, III, and Tallant Rental Rental Properties, Inc., formerly
named Tallant Development Corporation, appear not, but make
default.

The Court, being fully advised and having examined the court file, finds that the Defendant, Franklin and Underwood Properties filed a Disclaimer on July 23, 1990; that the Defendant, Cimarron Federal Savings and Loan Association, as Successor to Phoenix Federal Savings and Loan Association, acknowledged receipt of Summons and Complaint on June 28, 1990; that the Defendant, E.W. Fisher, III, acknowledged receipt of Summons and Complaint on May 29, 1990; that the Defendant, Tallant Rental Properties, Inc., formerly named Tallant Development Corporation, was served by U.S. Marshal on September 6, 1990; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on May 15, 1990; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on May 15, 1990.

It appears that the Defendant, Franklin and Underwood Properties, filed its Disclaimer on July 23, 1990; that the Defendant, County Treasurer, Tulsa County, Oklahoma, filed its Answer on June 5, 1990; that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, filed its Answer on June 5, 1990; and that the Defendants, Cimarron Federal Savings and Loan Association, as Successor to Phoenix Federal Savings and Loan Association, E.W. Fisher, III, and Tallant Rental Properties, Inc., formerly named Tallant Development Corporation, have failed to answer and their default has therefore been entered by the Clerk of this Court.

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

Lot Nineteen (19), Block Forty-Eight (48), Valley View Acres Third Addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof.

The Court further finds that on December 19, 1963, Byron Rollins and Audry Rollins 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 \$10,632.00, payable in monthly installments, with interest thereon at the rate of 5.25 percent (5.25%) per annum.

The Court further finds that as security for the payment of the above-described note, Byron Rollins and Audrey Rollins, 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 19, 1963, covering the above-described property. Said mortgage was recorded on December 19, 1963, in Book 3407, Page 250, in the records of Tulsa County, Oklahoma.

The Court further finds that Byron Rollins and Audrey Rollins 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, they are indebted to the Plaintiff in the principal sum of \$3,315.52, plus interest at the rate of 5.25 percent per annum from August 1, 1987 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$24.44 (\$20.00 docket fees, \$4.44 fees for service of Summons and Complaint).

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

The Court further finds that the Defendants, Franklin and Underwood Properties; Cimarron Federal Savings and Loan Association, as Successor to Phoenix Federal Savings and Loan Association; E.W. Fisher, III; and Tallant Rental Properties, Inc., formerly named Tallant Development Corporation, 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 in the principal sum of \$3,315.52, plus interest at the rate of 5.25 percent per annum from until judgment, plus interest thereafter at the current legal rate of 7.78 percent per annum until paid, plus the costs of this action in the amount of \$24.44 (\$20.00 docket fees, \$4.44 fees for service of Summons and Complaint), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums of 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; Cimarron Federal Savings and Loan Association, as Successor to Phoenix Federal Savings and Loan Association; E.W. Fisher, III; and Tallant Rental Properties, Inc., formerly named Tallant Development Corporation, have no right, title, or interest in the subject real property.

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

First:

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

Second:

In payment of the 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/ THOMAS R. BRETT

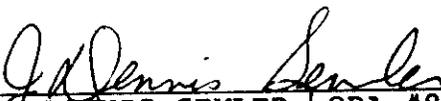
UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney



PHIL PINNELL, OBA #7169
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463



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-412-B

PP/esr

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

FILED

OCT 11 1990 *dy*

DOUG KING,

Plaintiff,

vs.

FARMERS INSURANCE EXCHANGE,
et al.,

Defendants.

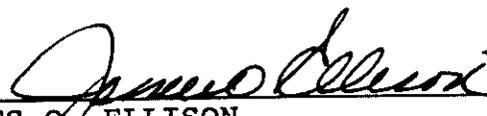
No. 90-C-87-E / Jack C. Silver, Clerk
U.S. DISTRICT COURT

ORDER

This Court previously ordered Plaintiff to cause new counsel to enter an appearance on his behalf in fifteen (15) days or, within the same time, advise the Court in writing that Plaintiff intended to proceed in propria persona. Plaintiff has failed to comply with this Court's order and more than fifteen (15) days have passed.

IT IS THEREFORE ORDERED that this action is dismissed with prejudice, each side to bear its own costs.

ORDERED this 11th day of October, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED
OCT 11 1990 *ds*

ASSOCIATES COMMERCIAL
CORPORATION,

Plaintiff,

vs.

LARRY DEAN SLAPE, et al.,

Defendants.

No. 90-C-700-E ✓

Jack C. Silver, Clerk
DISTRICT COURT

DEFAULT JUDGMENT

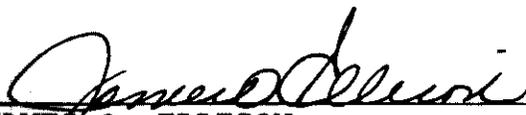
Defendants Larry Dean Slape and Dava Joann Slape have been regularly served with process. They have failed to appear and answer the Plaintiff's Complaint herein. The defaults of said Defendants have been entered. It appears that Defendants are not infants or incompetent persons.

IT IS THEREFORE ORDERED that the Plaintiff, Associates Commercial Corporation, recover judgment from Larry Dean Slape and Dava Joann Slape in the principal sum of \$57,044.93, with interest thereon from November 25, 1989, at a rate to be determined, and interest thereon at the rate of 22% per annum from this date, together with the costs of this action, accrued and accruing.

IT IS FURTHER ORDERED that Plaintiff is entitled to possession of the subject 1989 Freightliner Truck Tractor, Model FLC 12064ST, with VIN 1FUVDXYB6KP353853, that Plaintiff's Replevin Bond filed herein on September 14, 1990, in the amount of \$109,600.00 be released at once, and that Plaintiff dispose of the subject Truck Tractor in accordance with the provisions of 12A O.S.A. Section 9-

504 (Secured Party's Right to Dispose of Collateral After Default;
Effect of disposition).

ORDERED this 11th day of October, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

ajg

OBA #5026

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

PAIGE LYNN LORIMER,

Plaintiff,

vs.

JENNIFER HOLLEY ALLIGOOD,
JILL SUZANNE MILLER, and
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, a foreign
insurer,

Defendants.

No: 89-C-778-E

FILED

OCT 11 1990

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

ORDER

On this 11 day of Oct, 1990, the Joint Application for an Order of Dismissal with Prejudice came on before the court for hearing. The court finds that the parties have settled all issues between them pursuant to an agreement reached at the settlement conference.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that all of plaintiff's claim against the defendants are dismissed with prejudice and all of the defendants cross-claims against each other are dismissed with prejudiced.

S/ JAMES O. ELLISON

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

FILED

OCT 17 1990

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

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

EMIEL L. "BUDDY" BELZER,

Plaintiff,

v.

PAUL THOMAS, JR., et al.,

Defendants.

Case No. 90-C-194-B

ADMINISTRATIVE CLOSING ORDER

The Court has before it the Parties' Joint Application for Administrative Closing Order. The Court has been advised by the parties to this action that a settlement has been reached which will terminate this litigation. Satisfaction of all of the settlement terms is to be completed by August 10, 1991

ACCORDINGLY, for good cause shown, this action will be administratively closed until September 1, 1991, at which time, unless the Court is advised otherwise, this matter will be dismissed with prejudice.

IT IS SO ORDERED, this 11th day of October 1990.

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

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

NINTH DISTRICT PRODUCTION
CREDIT ASSOCIATION, et al.,

Plaintiffs,

v.

MASHBURN PARTNERSHIP, et al.,

Defendants.

No. 87-C-341-E

FILED

OCT 11 1990

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

STIPULATION OF DISMISSAL WITH PREJUDICE

Plaintiffs, The Ninth District Production Credit Association and the Federal Land Bank of Wichita ("Plaintiffs") and Defendants, Mashburn Partnership, Ted Mashburn, Sr., Lorena Mashburn, Ted O. Mashburn, Jr., Vicki D. Mashburn, and Joan M. Burris (collectively the "Defendants"), hereby stipulate and agree that this action should be dismissed with prejudice. It is further stipulated by Plaintiffs and Defendants that all parties will be responsible for their respective attorneys' fees.

Respectfully submitted,


Dominic Sokolosky, OBA #10475
James E. Carrington, OBA #11249
Victor E. Morgan, OBA #12419
Baker, Hoster, McSpadden,
Clark, Rasure & Slicker
800 Kennedy Building
Tulsa, Oklahoma 74103
(918) 592-5555


P. Browning Pipestem, OBA #7171
Stephen A. Lamirand
PIPESTEM, CARTER & LAMIRAND
111 N. Peters, Suite 200
Norman, Oklahoma 73069

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

OCT 10 1990 *dt*

MICHAEL F. BIGGS,
Plaintiff,
vs.
LOUIS W. SULLIVAN, M.D.,
Secretary of Health and
Human Services,
Defendant.

No. 89-C-948-E ✓

O R D E R

The Court has for consideration the Report and Recommendation of the Magistrate filed September 18, 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 is hereby affirmed.

ORDERED this 9th day of October, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

HILTI, INC., a New York
corporation,

Plaintiff,

vs.

Case No. 89-C-975 B

HACKETT PRECISION COMPANY,
a/k/a Hackett Precision
Company, Inc., d/b/a Alliance
Systems, a/k/a Alliance Tool
Corporation, a Tennessee
corporation; GLEASON
CORPORATION, a Delaware
corporation,

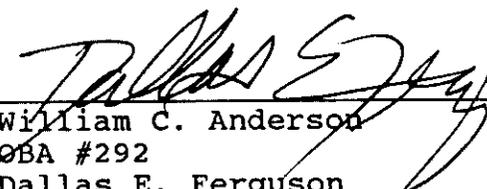
Defendants.

STIPULATION OF DISMISSAL

Upon the stipulation of the undersigned attorneys for the parties to this action, it is hereby requested that the Clerk of the Court dismiss this action with prejudice and without costs.

Dated this 10th day of October, 1990.

DOERNER, STUART, SAUNDERS,
DANIEL & ANDERSON

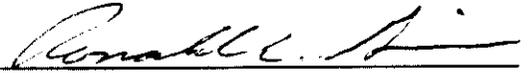
By: 

William C. Anderson
OBA #292
Dallas E. Ferguson
OBA #2871
Rebecca M. Fowler
OBA #13682
1000 Atlas Life Building
Tulsa, Oklahoma 74103
(918) 582-1211

Attorneys for Defendant,
Gleason Corporation

JACK P. SILVER, CLERK
U.S. DISTRICT COURT
OCT 10 1990

HOLLIMAN, LANGHOLZ, RUNNELS &
DORWART, A Professional
Corporation

By: 

Ronald E. Goins

OBA #3430

Robert Alan Rush

OBA #13342

Suite 700, Holarud Building

Ten East Third Street

Tulsa, Oklahoma 74103

(918) 584-1471

Attorneys for Plaintiff

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

OCT 10 1989

8

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 ATLANTIC RICHFIELD COMPANY,)
)
 Defendant.)

CLERK OF COURT

Case No. 89-C-447-B ✓

ORDER

This matter comes on for consideration upon the Motion of the Plaintiff, United States of America, to enter the Consent Decree lodged herein on May 30, 1989. The Defendant, Atlantic Richfield Company (ARCO) has agreed to the entry of the Consent Decree and seeks, together with the Government, Court approval of same.

This is a civil action brought pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (CERCLA) and the Resource Conservation and Recovery Act, as amended (RCRA) 42 U.S.C. § 6901 et seq. The action seeks to recover costs under CERCLA that have and will be incurred by the United States in responding to and cleaning up hazardous substances from the Sand Springs Superfund Site (SITE). Under the Consent Decree, ARCO has agreed to: (1) implement the remedy selected by the U.S. Environmental Protection Agency (EPA); (2) pay future EPA oversight costs; (3) reimburse the Government in the sum of

\$1,710,872.80 for past EPA costs. It is not disputed that ARCO may seek contribution from "potentially responsible parties" (PRPs) who also have (alleged) responsibility for the hazardous substances existent at the Site.

After the Consent Decree was lodged herein, notice of the lodging of the proposed decree was published in the Federal Register on June 9, 1989. 54 Fed. Reg. 24767. After the expiration of the thirty day period within which the public may comment, the Government moved for the entry of the Consent Decree. Thereafter, the Government received comments on the proposed decree from a group of PRPs (the current would-be Intervenor, approximately 110 in all). As a result, the Government requested the Court hold in abeyance any decision on the entry of the decree pending formal response by the PRPs, which has been done. The PRPs Motion to Intervene is currently before the Court for determination.

CERCLA provides the Attorney General may withhold consent to a proposed Consent Decree if it is inappropriate, improper or inadequate.¹ In the present matter the Government urges the Court to approve and enter the Decree as a final judgment.

CERCLA provides for de minimis settlements where the EPA determines the PRPs' contributions to the hazardous substances were minimal in comparison to the other hazardous substances at a given site. Once a PRP has settled with the Government that PRP is protected by operation of law from contribution liability to any other PRPs. 42 U.S.C. §9613(f)(2); In re Acushnet River & New Bedford Harbor Litigation, 712 F.Supp. 1019, (D.Mass. 1989); City

¹ 42 U.S.C. §9622(d)(2)(B), (i)(3).

of New York v. Exxon Corp., 697 F.Supp. 677 (S.D.N.Y. 1988).

While the Motions to Intervene and to approve the Consent Decree are essentially separate, they share an undeniable commonality. It appears to the Court the Intervenors seek Intervention not to deny the entry of the Consent Decree but rather to supplement it with the *factum* of their de minimis settlements with the United States and/or ARCO. The United States seeks entry of the Decree since it answers now the entire liability question in that ARCO is assenting to full responsibility for the Site. ARCO, not wishing to proceed with any further expensive remedial site work until a Consent Decree is entered, seeks to avoid both continued delay and the elimination, by de minimis settlement with the Government, of prospectively liable contributors.

Movants' intervention effort is opposed on three grounds: (1) That Movants have failed in their burden to demonstrate a sufficient interest in the subject matter of this action; (2) That Movants have failed to demonstrate their interest, if established, would be impaired by the entry of the consent decree; and (3) That the Motion is not timely.

The Court concludes the Intervenors may well have a sufficient interest in the subject matter of this case to predicate their entry herein. However, if not allowed to intervene, that interest will not be, in the Court's view, impaired by the entry of the decree. The pleadings reveal that settlement efforts are ongoing between at least some of the Intervenors and ARCO. While it is clear the putative Intervenors would much prefer to negotiate within the confines of the present case, the public interest in

having the remedial efforts proceed without undue delay is important in the Court's view. Congress mandated the President, through CERCLA, to achieve "prompt and effective response to problems of national magnitude resulting from hazardous waste disposal." United States v. Reilly Tar & Chemical Corp., 546 F.Supp. 1100, 1112, (D. Minn. 1982).

The Court concludes the Motion to Intervene should be and the same is hereby DENIED. In view of the Court's Order, the timeliness of the Intervenor's Motion need not be considered.

The Court next turns to the Motion to approve the Consent Decree as a final judgment. The Court's review of same should exceed routine approval of an agreed instrument but need not arise to a *de novo* consideration of each and every facet therein. The decree must be fair, adequate, reasonable, and consistent with the Constitution and the mandate of Congress. U.S. v. Acton Corp., 733 F.Supp. 869 (D.N.J. 1990); U.S. v. Rohm & Haas Co., 721 F.Supp. 666, (D.N.J. 1989); United States v. City of Jackson, 519 F.2d 1147 (5th Cir. 1975).

The Court concludes the Consent Decree represents an arms length transaction between the Government and ARCO. The Court further concludes the decree is fair, just and reasonable and that it is in the best interests of the public that it be approved.² United States v. Hooker Chemical & Plastics Corp., 607 F.Supp. 1052 (W.D.N.Y.), *aff'd*, 776 F.2d 410 (2nd Cir. 1985); United States v.

² Magistrate John Leo Wagner, having reviewed the Consent Decree, as well as the parties' pleadings, has recommended to the Court that the Motion of the Intervenor be denied and that the Consent Order be approved as a final judgment.

Cannons Engineering Corp., 720 F. Supp. 1027, (D.Mass. 1989).

The Court concludes the Consent Decree, lodged herein on May 30, 1989, should be and the same is hereby APPROVED.

IT IS SO ORDERED this 10th day of October , 1990.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

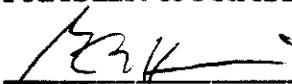
EDWARD S. GRIFFIN,)
)
 Plaintiff,)
 vs.) Case No. 89-C-849-C
)
 TOWN OF SALINA, OKLAHOMA,)
)
 Defendant.)

STIPULATION OF DISMISSAL WITH PREJUDICE

COME NOW Plaintiff and Defendant and stipulate to the dismissal of the above styled and numbered cause with prejudice to any future action, all pursuant to Rules 41(a)(1)(ii) of the Federal Rules of Civil Procedure.

FRASIER & FRASIER

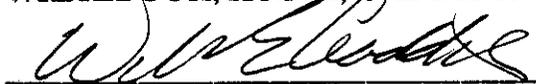
BY:



Steven R. Hickman, OBA #4172
1700 Southwest Boulevard
P. O. Box 799
Tulsa, OK 74101
918/584-4724
Attorneys for Plaintiff

WHITEBOOK, HOLTZ, GADDIS & POWERS

BY:



William E. Gaddis, OBA #3196
2431 East 51st Street, Suite 200
Tulsa, OK 74105
918/745-1105
Attorneys for Defendant

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

RONALD D. YOUNG,

Plaintiff,

vs.

STEPHEN H. ROBINSON, and
KATHY ROBINSON, husband and
wife,

Defendants,

LIBERTY MUTUAL INSURANCE
CO., applicant in
intervention.

No. 90-C-0024C

FILED

OCT 9 1990

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

ORDER

NOW on this 9 day of oct, 1990, this matter comes on for hearing pursuant to the Joint Stipulation of Dismissal and Application for Dismissal Without Prejudice of the parties hereto. The Court being fully advised in these premises finds that the application should be granted.

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


UNITED STATES DISTRICT JUDGE

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

FILED
CIT. 9-11-90
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ROBERT STANLEY JERNIGAN,)
)
 Petitioner,)
)
 v.)
)
 EDWARD EVANS, Warden and THE)
 ATTORNEY GENERAL OF THE STATE OF)
 OKLAHOMA,)
 Respondents.

90-C-797-B

ORDER

Petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is now before the Court for initial consideration. Petitioner was convicted in Tulsa County District Court, Case No. CRF-87-1731, of indecent exposure, and sentenced to 8 years imprisonment. The conviction was not appealed.

Petitioner did not file an application for relief under the Oklahoma Post-Conviction Procedure Act, 22 O.S. § 1080 et seq.

Petitioner now seeks federal habeas relief on the alleged grounds that his sentence constituted cruel and unusual punishment under the Eighth Amendment and also violated the Fourteenth Amendment.

Title 28 U.S.C. § 2254 provides in part:

(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the prisoner.

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

available procedure, the question presented.

A federal habeas petitioner must have fairly presented to the state courts the substance of his federal claim. See Anderson v. Harless, 459 U.S. 4, 7 (1982), where the Supreme Court stated in a per curiam opinion reversing the granting of a federal habeas petition:

... 28 U.S.C. § 2254 requires a federal habeas petitioner to provide the state courts with a 'fair opportunity' to apply controlling legal principles to the facts bearing upon his constitutional claim. It is not enough that all the facts necessary to support the federal claim were before the state courts ... or that a somewhat similar state-law claim was made. In addition, the habeas petitioner must have 'fairly presented' to the state courts the 'substance' of his federal habeas corpus claim.

(citations omitted). See also, Mabry v. Klimas, 448 U.S. 444 (1980) (state must be given initial opportunity to pass upon and correct alleged violations of federal rights); Jones v. Hess, 681 F.2d 688 (10th Cir. 1982); Castleberry v. Crisp, 414 F.Supp. 945, 952-53 (N.D.Okla. 1976).

The Tenth Circuit has noted that a "rigorously enforced" exhaustion policy is necessary to serve the end of protecting and promoting the State's role in resolving the constitutional issues raised in federal habeas petitions. Naranjo v. Ricketts, 696 F.2d 83, 87 (10th Cir. 1982).

The Court finds that petitioner has failed to present the substance of his claim to the Oklahoma state courts and the state has not been given the opportunity to consider and correct the alleged violation of his federal rights. While prisoner states on pages 3, 4, 5, and 6-A of his petition that he believes he cannot receive adequate relief in state courts, such an assumption cannot be made.

Therefore the Court finds that petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 should be and is dismissed.

Dated this 9th day of ~~June~~ ^{Oct}, 1990.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
OCT 11 1990
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,
v.
DEBORAH SUE GRAYSON
Defendant.

Civil Action No. 90-C-368-E

DEFAULT JUDGMENT

This matter comes on for consideration this 14th day of October, 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, Deborah S. Grayson, appearing not.

The Court being fully advised and having examined the court file finds that Defendant, Deborah S. Grayson, was served with Summons and Complaint on July 5, 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, Deborah S. Grayson, for the principal amount of \$749.67, plus accrued interest of \$140.81 plus interest thereafter at the rate of 4 percent per annum until judgment, plus interest thereafter at the

current legal rate of 7.78 percent per annum until paid, plus costs
of this action.

S/ JAMES O. ELLISON

United States District Judge

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

NORTHERN PIPELINE, LTD., a
California limited partnership;
FALLON COUNTY PIPELINE, LTD.,
a California limited partnership;
MONTANA PIPELINE, LTD., a
California limited partnership;
SODA CREEK PIPELINE, LTD., a
California limited partnership;
AMERICAN ENERGY, INC., a
California corporation;

Plaintiffs,

vs.

INTERSEARCH CORPORATION, an
Oklahoma corporation; INTERSEARCH
GAS CORPORATION, an Oklahoma
corporation; HILLTOP PIPELINE
SYSTEMS, an entity;

Defendants.

FILED

OCT 19 1990

U.S. District Court
DISTRICT COURT

Case No. 90-C-0075 E

ORDER

NOW on this 4th day of October, 1990, the above-referenced matter comes on before this Court on the application of Plaintiffs Northern Pipeline, Ltd. and Montana Pipeline, Ltd. for dismissal with prejudice of their claims against the Defendants in this case. The Court finds that good cause has been shown and the relief prayed for should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the claims of Northern Pipeline, Ltd. and Montana Pipeline, Ltd. against the Defendants are dismissed with prejudice to the refiling. This order of dismissal does not affect the pending claims of the remaining Plaintiffs in this matter.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

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

FILED

OCT -5 1990

DA

CLERK
U.S. DISTRICT COURT

DANIEL L. WILLIAMS,)
)
 Plaintiff,)
)
 vs.)
)
 The PAWNEE INDIAN TRIBE OF)
 OKLAHOMA, Horace Taylor, Carol)
 L. Nuttle, Marvin SunEagle,)
 Harrison O. Fields, et al.,)

Case No. 89-C-296-B ✓

ORDER

This matter comes on for consideration upon the Motion of the Defendants to Dismiss the Plaintiff's Amended Complaint, the latter being filed herein on July 23, 1990.

In this Court's Order of July 10, 1990, Sustaining Motion to Dismiss, the Court granted Plaintiff twenty days within which to file an Amended Complaint, which should

"allege facts relative to the Plaintiff's employment and termination, if any; as well as Plaintiff's United States constitutional rights violated relative to his employment. It should be specifically alleged whether Defendants were acting within or outside their official duties and capacities as members of the Pawnee Tribal Business Council. If outside Defendants' official duties as members of the Pawnee Tribal Council, specific facts in this regard known to Plaintiff should be alleged. Plaintiff should also set forth whether or not any available Pawnee tribal administrative remedies have been exhausted and join the Pawnee Tribe as a defendant if relief is requested against the Tribe."

Plaintiff's Amended Complaint complied with certain of the above provisions, including joining the Pawnee Tribe (Tribe) as a Defendant herein. However, the Tribe, as a sovereign, possesses a

common law immunity from suit which it has not waived. Santa Clara Pueblo v. Martinez, 436 U.S. 49, 98 S. Ct. 1670, 56 L.Ed.2d 106 (1978). This immunity from suit is subject to the plenary power of Congress. Santa Clara Pueblo v. Martinez, *supra*. The defense of sovereign immunity goes to the subject matter jurisdiction of the Court since a sovereign is immune from suit except as it consents to be sued, and the terms of its consent to be sued in any court define that Court's jurisdiction to entertain the suit. United States v. Mitchell, 445 U.S. 535, 63 L.Ed2d 607 (1980); Lehman v. Nakshian, 453 U.S. 156, 69 L.Ed.2d 548 (1981); Ramey Construction Company v. Apache Tribe of the Mescalero Reservation, 673 F.2d 315 (10th Cir. 1982).

A waiver of sovereign immunity cannot be implied but must be unequivocally expressed by such language as will leave no room for any other reasonable construction. United States v. Mitchell, *supra*; Lehman v. Nakshian, *supra*; Ramey Construction Company v. Apache Tribe of the Mescalero Reservation, *supra*,.

Although Plaintiff alleges the Pawnee Tribe Business Council members acted beyond their authority and responsibility, a plain reading of the Complaint and Amended Complaint establishes the acts complained of, even if proven wrongful, were done within the scope of the duties of the Council members. The doctrine of sovereign immunity cannot be circumvented by bringing Court actions for relief against the agents of the sovereign for it can only act through its agents. A judgment against the agents would, on many occasions, be tantamount to a judgment against the sovereign. Thus,

the tribal agencies and agents are equally clothed with sovereign immunity. Larsen v. Domestic and Foreign Commerce Corp., 337 U.S. 682, 93 L.Ed. 1628 (1949); Native American Church v. Navajo Tribal Council, 272 F.2d 131 (10th Cir. 1959); Ramey Construction Company v. Apache Tribe of the Mescalero Reservation, *supra*.

As the Court's earlier Order determined, the Pawnee Tribe is an indispensable party herein. Although Plaintiff attempts to join it, the Tribe has not and apparently will not waive its sovereign immunity and Congress has not waived it on behalf of the Tribe. The Court is therefore without subject matter jurisdiction and the Amended Complaint should be dismissed.

Unnecessary for determination is whether or not Plaintiff has exhausted his administrative remedies. The Court's earlier Order directed that Plaintiff, if he filed an Amended Complaint, address the issue of exhaustion of administrative remedies. In paragraph 13 of the Amended Complaint Plaintiff alludes to filing, on March 24, 1989, a civil complaint against "Defendant(s)" in the Court of Indian Offense at Tonkawa, Oklahoma. Plaintiff alleges the Clerk of that court declined to issue summons "forthwith" whereupon Plaintiff voluntarily moved to dismiss his complaint, which was done. The Court does not view this as exhaustion of administrative remedies.

Additionally worthy of comment is the recognition that another action is pending between the same parties for the same claim herein. Plaintiff refiled the same cause of action, referred to above, in the Court of Indian Offenses For the Pawnee Tribe of Oklahoma Pawnee Agency, Anadarko Area Office (Case No. CIV-90-P02).

In that case Plaintiff seeks reinstatement, backpay, lost benefits, \$50,000.00 in compensatory damages and \$30,000.00 in punitive damages. In the present case Plaintiff seeks re-instatement to employment, back wages, restoration of fringe benefits, \$48,000.00 in compensatory damages and \$12,000.00 in punitive damages.

The Court concludes Defendants' Motion to Dismiss should be and the same is hereby GRANTED. Plaintiff's Amended Complaint should be and the same is hereby DISMISSED.

IT IS SO ORDERED this 5 day of October, 1990.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MATTIE A. HOFFMAN f/k/a
MATTIE A. SUMMERLIN; MELVIN R.
HOFFMAN; THE FIRST NATIONAL
BANK OF PRYOR CREEK, Pryor,
Oklahoma; CAIN INVESTMENT &
LOAN CO.; COUNTY TREASURER,
Mayes County, Oklahoma;
BOARD OF COUNTY COMMISSIONERS,
Mayes County, Oklahoma; and
CAIN LOAN AND INVESTMENT CO.,

Defendants.

CIVIL ACTION NO. 89-C-854-E

FILED
OCT 10 1990
J. MICHAEL JACOBS
CLERK

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 4 day
of Oct, 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 Defendant, The First National Bank of Pryor Creek, Pryor,
Oklahoma, appears by J. Michael Jacobs, Esq.; the Defendants,
County Treasurer, Mayes County, Oklahoma, and Board of County
Commissioners, Mayes County, Oklahoma, appear by Ernest E.
Haynes, Jr., Assistant District Attorney, Mayes County, Oklahoma;
and the Defendants, Mattie A. Hoffman f/k/a Mattie a. Summerlin
and Melvin R. Hoffman, appear not, but make default.

The Court being fully advised and having examined the
court file finds that the Defendant, Mattie A. Hoffman f/k/a
Mattie A. Summerlin, was served with Summons and Amended

Complaint on March 13, 1990; the Defendant, The First National Bank of Pryor Creek, Pryor, Oklahoma, acknowledged receipt of Summons and Complaint on October 16, 1989; the Defendant, Cain Investment & Loan Co., acknowledged receipt of Summons and Complaint on October 19, 1989; the Defendant, Board of County Commissioners, Mayes County, Oklahoma, acknowledged receipt of Summons and Complaint on October 20, 1989; and the Defendant, Cain Loan and Investment Co., acknowledged receipt of Summons and Amended Complaint on February 21, 1990.

The Court further finds that the Defendant, Melvin R. Hoffman, was served by publishing notice of this action in The Pryor Daily Times, a newspaper of general circulation in Mayes County, Oklahoma, once a week for six (6) consecutive weeks beginning April 25, 1990, and continuing to May 30, 1990, as more fully appears from the verified proof of publication duly filed herein; and that this action is one in which service by publication is authorized by 12 O.S. Section 2004(c)(3)(c). Counsel for the Plaintiff does not know and with due diligence cannot ascertain the whereabouts of the Defendant, Melvin R. Hoffman, and service cannot be made upon said Defendant within the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, or upon said Defendant without the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, as more fully appears from the evidentiary affidavit of a bonded abstracter filed herein with respect to the last known address of the Defendant, Melvin R. Hoffman. The

Court conducted an inquiry into the sufficiency of the service by publication to comply with due process of law and based upon the evidence presented together with affidavit and documentary evidence finds that the Plaintiff, United States of America, acting on behalf of Farmers Home Administration, and its attorneys, Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Phil Pinnell, Assistant United States Attorney, fully exercised due diligence in ascertaining the true name and identity of the party served by publication with respect to his present or last known place of residence and/or mailing address. The Court accordingly approves and confirms that the service by publication is sufficient to confer jurisdiction upon this Court to enter the relief sought by the Plaintiff, both as to subject matter and the Defendant served by publication.

It appears that the Defendants, County Treasurer, Mayes County, Oklahoma, and Board of County Commissioners, Mayes County, Oklahoma, filed their Answer and Cross-petition on October 30, 1989; that the Defendant, The First National Bank of Pryor Creek, Pryor, Oklahoma, filed its Answer and Disclaimer on October 24, 1989; that the Defendant, Cain Investment & Loan Co., filed its Disclaimer on March 8, 1990; that the Defendant, Cain Loan and Investment Co., filed its Disclaimer on March 8, 1990; and that the Defendants, Mattie A. Hoffman f/k/a Mattie A. Summerlin and Melvin R. Hoffman, 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 Mayes County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Numbered Four (4) in Block Numbered Four (4), of the Sawyer Terrace Addition to the Incorporated Town of Pryor Creek, Mayes County, State of Oklahoma, according to the official survey and plat thereof, filed for record in the office of the County Clerk of said County and State; (Subject to Restrictive Covenants and Easements of record).

The Court further finds that on October 18, 1971, the Defendant, Mattie A. Summerlin, executed and delivered to the United States of America, acting through the Farmers Home Administration, her promissory note in the amount of \$5,780.00, payable in monthly installments, with interest thereon at the rate of 7.25 percent (7.25%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendant, Mattie A. Summerlin, executed and delivered to the United States of America, acting through the Farmers Home Administration, a mortgage dated October 18, 1971, covering the above-described property. Said mortgage was recorded on October 18, 1971, in Book 429, Page 212, in the records of Mayes County, Oklahoma.

The Court further finds that the Defendant, Mattie A. Hoffman f/k/a Mattie A. Summerlin, made default under the terms of the aforesaid note and mortgage by reason of her failure to

make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, Mattie A. Hoffman f/k/a Mattie A. Summerlin, is indebted to the Plaintiff in the principal sum of \$5,576.97, plus accrued interest in the amount of \$731.61 as of December 27, 1988 plus interest at the rate of 7.25 percent per annum or \$1.1078 per day until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$291.65 (\$20.00 docket fees, \$5.00 fees for service of Summons and Complaint, \$258.65 publication fees, \$8.00 fee for recording Notice of Lis Pendens).

The Court further finds that the Defendants, Melvin R. Hoffman, The First National Bank of Pryor Creek, Pryor, Oklahoma, Cain Investment & Loan Co., Cain Loan and Investment Co., and County Treasurer and Board of County Commissioners, Mayes County, Oklahoma, claim no right, title or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Mattie A. Hoffman f/k/a Mattie A. Summerlin, in the principal sum of \$5,576.97, plus accrued interest in the amount of \$731.61 as of December 27, 1988 plus interest at the rate of 7.25 percent per annum or \$1.1078 per day until judgment, plus interest thereafter at the current legal rate of 7.28 percent per annum until paid, plus the costs of this action in the amount of \$291.65 (\$20.00 docket fees, \$5.00 fees for service of Summons and Complaint, \$258.65 publication fees, \$8.00 fee for recording Notice of

Lis Pendens), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums of the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Melvin R. Hoffman, The First National Bank of Pryor Creek, Pryor, Oklahoma, Cain Investment & Loan Co., Cain Loan and Investment Co., and County Treasurer and Board of County Commissioners, Mayes County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, Mattie A. Hoffman f/k/a Mattie A. Summerlin, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

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

Second:

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

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

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

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney



PHIL PINNELL, OBA #7169
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463



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

Judgment of Foreclosure
Civil Action No. 89-C-854-E

PB/esr

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JEROME BANFIELD CARLSON;
JO ANN CARLSON; COUNTY
TREASURER, Tulsa County,
Oklahoma; and BOARD OF
COUNTY COMMISSIONERS,
Tulsa County, Oklahoma,

Defendants.

CIVIL ACTION NO. 90-C-654-E

FILED

OCT 1990

CLERK
COURT

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 4 day
of Oct, 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, Tulsa 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, Jerome
Banfield Carlson and Jo Ann Carlson, appear not, but make
default.

The Court being fully advised and having examined the
court file finds that the Defendant, Jerome Banfield Carlson,
acknowledged receipt of Summons and Complaint on August 7, 1990;
that the Defendant, Jo Ann Carlson, acknowledged receipt of
Summons and Complaint on August 2, 1990; that Defendant, County
Treasurer, Tulsa County, Oklahoma, acknowledged receipt of
Summons and Complaint on August 1, 1990; and that Defendant,

Board of County Commissioners, Tulsa County, Oklahoma,
acknowledged receipt of Summons and Complaint on August 2, 1990.

It appears that the Defendant, County Treasurer, Tulsa County, Oklahoma, filed its Answer on August 22, 1990; that the Board of County Commissioners, Tulsa County, Oklahoma, filed its Answer on August 22, 1990; and that the Defendants, Jerome Banfield Carlson and Jo Ann Carlson, have failed to answer and their default has therefore been entered by the Clerk of this Court.

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

Lot Twenty-two (22), and Twenty-three (23),
Block Two (2), PARK HILL ADDITION to the City
of Tulsa, Tulsa County, State of Oklahoma,
according to the Recorded Amended Plat
thereof.

The Court further finds that on July 13, 1983, the Defendants, Jerome Banfield Carlson and Jo Ann Carlson, 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 \$49,000.00, payable in monthly installments, with interest thereon at the rate of 11.5 percent (11.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Jerome

Banfield Carlson and Jo Ann Carlson, 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 13, 1983, covering the above-described property. Said mortgage was recorded on July 18, 1983, in Book 4707, Page 1758, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Jerome Banfield Carlson and Jo Ann Carlson, 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, Jerome Banfield Carlson and Jo Ann Carlson, are indebted to the Plaintiff in the principal sum of \$47,196.05, plus interest at the rate of 11.5 percent per annum from December 1, 1989 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action.

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

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants, Jerome Banfield Carlson and Jo Ann Carlson, in the principal sum of \$47,196.05, plus interest at the rate of 11.5 percent per annum from December 1, 1989 until judgment, plus interest

thereafter at the current legal rate of 7.28 percent per annum until paid, plus the costs of this action, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums of the preservation of the subject property.

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

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Jerome Banfield Carlson and Jo Ann Carlson, 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;

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

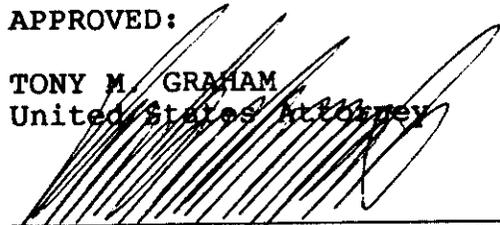
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of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

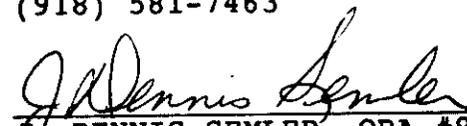
S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney


PETER BERNHARDT, OBA #741
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463


D. 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-654-E

PB/esr

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

FILED

OCT 3 1990

Jack C. Silver, Clerk
DISTRICT COURT

PAUL HERCHMAN,
Plaintiff,
vs.
SUN MEDICAL, INC.,
Defendant.

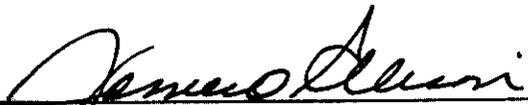
No. 89-C-649-E

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 final judgment be and is hereby granted in favor of Plaintiff Paul Herchman and against Defendant Sun Medical, Inc. on Plaintiff's Complaint for Declaratory Relief and on Defendant's counterclaims.

ORDERED this 4th day of October 2, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED
OCT 3 1989

JACK SILVER, CLERK
U.S. DISTRICT COURT

THE FEDERAL DEPOSIT INSURANCE CORPORATION,
Plaintiff,
vs.
THOMSON ENERGY MANAGEMENT, INC.,
a Texas corporation, et al.,
Defendants.

Case No. 89-C-909-E

DEFAULT JUDGMENT AGAINST TRAVIS THOMSON

Pursuant to Rule 55 of the Federal Rules of Civil Procedure, judgment is hereby entered in favor of the Federal Deposit Insurance Corporation against Travis Thomson in the amount of \$936,768.04, with interest accruing after the date hereof at the rate of 7.78% as provided in 28 U.S.C. §1961(a). Attorneys' fees and costs to be determined upon application to the Court.

JACK SILVER, CLERK

By *[Signature]*
Deputy Clerk

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

FILED

Jack C. Silver
U.S. District Court

THE FEDERAL DEPOSIT INSURANCE
CORPORATION,

Plaintiff,

vs.

THOMSON ENERGY MANAGEMENT, INC.,
a Texas corporation, et al.,

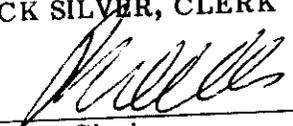
Defendants.

Case No. 89-C-909-E

**DEFAULT JUDGMENT AGAINST
THOMSON ENERGY MANAGEMENT, INC.**

Pursuant to Rule 55 of the Federal Rules of Civil Procedure, judgment is hereby entered in favor of the Federal Deposit Insurance Corporation against Thomson Energy Management, Inc. in the amount of \$936,768.04, with interest accruing after the date hereof at the rate of 7.78% as provided in 28 U.S.C. §1961(a). Attorneys fees and costs to be determined upon application to the Court. Plaintiff, or its successors in interest, to submit a journal entry of judgment foreclosing upon this Defendant's interest in the properties for approval of the Court.

JACK SILVER, CLERK

By 
Deputy Clerk

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

FILED

OCT 5 1990

CITGO PETROLEUM CORPORATION,)

Plaintiff,)

vs.)

UNITED STATES OF AMERICA,)

Defendant.)

No. 89-C-716-E

Jack C. Silver, Clerk
DISTRICT COURT

ORDER

NOW on this 4th day of October, 1990 comes on for hearing the above styled case and the Court, being fully advised in the premises finds that Defendant United States of America has moved for dismissal based on this Court's lack of subject matter jurisdiction. Such lack of jurisdiction, pursuant to Defendant's position, is premised upon Plaintiff's alleged failure to satisfy the "conditions to allowance," a statutory prerequisite to the maintenance of an excise tax refund suit in district court. The Court has carefully examined the entire file, including arguments made, authorities cited and exhibits provided, and finds that this case has been on shaky jurisdictional grounds from its inception. In an effort to engender sufficient grounds for maintenance of the suit, Plaintiff has reduced its original claim from \$611,623.19 to \$275,184.00, and has filed a "Supplemental Amended Refund Claim." However, the statutory scheme is such that filing a timely and sufficient claim for refund is a jurisdictional prerequisite to such a suit and the supplemental claim operates only from the date of filing and does not relate back to the initial claim. See U.S.

v. Felt & Tarrant Mfg. Co., 283 U.S. 269, 272 (1931); National Fire Insurance Co. v. United States, 52 F.2d 1014 (Ct.Cl. 1931). Thus, this finds this case to be in a posture necessitating dismissal of the instant action without prejudice to refiling at such time as the jurisdictional prerequisites have been met.

IT IS THEREFORE ORDERED that Defendant United States of America's Motion to Dismiss must be and is hereby granted without prejudice to subsequent refiling at such time as the jurisdictional prerequisites have been met.

ORDERED this 4th day of October, 1990.



JAMES G. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

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

SEP 5 1990 CA

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

HUBERT D. HUGHES,)
)
 Plaintiff,)
)
 vs.)
)
 LOUIS W. SULLIVAN, M.D., Secretary)
 of Health and Human Services,)
)
 Defendant.)

No. 89-C-675-B ✓

ORDER

Currently before the Court is Plaintiff Hubert D. Hughes' Objection to the Magistrate's Findings and Recommendation to affirm the Administrative Law Judge's denial of benefits based upon his conclusion that Plaintiff was able to return to his past relevant work. The plaintiff appealed the decision of the Administrative Law Judge (ALJ) to the Social Security Appeals Council. The Social Security Appeals Council affirmed the ALJ's denial of benefits on June 22, 1989. The plaintiff brought this judicial review action pursuant to 42 U.S.C. §405(g), challenging the final decision of the Secretary of Health and Human Services (Secretary).

The only issue before this Court is whether there is substantial evidence in the record to support the final decision of the Secretary. The Secretary's Findings stand if they are supported by "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Richardson v. Perales*, 402 U.S. 389, 401 (1971) (citing *Consolidated Edison Co. v. N.L.R.B.*, 305 U.S. 197, 229 (1938); *Teter v. Heckler*, 775 F.2d 1104, 1105 (10th Cir. 1985). In

16

deciding whether the Secretary's findings are supported by substantial evidence, the Court must consider the record as a whole. *Campbell v. Bowen*, 822 F.2d 1518, 1521 (10th Cir. 1987).

Plaintiff asserts the neither the Administrative Law Judge's Report nor the Magistrate's Findings and Recommendations is based on substantial evidence because the report of Dr. Duncan (TR-115) and the rehabilitation evaluation report of November 30, 1988 (TR 117-119) were not considered. The plaintiff argues that these reports preclude any determination that the plaintiff can return to his past work as an inspector.

The Administrative Law Judge (ALJ) found that the plaintiff has "residual functional capacity to perform work-related activities, except for work involving lifting over 25 pounds, excessive bending, prolonged standing or sitting (20 CFR 404.1545)." (Finding #4, TR 11). The ALJ further found that the plaintiff's "past relevant work as an inspector and shipping inspector did not require the performance of work-related activities precluded by the above limitations." (Finding #5, TR 11). Based on these findings, the ALJ concluded that the plaintiff could return to his past work as an inspector. (Finding #6, TR 11).

The plaintiff's descriptions of his past work as a shipping inspector and inspector of fabricated steel do not include any activity excluded in Finding #4. The plaintiff's vocational report describes his job as an inspector of fabricated steel to include walking for a total of three hours, standing for a total of four hours, sitting for one hour, bending "frequently," and no lifting

or carrying. ¹ (TR 53). The plaintiff testified that his past work as a shipping inspector at Douglas Aircraft required him to measure containers and visually check that the containers were properly packed. (TR 25). The plaintiff also testified that he was required to stand no more than 25 percent of the time. (TR 25). The vocational report filed by the plaintiff describing the physical activity required of shipping inspector stated that the plaintiff was required to walk for a total of three hours, stand for a total of three hours, sit for a total of two hours, bend "frequently," and was not required to lift anything. (TR 54). Nothing in these descriptions indicates that the plaintiff, if employed as a shipping inspector or inspector of fabricated steel, would be required to lift over 25 pounds, bend "excessively," or sit or stand continuously for a prolonged period of time.

The medical evidence presented by Drs. Milo, Duncan and Johnson and the rehabilitation evaluation report of November 30, 1988 also support the ALJ's findings that the plaintiff does not meet the Social Security listing of impairments for a cerebral vascular disability (Finding #3, TR 11) and can return to work with the above limitations. (Finding #4, TR 11). Dr. Emilio Milo reported on June 10, 1988 that the plaintiff's left hand grip and left leg

¹ Although the response to the report's inquiry concerning lifting and carrying, "Describe what was lifted, and how far it was carried. Check below heaviest weight lifted, and weight frequently lifted and/or carried, was "None," the plaintiff checked the box for "heaviest weight lifted" as 20 lbs and the box for "weight frequently lifted/carried" as Up to 10 lbs. Whether the plaintiff did no lifting and carrying or lifted up to 20 lbs., neither is an excluded activity under Finding #4.

strength were normal and advised the plaintiff to proceed with his plans to return to work as an inspector. (TR 106). Dr. Donald Johnson reported on November 2, 1988 that the plaintiff could handle light objects and "would have no trouble sitting or standing." (TR 113). Dr. David Duncan simply reported that the plaintiff could not stand more than two hours at a time. (TR 115). Laurie Greiner, the occupational therapist who evaluated the plaintiff for the rehabilitation report noted that the plaintiff had been "walking for 1 to 2 miles a day" and could tolerate standing for two hours at a time. (TR 117). Her conclusion that "at least moderate resistance would be encountered" if the plaintiff returned to work was based on the plaintiff returning to work as a welder/fitter which requires activity excluded by the ALJ's Finding #4. Contrary to the plaintiff's assertion, the above substantial evidence supports the ALJ's finding that the plaintiff could return to work which did not include "lifting over 25 pounds, excessive bending, prolonged standing or sitting." (TR 11).

As the descriptions of the plaintiff's past work as a shipping inspector and inspector of fabricated steel found in the record do not include any activity excluded by the ALJ's Finding #4, and there is substantial medical evidence that the plaintiff can perform work that does not include "lifting over 25 pounds, excessive bending, prolonged standing or sitting," the Secretary's decision and the Magistrate's Findings and Recommendations are AFFIRMED.

IT IS SO ORDERED, this 5th day of October, 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

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

OCT -4 1999

CLERK
U.S. DISTRICT COURT

FEDERAL DEPOSIT INSURANCE CORPORATION,
as Receiver for FIRST NATIONAL BANK &
TRUST COMPANY, CUSHING, OKLAHOMA,

Plaintiff,

vs.

ASBESTOS DISPOSAL SERVICES, INC., an
Oklahoma corporation; Rex Rudy, a/k/a
Rex R. Rudy, and individual; Rex Rudy,
d/b/a Asbestos Disposal Service; and
Bonnie Rudy, a/k/a Bonnie L. Rudy,
et al,

Defendants.

Case No. 90-C-39-B ✓

ORDER

This matter comes on for consideration upon the Motion of Federal Deposit Insurance Corporation, as Receiver for First National Bank & Trust Company, Cushing, Oklahoma, to Dismiss Counterclaim filed by the Defendants, Asbestos Disposal Services, Inc.; Rex Rudy a/k/a Rex R. Rudy; Rex Rudy, d/b/a Asbestos Disposal Service; and Bonnie Rudy, a/k/a Bonnie L. Rudy (hereinafter ADS defendants).

This action is essentially a suit upon several promissory notes (and security instruments, including a real estate mortgage) given by the ADS defendants in favor of the First National Bank & Trust Company of Cushing, Oklahoma (FNB). Other defendants represent various lien interests competing with the bank's security interests.

The ADS defendants have counterclaimed, alleging three causes of action: (1) They allege the original agreement with FNB provided for a revolving line of credit, with principal and interest due on the notes only as available from the income-producing activities of the these defendants. Further, these defendants seek to reform the instruments to eliminate the "balloon"¹ note payment features, to allow the defendants to pay the amount in installments over a period of time; (2) They allege a right to an accounting for sums paid upon the various notes, including any credits for the sale of a motor home and a 1987 Ford Cargo Master "repossessed" by FNB from these defendants; and, (3) They allege FNB failed to renegotiate with them in good faith, in their effort to keep the notes from becoming delinquent; therefore, these defendants should not be required to pay the attorney fees and costs of this collection effort.

The Court views this as a typical D'Oench, Duhme² situation as it relates to (1) and (3) above. There is no merit to the contention by the ADS defendants that the instruments themselves contain language supporting the allegations. The alleged unwritten original agreement, even if made, is different than the express terms of the notes and other supporting instruments, and is therefore unenforceable against the FDIC. Langley v. Federal Deposit Insurance Corporation, 108 S.Ct. 396, 98 L.Ed.2d 340 (1987). The enforcement of such an agreement is prohibited by

¹ The entire sum being due by a specific date.

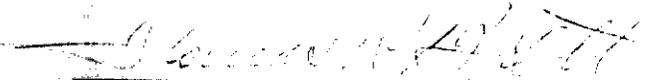
² D'Oench, Duhme & Co., v. F.D.I.C., 62 S.Ct. 676, 86 L.Ed. 956 (1942). The shield of D'Oench, Duhme extends to assignees of FDIC. Langley v. Federal Deposit Insurance Corporation, supra.

statute as well as federal common law. 12 U.S.C. § 1823 (e).

As to the ADS defendants' counterclaim for an accounting, (2) above, the Court is of a different view. The FDIC's Complaint, on its face, indicates some amounts have been paid on the promissory notes described in causes of action One, Two, Three and Eight.³ In addition, the ADS defendants allege they have not been given due credit for the disposition of the motor home and the 1987 Ford Cargo Master "repossessed" by the FDIC. The Court concludes the ADS defendants' second counterclaim, palpably more a defense than a counterclaim, is not precluded by D'Oench, Duhme,⁴ supra.

The Court concludes Plaintiff's Motion to Dismiss, as to counterclaim causes of action (1) and (3) should be and the same is hereby SUSTAINED and such counterclaims are herewith dismissed. The Court further concludes Plaintiff's Motion to Dismiss, as to counterclaim cause of action (2), should be and the same is hereby DENIED.

IT IS SO ORDERED this 11th day of October, 1990.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

³ Causes of action One, Two, Five and Seven have been assigned to Mountain States Financial Resources, Corporation.

⁴ In the Court's view, D'Oench, Duhme does not exempt the FDIC from arithmetic accountability.

entered

FILED

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

USC -4 1990

MACK S. SILVER, CLERK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 DARREN HARRIS,)
)
 Defendant.)

No. 90-C-837-C
No. 89-CR-91-C

ORDER

Before the Court is the motion of the defendant pursuant to 28 U.S.C. §2255. Defendant was convicted by a jury of drug-related crimes and sentenced on February 14, 1990.

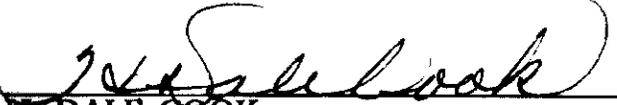
In his moving papers, defendant acknowledges that a direct appeal from his conviction is pending in the Tenth Circuit Court of Appeals. While this does not pose a jurisdictional bar, the orderly administration of criminal law precludes consideration absent extraordinary circumstances. Womack v. United States, 395 F.2d 630, 631 (D.C.Cir. 1968). No such extraordinary circumstances are presented here.

In any event, the sole issue raised by defendant is that the Sentencing Guidelines are unconstitutional as violative of due process. The Tenth Circuit Court of Appeals has decided otherwise. See United States v. Thomas, 884 F.2d 540 (10th Cir. 1989).

151 / 2

It is the Order of the Court that the motion of defendant Darren Harris pursuant to 28 U.S.C. §2255 is hereby DENIED.

IT IS SO ORDERED this 4th day of October, 1990.



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

FILED

OCT 4 1990

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

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

ROBERT F. BIOLCHINI,
Plaintiff,

vs.

BRUCE H. LIEN,
Defendant.

Case No. 90-C-393-B

ORDER

Before the Court for decision is Defendant's Motion to Dismiss for lack of personal jurisdiction, pursuant to Fed. R. Civ. P. 12(b)(2).

In his Complaint, Plaintiff alleges that he entered into an agreement with the Defendant and a non-party for the purchase of certain stock of the American State Bank of Jackson ("bank"), Jackson, Wyoming. He further alleges and seeks indemnification for seller's breaches of certain of the warranties contained in the purchase agreement.

Both the Plaintiff and the Defendant agree on the following facts pertaining to the history of the transaction giving rise to the instant litigation. Plaintiff is a resident of Tulsa, Oklahoma, and Defendant is a resident of South Dakota. The first contact between them was in October, 1983, when a broker representing the Plaintiff contacted and advised the Defendant that the Plaintiff was interested in purchasing the bank. Defendant's only contact with Oklahoma and/or the Northern District is as

recited hereafter.

On November 1, 1983, Plaintiff prepared and submitted a written offer to purchase the bank. After several telephone calls between the parties, Plaintiff's offer was rejected. In the spring of 1985, Plaintiff prepared and submitted a second offer to the Defendant. After a series of negotiations, conducted by mail and telephone calls, the parties agreed to final terms, which included, inter alia, that Wyoming law should apply and govern the contract between the parties. At Plaintiff's request, Defendant flew into Tulsa, where he signed the purchase agreement at the airport.

A dispute exists as to whether the Tulsa trip was even necessary to consummate the contract. Defendant contends it was not, alleging that only Plaintiff's signature was required at that juncture. In his affidavit of June 8, 1990, Defendant claims that he and the non-party seller each signed separate, but identical copies of the purchase agreement in their respective home states, South Dakota and Wyoming, and submitted them, along with proposed revisions, to Plaintiff, who signed and executed them in Oklahoma. In a letter to Defendant's attorney dated May 9, 1985, Plaintiff acknowledged that he had executed each of the agreements which the sellers had sent to him, such that the agreement was then binding between them.

Defendant states in his affidavit that Plaintiff wanted to have a single document signed by the three parties to the transaction, and so Defendant rerouted an airline flight for other business through Tulsa, Oklahoma in order to resign the signature

page that had been executed by Plaintiff and the other seller. Defendant asserts that on May 9, 1985, he arrived at the airport at 3:47 p.m., met with Plaintiff's secretary and resigned the agreement, and then left at 4:10 p.m. Defendant avers that his only contact with Oklahoma was purely coincidental and done for the express purpose of accommodating the desires of the Plaintiff.

Plaintiff contends that the agreement was not finalized, executed, and accepted by him until he redrafted the agreement to incorporate the changes submitted by the sellers and only after Defendant stopped in Tulsa specifically to execute the agreement. Both parties agree that the deal closed in Wyoming in September, 1985.

In Burger King v. Rudzewicz, 471 U.S. 462 (1985), the Supreme Court held that, in a contractual relationship, the mere fact that one party to the contract is a resident of the forum state does not suffice to establish minimum contacts to confer personal jurisdiction. The Court embraced the "purposeful availment" standard articulated in Hanson v. Denckla, 357 U.S. 235 (1958), which requires a nonresident defendant to have purposefully availed itself of privileges of conducting business within the forum state in order for jurisdiction to be capable of being reasonably anticipated and thus proper. "Prior negotiations and contemplated future consequences, along with the terms of the contract and the parties' actual course of dealing . . . must be evaluated in determining whether the defendant purposefully established minimum contacts within the forum." Burger King, 471 U.S. at 479.

This Court has difficulty imagining that the Defendant's conduct and connection with Oklahoma were such that he should have reasonably anticipated that he would be subject to being haled into court here. While the Defendant did engage in extended negotiations over the phone and through the mail with an Oklahoma resident and even signed the purchase agreement while in Tulsa, his minimal contacts with this forum are simply insufficient to establish personal jurisdiction in this Court.

The Court thus concludes that Defendant's Motion to Dismiss should be and is hereby SUSTAINED. Plaintiff's Complaint is herewith DISMISSED, without prejudice. Defendant's Alternative Motion to Transfer, to Wyoming federal court, is moot.

IT IS SO ORDERED this 4th day of October, 1990.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED
OCT 4 1990

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

ROBERT ROBINSON,

Plaintiff,

vs.

RON CHAMPION, et al.,

Defendants.

No. 90-C-203-E

ORDER

The Court has for consideration the Report and Recommendations of the Magistrate filed September 14, 1990. 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 Defendants' Motion to Dismiss is granted.

ORDERED this 3d day of October, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

JACKIE D. CARNER, MARK TROTTER,)
TONY BELK, BRUCE KARN, DERRICK)
TYLER, RICHARD E. VINEYARD,)
RONALD GARDNER, JOHN KARASEK,)
DON ACREE, ROBERT ROBERTSON,)
OLOF GAIL LANGSTON, CARL D.)
LITTLEJOHN, GLEN McCLAIN,)
TOM HYAMS, WILLIAM L. JOHNSTON,)
DENNIS KERR, B.J. POPE,)
LEON SMITH, AND JIM GASS,)

Plaintiffs,)

vs.)

CITY OF SAPULPA, OKLAHOMA,)

Defendant.)

FILED

OCT -4 1990

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

Case No. 90-C-0148-C

ORDER

THIS MATTER comes on this 1st day of October, 1990, on the parties' Joint Stipulation for Dismissal pursuant to Fed. R. Civ. P. 41. Based on the terms of said stipulation, the Court hereby dismisses this action without prejudice.

IT IS SO ORDERED this 4 day of October, 1990.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

HOLLOWAY, DOBSON, HUDSON & BACHMAN

A PROFESSIONAL CORPORATION

LAWYERS

SUITE 900

ONE LEADERSHIP SQUARE

211 N. ROBINSON

OKLAHOMA CITY, OKLAHOMA 73102

(405) 235-8593

TELECOPIER (405) 235-1707

RUSSELL B. HOLLOWAY
PAGE DOBSON
RONALD R. HUDSON
GARY C. BACHMAN
CHARLES F. ALDEN, III
JAMES A. JENNINGS, III
A. SCOTT JOHNSON
VICKI ROBERTSON
DAN L. HOLLOWAY
DON M. VAUGHT
JOHN R. DENNENY
RODNEY L. COOK
RICHARD M. KLINGE

J. WILLIAM ARCHIBALD
JENNIE L. MCLEAN
MARK E. DUVALL
DAVID H. DOBSON
JULIE TROUT LOMBARDI
LU ANN STOUT
MARY HANAN
LAURIE FONG
CHRISTOPHER A. WOOD
J. R. "RANDY" BAKER

October 3, 1990

RECEIVED

OCT 4 1990

Jack C. Silver
Court Clerk, Northern District
Federal County Courthouse
333 W. 4th Street
Tulsa, Oklahoma 74103

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

Re: Jimmy McCall, et al. v. Arvin Industries, Inc.
U.S.D.C. for Northern District
Case No. 90-C 354 E

Dear Mr. Silver:

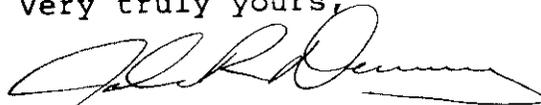
Enclosed herein please find the Stipulation of Dismissal which we ask that you cause to be filed in the above-styled action.

I have enclosed an original and eight (8) copies, of the document, and ask that you return two (2) certified and file-stamped copies and five (5) file-stamped only copies, of the document, to our office in the enclosed, self-addressed, stamped envelope.

Agm 10-4-90

Your assistance in this matter is greatly appreciated.

Very truly yours,



JOHN R. DENNENY
For the Firm

JRD:lap

Jack Silver
October 3, 1990
Page 2

- Encl.: 1. Stipulation of Dismissal - original
 and eight (8) copies;
2. S.A.S.E.

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

FILED

OCT 4 1990

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

JAMES M. MILLER,
Petitioner,

vs.

STEPHEN W. KAISER,
Respondent.

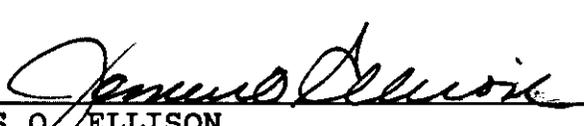
No. 90-C-349-E

ORDER

The Court has for consideration the Report and Recommendation of the Magistrate filed September 14, 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 Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 should be dismissed.

ORDERED this 3^d day of October, 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

OCT 4 1990

EUGENE T. FOUST,
Petitioner,

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

vs.

No. 90-C-792-E

STATE OF OKLAHOMA,
Respondents.

O R D E R

The Court has for consideration the Report and Recommendation of the Magistrate filed September 19, 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 Petitioner's Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. §2254 is dismissed.

ORDERED this 3^d day of October, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

OCT -4 1990

CLERK
U.S. DISTRICT COURT

THRIFTY RENT-A-CAR SYSTEM, INC.,)
an Oklahoma corporation,)

Plaintiff,)

vs.)

Case No. 90-C-775-B

AEROCAR RENTAL SYSTEMS, INC.,)
a foreign corporation; and)
JERRE G. SPYRES, formerly known as)
Jerre G. Lahti, an individual,)

Defendants.)

**NOTICE OF DISMISSAL WITHOUT PREJUDICE OF
TRADEMARK INFRINGEMENT CLAIM**

COMES NOW Plaintiff Thrifty Rent-A-Car System, Inc. ("Thrifty"), and, pursuant to Rule 41(a)(1)(i), dismisses without prejudice its claim for relief for trademark infringement under the Lanham Act, 15 U.S.C. § 1501 et seq. against Defendants Aerocar Rental Systems, Inc. and Jerre G. Spyres contained in Thrifty's First Amended Complaint.

Respectfully submitted,

COMFORT, LIPE & GREEN, P.C.

By: *Nancy G. Gourley*
James E. Green, Jr., OBA #3582
Nancy G. Gourley, OBA #10317
Julie Griffith Buckley, OBA #11774
2100 Mid-Continent Tower
401 South Boston Avenue
Tulsa, Oklahoma 74103
(918) 599-9400

- and -

Kathryn L. Taylor, OBA #003079
General Counsel
Thrifty Rent-A-Car System, Inc.
5330 East 31st, Suite 900
Tulsa, Oklahoma 74135
(918) 665-9319

CERTIFICATE OF MAILING

I hereby certify that on this 4th day of October, 1990, a true and correct copy of the within and foregoing document was mailed to the following with proper postage thereon fully prepaid:

Jerre G. Spyres
Aerocar Rental Systems, Inc.
c/o Jerre Lahti, Service Agent
10909 Atlantic Blvd., #16
855 South Street
Jacksonville, FL 32225

and

1617 Airport Entrance Road
Jacksonville, FL 32218

and

2279 Seminole Road #6
Jacksonville, FL 32225

and a true and correct copy sent by **Federal Express** to:

Jerre G. Spyres
Aerocar Rental Systems, Inc.
9802 Bay Meadows Road
Jacksonville, FL 32216



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

AVA FLAGG,

Plaintiff,

vs.

ROBEL TISSUE MILLS, INC., a
domestic corporation, NISSAN
INDUSTRIAL EQUIPMENT
COMPANY, a foreign corporation,
and NISSAN MOTOR COMPANY,
LTD.,

Defendants,

and

NATIONAL UNION FIRE INSURANCE
COMPANY,

Intervenor.

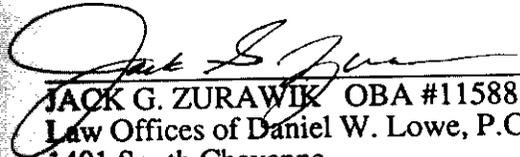
Case No.: 90-C-772-B

FILED
U.S. DISTRICT COURT
JAN 11 1991
TULSA, OKLAHOMA

DISMISSAL WITHOUT PREJUDICE

COMES NOW the Plaintiff, Ava Flagg, and dismisses without prejudice the within action as to Defendant, Robel Tissue Mills, Inc., a domestic corporation, which was improperly named and should have been named as Orchids Paper Products Company, a California corporation. Plaintiff requests that Robel Tissue Mills, Inc., otherwise known as Orchids Paper Products Company, be dismissed from this action. Plaintiff will proceed with this action against Defendants Nissan Industrial Equipment, a foreign corporation, and Nissan Motor Company, LTD, a foreign corporation.

Respectfully submitted,



JACK G. ZURAWIK OBA #11588
Law Offices of Daniel W. Lowe, P.C.
1401 South Cheyenne
Tulsa, Oklahoma 74119
(918) 582-2500

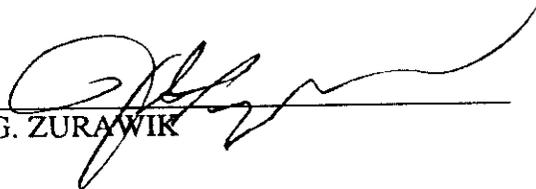
CERTIFICATE OF MAILING

I, Jack G. Zurawik, hereby certify that on this 4 day of October, 1990, I mailed a true and correct copy of the above and foregoing instrument with proper postage prepaid thereon to:

Neil F. Layman
Suite 1200, Skyline Tower
5810 East Skelly Drive
Tulsa, Oklahoma 74135

William D. Perrine
Rhodes, Hieronymus, Jones, Tucker & Gable
2800 Fourth National Bank Building
Tulsa, Oklahoma 74119

Gregory K. Frizzell
Alfred K. Morlan
3800 First National Tower
Tulsa, Oklahoma 74103



JACK G. ZURAWIK

FILED

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

OCT 4 1990

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

DANIEL FOREMAN,

Plaintiff,

v.

No. 89-C-945-B

ALLTEX, INC., d/b/a The
Lewiston Apartments, JOSEPH
DALLAPE, and RICKY JOHNSON

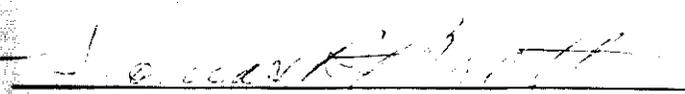
Defendants.

O R D E R

In its Order dated July 30, 1990, the Court granted the Plaintiff's Application to Add Defendants and directed the plaintiff to file an amended complaint within 20 days. The plaintiff filed his Amended Petition on August 20, 1990, adding defendants, Joseph Dallape and Ricky Johnson, both of whom reside in Oklahoma. As the plaintiff is also an Oklahoma resident, diversity of citizenship no longer exists among the parties and this Court no longer has jurisdiction under 28 U.S.C. §1332.

The Court, therefore, remands this case to the District Court in and for Tulsa County, Oklahoma.

IT IS SO ORDERED, this 2nd day of October, 1990.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BILLY JOE PURDY; CECILIA MARIE
PURDY; COUNTY TREASURER, Tulsa
County, Oklahoma; and BOARD OF
COUNTY COMMISSIONERS, Tulsa
County, Oklahoma,

Defendants.

FILED

SEP 7 1990

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

CIVIL ACTION NO. 90-C-709-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 4th day
of October, 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; and the Defendants, Billy Joe
Purdy and Cecilia Marie Purdy, appear not, but make default.

The Court being fully advised and having examined the
court file finds that the Defendants, Billy Joe Purdy and Cecilia
Marie Purdy, acknowledged receipt of Summons and Complaint on
August 23, 1990; that Defendant, County Treasurer, Tulsa County,
Oklahoma, acknowledged receipt of Summons and Complaint on
August 23, 1990; and that Defendant, Board of County
Commissioners, Tulsa County, Oklahoma, acknowledged receipt of
Summons and Complaint on August 23, 1990.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers on September 12, 1990; that the Defendants, Billy Joe Purdy and Cecilia Marie Purdy, have failed to answer and their default has therefore been entered by the Clerk of this Court.

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

The North 65 feet of Lot Nine (9), Block Seventeen (17), CHAS. PAGE HOME ACRES NO. 2, to the City of Sand Springs, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof.

The Court further finds that on August 29, 1988, the Defendants, Billy Joe Purdy and Cecilia Marie Purdy, 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 \$18,000.00, payable in monthly installments, with interest thereon at the rate of ten percent (10%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Billy Joe Purdy and Cecilia Marie Purdy, 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 August 29, 1988, covering the above-described

property. Said mortgage was recorded on August 30, 1988, in Book 5124, Page 2113, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Billy Joe Purdy and Cecilia Marie Purdy, made default under the terms of the aforesaid note and mortgage by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, Billy Joe Purdy and Cecilia Marie Purdy, are indebted to the Plaintiff in the principal sum of \$17,276.18, plus interest at the rate of 10 percent per annum from June 1, 1989 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action.

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

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants, Billy Joe Purdy and Cecilia Marie Purdy, in the principal sum of \$17,276.18, plus interest at the rate of 10 percent per annum from June 1, 1989 until judgment, plus interest thereafter at the current legal rate of 7.78 percent per annum until paid, plus the costs of this action, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums of the preservation of the subject property.

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

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

First:

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

Second:

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

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

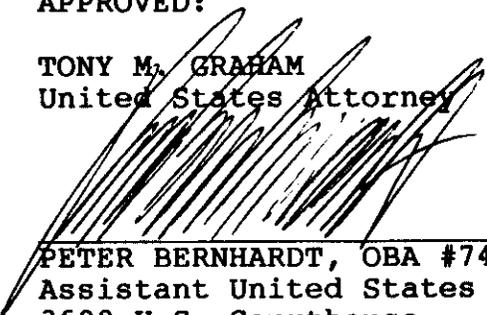
right, title, interest or claim in or to the subject real property or any part thereof.

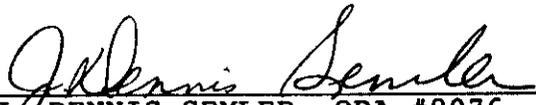
S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney


PETER BERNHARDT, OBA #741
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463


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-709-B

PB/css

FILED

OCT 4 1990

Jack C. Silver, Clerk
DISTRICT COURT

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

EAGLE-PICHER INDUSTRIES, INC.,)
)
 Plaintiff,)
)
 vs.)
)
 UNITED STATES OF AMERICA,)
 JOHN S. HERRINGTON, Secretary)
 of the Department of Energy,)
 and PETER D. DAYTON, Director,)
 Procurement and Contracts)
 Division, Department of)
 Energy, Oak Ridge, Tennessee,)
)
 Defendants,)
)
 and)
)
 CERADYNE, INC.,)
)
 Applicant for)
 Intervention.)

No. 88-C-1518-E

ORDER

This matter comes before the court on the motion of Ceradyne, Inc., Applicant for Intervention, to dismiss this action for lack of subject matter jurisdiction. The United States Court of Appeals for the Tenth Circuit reversed this court's judgment, specifically holding that the United States District Court for the Northern District of Oklahoma lacked subject matter jurisdiction to hear the complaint of plaintiff, Eagle-Picher Industries, Inc. The case was remanded for proceedings consistent with the opinion. No party has contested the propriety of dismissing this action pursuant to the judgment of the Court of Appeals.

IT IS THEREFORE ORDERED that the motion of Ceradyne, Inc. to

dismiss this action is sustained. This action is dismissed with prejudice.

ORDERED this 3^d day of October, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

OCT - 4 1990

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

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

JOHNNIE E. WARD and)
JUANITA J. WARD,)
)
Plaintiffs,)

v.)

No. 90-C-438 C

LA PLACE TOWING CORPORATION,)
a foreign corporation,)
WILLIAM R. MITCHELL, and)
PROGRESSIVE AMERICAN INSURANCE)
COMPANY, a foreign corporation)
)
Defendants.)

ORDER OF DISMISSAL WITH PREJUDICE

Upon Application of the parties and for good cause shown, the above styled and numbered cause of action is dismissed with prejudice.

s/H. DALE COOK

H. Dale Cook
U.S. District Judge

entitled

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

IN RE:)
ASBESTOS CASES)
WALTER HOWERTON, ET AL.,)
Plaintiff,)
vs.)
FIBREBOARD CORP. ET AL.)
Defendants.)

M-1417
ASB (I) - 11604

No. 87-C-353-C

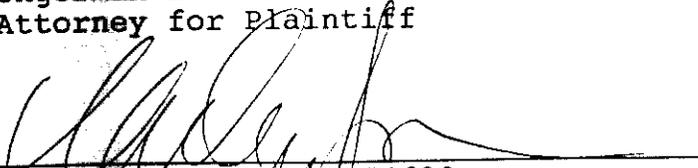
FILED
OCT - 3 1990
JACK C. SIMS, CLERK
U. S. DISTRICT COURT

STIPULATION OF DISMISSAL

Plaintiff and the Defendant, Fibreboard Corporation, request that this Court enter an Order dismissing the Plaintiff's action with prejudice, pursuant to FRCP 41(a)(1)(ii). These parties request this dismissal with prejudice because the parties have reached a settlement agreement in the above entitled cause.

WHEREFORE, the parties request the above entitled cause of action be dismissed without cost to the parties and with prejudice to the Plaintiff.

MARK IOLA, OBA #4553
Ungerma & Iola
Attorney for Plaintiff


WM. GREGORY JAMES, #4620
Pray, Walker, Jackman, Williamson
& Marlar
Attorney for Defendant Fibreboard
Corporation

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

OCT -3 1989

EASTMAN DILLON OIL & GAS
ASSOCIATES, a limited partner-
ship,

Plaintiff,

vs.

COLORADO INTERSTATE GAS COMPANY,
a Delaware corporation,

Defendant.

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

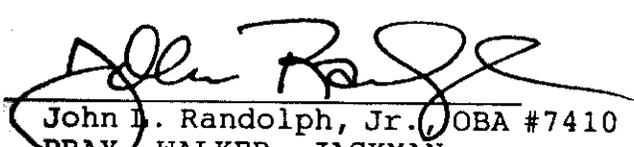
Case No. 89-C-254-E

**JOINT STIPULATION
OF DISMISSAL WITH PREJUDICE**

Pursuant to F.R.C.P. Rule 41(a)(1), the Plaintiff, Eastman Dillon Oil & Gas Associates, and the Defendant, Colorado Interstate Gas Company, being all the parties to this action, hereby jointly stipulate to the dismissal of this action with prejudice to the refiling thereof.

EASTMAN DILLON OIL & GAS
ASSOCIATES

By:


John D. Randolph, Jr. OBA #7410
PRAY WALKER, JACKMAN,
WILLIAMSON & MARLAR
900 ONEOK Plaza
Tulsa, Oklahoma 74103
(918) 584-4136

ATTORNEYS FOR EASTMAN DILLON
OIL & GAS ASSOCIATES

COLORADO INTERSTATE GAS COMPANY

By: Jeffrey M. Goldsmith
Jeffrey M. Goldsmith
P.O. Box 1087
Colorado Springs, CO 80944
(405) 632-2501

ATTORNEY FOR COLORADO
INTERSTATE GAS COMPANY

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

LEWIS E. HALL,)
)
 Plaintiff,)
)
 vs.)
)
 MARK H. NEWBOLD, et al.,)
)
 Defendants.)

No. 88-C-596-C

FILED

OCT 3 1990

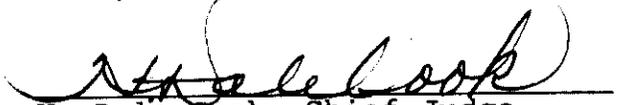
Jack C. Silver, Clerk
U.S. DISTRICT COURT

JUDGMENT

This action came on for jury trial before the Court, Honorable H. Dale Cook, Chief District Judge, commencing on September 17, 1990 and concluding on September 20, 1990. All issues were duly tried and the impaneled jury has returned its unanimous verdict in favor of Defendants Mark H. Newbold and Michael L. Zenoni.

IT IS THEREFORE ORDERED that Plaintiff Lewis E. Hall take nothing from the Defendants Mark H. Newbold and Michael L. Zenoni, that this action be dismissed on the merits, and that the parties shall bear their own costs and attorney fees.

ORDERED this 2nd day of October, 1990.


H. Dale Cook, Chief Judge
United States District Court

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

FILED

OCT 11 1990

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

ACME/CONTAINMENT GROUP, INC.,)
an Oklahoma corporation, d/b/a)
Acme Products Company,)

Plaintiff,

vs.

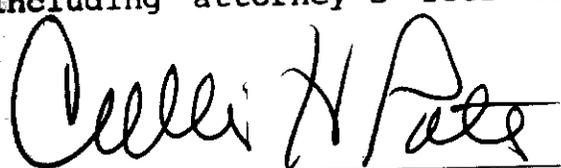
CASE NO. 90-C-301-C

CANAL INSURANCE COMPANY, a)
South Carolina corporation,)

Defendant.

OF
STIPULATION FOR DISMISSAL

Plaintiff, Acme/Containment Group, Inc., and Defendant, Canal Insurance Company, hereby acknowledge their agreement to settle and compromise this action and, therefore, agree and stipulate that Acme/Containment Group, Inc., d/b/a Acme Products Company's Complaint be dismissed in its entirety with prejudice pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, each party to bear its respective costs, including attorney's fees or other expenses of litigation.



COLLIER H. PATE
JAMES S. BOESE
DEREK K. BURCH
Pate & Payne, P.C.
P.O. Box 1320
Tulsa, OK 74101-1320
(918) 587-8255
Attorneys for Plaintiff



JOHN C. NIEMEYER
MICHAEL L. NOLAND
Niemeyer, Noland and Alexander
300 N. Walker
Oklahoma City, OK 73102
(405) 232-2725
Attorneys for Defendant

FILED

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

OCT 1990

J. C. SIKES, Clerk
U.S. DISTRICT COURT

ACME/CONTAINMENT GROUP, INC.,)
an Oklahoma corporation, d/b/a)
Acme Products Company,)

Plaintiff,)

vs.)

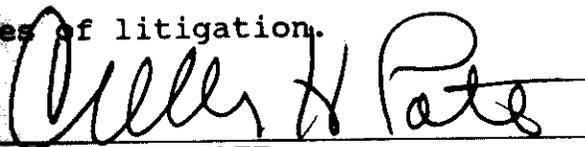
CANAL INSURANCE COMPANY, a)
South Carolina corporation,)

Defendant.)

CASE NO. 90-C-301-C

OF
STIPULATION FOR DISMISSAL

Plaintiff, Acme/Containment Group, Inc., and Defendant, Canal Insurance Company, hereby acknowledge their agreement to settle and compromise this action and, therefore, agree and stipulate that Canal Insurance Company's Counterclaim be dismissed with prejudice pursuant to Rule 41(c) of the Federal Rules of Civil Procedure, each party to bear its respective costs, including attorney's fees or other expenses of litigation.



COLLIER H. PATE
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P.O. Box 1320
Tulsa, OK 74101-1320
(918) 587-8255
Attorneys for Plaintiff



JOHN C. NIEMEYER
MICHAEL L. NOLAND
Niemeyer, Noland and Alexander
300 N. Walker
Oklahoma City, OK 73102
(405) 232-2725
Attorneys for Defendant

employment doctrine (second cause of action).² Evans seeks to dismiss Plaintiff's second cause of action on the premise that a Burk tort is not maintainable if there exists specific federal and/or state statutory relief provisions, relating to the particular discrimination, available to a plaintiff. The Court has addressed this issue before, *contra* to Defendant's assertion.

In the namesake case, Burk v. K-Mart, No 86-C-440-B, United States District Court for the Northern District of Oklahoma, this Court, by Order entered October 23, 1989, denied a Motion to Dismiss on the very ground now asserted by Evans. As stated therein, and currently *apropos*, this Court is not unmindful of opposite views expressed by other courts in this district as well as the Western District of Oklahoma. See Carlis v. Sears, Roebuck & Co., Case No. 89-C-184-C, N.D. of OK; Patterson v. Hudson Farms, Inc., Case No. 88-C-273-E, N.D. of OK; Ugochukwo v. KFC Nat'l Management Co., et al, Case No. CIV-87-2231-A, W.D. of OK.. However, see Paynter vs. the American Legion Children's Home Corp., Case No. CIV-88-166-W and also CIV-88-2053-W (W.D. of OK., October 1, 1989), where the Court, in construing the Oklahoma Anti-Discrimination Act relative to exclusive remedies, held that the existence of state and/or federal statutory remedies does not prohibit pursuit of a Burk tort based upon the same factual discrimination.

Judge Ralph Thompson, from the Western District of Oklahoma,

² Carter pleads a third cause of action, unrelated to the first two, which is a claim for conversion of a piece of personal property.

has certified this issue to the Oklahoma Supreme Court. See Tate v. Browning-Ferris Inc., Case No. CIV-89-806-T, January 24, 1990. The question certified was as follows:

"where an at-will employee terminated by a private employer files suit alleging facts that, if true, violates State and Federal Statutes providing remedies for employment discrimination, can the employee-plaintiff state a tort cause of action based on the same facts, pursuant to the public policy exception to the at-will termination rule, recently recognized by the Oklahoma Supreme Court in Burk vs. K-Mart, 770 P.2d 24 (Okla.1989)?"

The Court again concludes that nothing in the Burk v K-Mart "Certified Questions Answered" precludes a public policy common law tort exception to the terminable-at-will doctrine notwithstanding other state and/or federal statutory remedies existing. Defendant's Motion to Dismiss should be and the same is hereby DENIED.

The Court next considers Defendant's Motion to strike from Plaintiff's first cause of action all claims for relief for mental anguish, emotional distress³, humiliation and embarrassment. Plaintiff presents argument that damages of this nature should be recoverable under ADEA; Defendant presents law that they are not recoverable. Perrell v. Financeamerica Corp., 726 F. 2d 654 (10th Cir. 1984); Haskell v. Kaman Corp., 743 F. 2d 113 (2nd Cir. 1984). The Court concludes that Plaintiff's claims for relief for mental

³ In her Brief in Support of Plaintiff's Response, Plaintiff states she did not pray for emotional distress damages in her ADEA cause of action. But see Paragraph XVI of Complaint.

anguish, emotional distress, humiliation and embarrassment, in her first cause of action (ADEA claim) should be and the same are hereby stricken.

IT IS SO ORDERED this 2nd day of October, 1990.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

OCT 2 1990

REPUBLIC-UNDERWRITERS
INSURANCE COMPANY,

Plaintiff,

vs.

No. 90-C-604-E

JON MICHAEL MCGINNIS
and DAPHNE DARLENE MCGINNIS,

Defendants.

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

ORDER

This matter is before the Court on Defendants' Motion to Dismiss for Lack of Jurisdiction of the Subject Matter. After careful consideration of the record and the issues, including the briefs and memoranda filed herein by the parties, the Court has concluded that Plaintiff's action fails to state a claim which confers jurisdiction upon this Court.

IT IS THEREFORE ORDERED that Defendants' Motion to Dismiss is granted.

ORDERED this 2^d day of October, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

OCT 2 1990

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

JAMES OLIVER DESMOND,

Plaintiff,

vs.

No. 89-C-491-E

LOUIS W. SULLIVAN, M.D.,
Secretary of Health and
Human Services,

Defendant.

ORDER

The Court has for consideration the Report and Recommendation of the Magistrate filed September 7, 1990. After careful consideration of the record and the issues, including the briefs and memoranda filed herein by the parties, the Court declines to accept the Report and Recommendation of the Magistrate.

In this case, the Administrative Law Judge found that none of the Claimant's infirmities, standing alone, met the statutory requirements for disability under the Social Security Act. (Tr. 20-25). However, for purposes of evaluating disability, Claimant's various infirmities are to be viewed, not in isolation from each other, but in terms of the whole person. Landis v. Weinberger, 49 F.2d 1187, 1190 (8th Cir. 1974). The record is incomplete on the factual issue of the degree of disability created by the combination of Claimant's mental, emotional and physical impairments. Strickland v. Harris, 615 F.2d 1103, 1110 (5th Cir. 1980); Talbot v. Heckler, 814 F.2d 1456, 1460 (10th Cir. 1987).

In addition, the Administrative Law Judge's findings fail to

provide the Court with sufficient bases for determining that his evaluation was supported by substantial evidence. Specifically, the Administrative Law Judge has failed to indicate the reasons for his reliance upon the testimony of the medical advisor (and, arguably, that of one examining physician, Dr. Goodman) to the exclusion of other examining physicians. Dollar v. Bowen, 821 F.2d 530, 533 (10th Cir. 1987).

Accordingly, the Court finds that this case should be remanded to the Secretary for the purpose of receiving evidence on the totality of Claimant's disabling conditions; and, further, for the purpose of conducting fact finding on the issue of the credibility and substance of medical testimony not relied upon by the Administrative Law Judge.

IT IS THEREFORE ORDERED that the case is remanded to the Secretary for additional proceedings in accordance with this Order.

ORDERED this 2^d day of October, 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

OCT 2 1990

GARY A. WADE,

Plaintiff,

vs.

TEXACO TRADING AND TRANSPORTATION
INC., et al.,

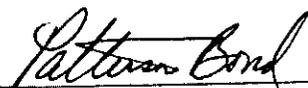
Defendants.

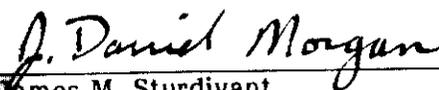
Jack C. Silver, Clerk
U.S. DISTRICT COURT

Case No. C-89-316-C

Stipulation of
DISMISSAL WITH PREJUDICE

Plaintiff, Gary A. Wade ("Wade") and Defendants, Texaco Trading and Transportation Inc. ("TTTI"), Texaco Pipeline Inc. ("TPLI"), Texaco Inc. ("TI"), R. Charles Bell, Boyd Vratil, and Jerry Nees (collectively "Defendants"), hereby dismiss with prejudice all claims, counterclaims and causes of action which were asserted or which could have been asserted in the above-captioned case, and further covenant not to sue the opposing party or parties on any claim or cause of action presently in existence because of the above-captioned case. Each party to bear his/its own attorneys' fees and costs.


Patterson Bond
Bond Balman & Hyman
2626 E. 21st Street, Suite 9
Tulsa, OK 74114
ATTORNEYS FOR PLAINTIFF


James M. Sturdivant
J. Daniel Morgan
Gable & Gotwals
20th Floor, Fourth National Bldg.
Tulsa, OK 74119
ATTORNEYS FOR ALL DEFENDANTS

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

FILED

OCT 2 1990

LAUREN HANKINS,
Plaintiff,
vs.
GUARDSMARK, INC.,
Defendant.

No. 90-C-383-E

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

ORDER

This matter is before the Court on Plaintiff's Motion to Remand. 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 Petition in this cause fails to satisfy the jurisdictional amount pursuant to 28 U.S.C. §1332(a). Accordingly, this cause should be remanded to the District Court of Creek County, State of Oklahoma.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Remand is granted.

ORDERED this 2^d day of October, 1990.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

OCT 1 1990

JOHN B. HOGAN,

Plaintiff,

vs.

BANK OF THE LAKES,

Defendant.

No. 90-C-437-B

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

ORDER

Before the Court for decision is Defendant's Motion to Dismiss for failure to state a claim upon which relief can be granted, pursuant to Fed.R.Civ.P. 12(b)(6).

Plaintiff John B. Hogan seeks to invalidate under the Truth-in-Lending Act (TILA), Regulation Z, and the Oklahoma Consumer Credit Code, a security interest held by the Defendant, as well as to rescind the transaction of May, 1988 in which the Plaintiff executed a promissory note, mortgage, and security agreement to Defendant, Bank of the Lakes (Bank). Bank alleges in its Motion to Dismiss that the 1988 promissory note is exempt from the rescission provisions of the TILA by virtue of its being a "residential mortgage transaction."

The TILA and Regulation Z exempt residential mortgage transactions, as defined in 15 U.S.C. § 1602(w) and 12 C.F.R. § 226.2(a)(24), from the rescission provisions which would otherwise allow a borrower to rescind certain transactions in which he has given a security interest in his principal dwelling. See 15 U.S.C. § 1635(e)(1) and 12 C.F.R. § 226.23(f)(1)(1990).

To dismiss a complaint and action for failure to state a claim

upon which relief can be granted it must appear beyond doubt that Plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Conley v. Gibson, 355 U.S. 41 (1957). Motions to dismiss under Rule 12(b), Fed.R.Civ.P. admit all well-pleaded facts. Jones v. Hopper, 410 F.2d 1323 (10th Cir. 1969), *cert. denied*, 397 U.S. 991 (1970). The allegations of the Complaint must be taken as true and all reasonable inferences from them must be indulged in favor of complainant. Olpin v. Ideal National Ins. Co., 419 F.2d 1250 (10th Cir. 1969), *cert. denied*, 397 U.S. 1074 (1970).

In the case before the Court, Plaintiff used the proceeds of the May, 1988 Note to purchase a new mobile home which he used as his principal residence. Given that mobile homes satisfy the statutory definition of dwelling, 15 U.S.C. § 1602(w) and 12 C.F.R. § 226.2(a)(19), and that the parties created a consensual security interest against the Plaintiff's mobile home in order to finance the acquisition of the mobile home, the May, 1988 transaction is properly regarded as a residential mortgage transaction. As such, the transaction clearly falls within the statutory exemption to the rescission and notice requirements of the TILA and Regulation Z. See Heuer v. Forest Hill State Bank, 728 F. Supp. 1199 (D.Md. 1989)

Jurisdiction is conferred on this Court by 28 U.S.C. 1331 and 1337; the Court has pendent jurisdiction over the state claims through Fed. R. Civ. P. 18(a). In United Mine Workers v. Gibbs, 383 U.S. 715 (1966), the Supreme Court held that if federal claims are dismissed before trial, the court should decline to exercise

its discretion to hear the pendent state claim.

Notwithstanding the liberal construction given to the Plaintiff's Complaint, the first cause of action alleging a violation of TILA and Regulation Z ought to be and is hereby DISMISSED, pursuant to Fed. R. Civ. P. 12(b)(6). Furthermore, the Court declines to exercise its discretion to hear the pendent state claim in the second cause of action. Additionally, the Court declines to exercise its discretion to hear the pendent state claims in Defendant Bank's Counterclaim and Cross-Claims.

The Court thus concludes that Defendant's Motion to Dismiss should be and is hereby SUSTAINED. Plaintiff's Complaint and Defendant Bank's Counterclaim and Cross-Claims are herewith DISMISSED, without prejudice.

IT IS SO ORDERED this 1ST day of Oct. ~~September~~, 1990.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

OCT 1 1990

LEWIS AARON COOK,

Plaintiffs,

vs.

UNITED STATES OF AMERICA,
et al.,

Defendant.

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

No. 90-C-209-E

ORDER

This matter comes before the Court upon Defendants' Motion to Dismiss and Plaintiff's Request for a Temporary Restraining Order and Permanent Injunction. After careful consideration of the record and the issues, including the briefs and memoranda filed herein by the parties, the Court has concluded that Plaintiff's 42 U.S.C. §1983 action should be dismissed for failure to state a claim upon which relief may be granted. In addition, the Court finds that Plaintiff's habeas petition should be dismissed pursuant to 28 U.S.C. §2243 (1971).

IT IS THEREFORE ORDERED that Plaintiff's §1983 claims and his habeas petition are dismissed.

ORDERED this 28th day of September, 1990.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

FILED

JOHN F. ROBINSON, Trustee
for the Francis E. Heydt
Company,

Plaintiff,

vs.

RICHARD CHENEY, Secretary,
United States Department
of Defense, and
THE UNITED STATES OF AMERICA,

Defendants.

OCT 1 1990

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

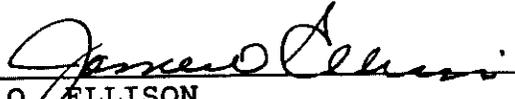
No. 88-C-1425-E

JUDGMENT

This action came on for disposition 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 John F. Robinson take nothing from the Defendants Richard Cheney, Secretary, United States Department of Defense and the United States of America, that the action be dismissed on the merits, and that the Defendants recover of the Plaintiff their costs of action.

ORDERED this 17 day of October, 1990.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

UNITED STATES OF AMERICA,
et al.,

Defendants.

and

No. 88-C-504-E

FILED

OCT 3 1990

Jack C. Silver, Clerk
DISTRICT COURT

No. 89-C-44-E

No. 89-C-62-E

No. 89-C-242-E

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

NATIONAL TREASURY EMPLOYEES
UNION, et al.,

Defendants.

No. 89-C-317-E

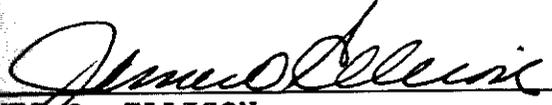
No. 89-C-429-E
(Consolidated)

JUDGMENT

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

IT IS THEREFORE ORDERED that the Plaintiff Herbert L. Miller take nothing from the Defendants, that the action be dismissed on the merits, and that the Defendants recover of the Plaintiff their costs of action.

ORDERED this 28th day of September, 1990.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

89-C-317-E

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

UNITED STATES OF AMERICA,
et al.,

Defendants.

and

No. 88-C-504-E

FILED

OCT 9 1990

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

No. 89-C-44-E

TIME STUDY CASE
Record Time Spent by Judge or Magistrate

No. 89-C-62-E

No. 89-C-242-E

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

NATIONAL TREASURY EMPLOYEES
UNION, et al.,

Defendants.

No. 89-C-317-E

No. 89-C-429-E
(Consolidated)

JUDGMENT

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

IT IS THEREFORE ORDERED that the Plaintiff Herbert L. Miller take nothing from the Defendants, that the action be dismissed on the merits, and that the Defendants recover of the Plaintiff their costs of action.

ORDERED this 29th day of September, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

UNITED STATES OF AMERICA,
et al.,

Defendants.

and

No. 88-C-504-E

FILED

OCT 1 1990

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

No. 89-C-44-E

No. 89-C-62-E

No. 89-C-242-E

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

NATIONAL TREASURY EMPLOYEES
UNION, et al.,

Defendants.

No. 89-C-317-E

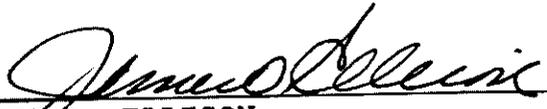
No. 89-C-429-E
(Consolidated)

JUDGMENT

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

IT IS THEREFORE ORDERED that the Plaintiff Herbert L. Miller take nothing from the Defendants, that the action be dismissed on the merits, and that the Defendants recover of the Plaintiff their costs of action.

ORDERED this 29th day of September, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

UNITED STATES OF AMERICA,
et al.,

Defendants.

and

No. 88-C-504-E

FILED

OCT 1 1990

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

No. 89-C-44-E

No. 89-C-62-E

No. 89-C-242-E

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,
Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

NATIONAL TREASURY EMPLOYEES
UNION, et al.,
Defendants.

No. 89-C-317-E

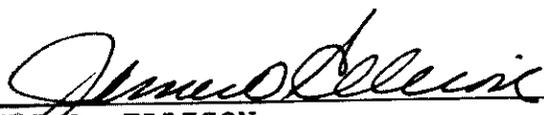
No. 89-C-429-E
(Consolidated)

JUDGMENT

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

IT IS THEREFORE ORDERED that the Plaintiff Herbert L. Miller take nothing from the Defendants, that the action be dismissed on the merits, and that the Defendants recover of the Plaintiff their costs of action.

ORDERED this 28th day of September, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

GLH/LAL/ta
08/24/90

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

11 2019
OCT -1 1990

IN RE: ASBESTOS LITIGATION

JACK C. SILVER, CLERK
U.S. DISTRICT COURT
Master #1417

ASB - TW # 4561

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ASH, ROBERT B., et al.,)	No. 88-C-1156-B
AYRES, TOMMY, et al.,)	No. 88-C-894-C
BENBROOK, JACK N., et al.,)	No. 88-C-833-C
BERRY, JOE MONROE, et al.,	)	No. 88-C-784-C
BLAYDES, JOE, et al.,	)	No. 88-C-1201-B
BRADEN, WILLIAM, et al.,	)	No. 88-C-905-B
BRADLEY, ROBERT R., et al.,	)	No. 88-C-967-E
BROWN, BOBBY W., et al.,	)	No. 88-C-1036-B
BROWN, WILLIAM E., et al.,	)	No. 88-C-1020-C
CHAMPLIN, TOM R., et al.,	)	No. 88-C-878-E
CLAYTON, WORTH E., et al.,	)	No. 88-C-887-E
COMPTON, PAUL, et al.,	)	No. 88-C-1058-B
DOWNUM, BILL, et al.,	)	No. 88-C-831-E
ELSTEN, DONALD, et al.,	)	No. 88-C-705-E
ELSTEN, STANLEY E., et al.,	)	No. 88-C-815-E
EVANS, MARION, et al.,	)	No. 88-C-1062-E
FOSS, EARL HAROLD, et al.,	)	No. 88-C-834-B
FOSTER, HENRY, et al.,	)	No. 88-C-1182-B
GLENN, KENNETH, et al.,	)	No. 88-C-1600-C
GOLD, BILLY, et al.,	)	No. 88-C-1019-B
GRANT, TOM E., et al.,	)	No. 88-C-1258-B
HALL, ALFRED, C., et al.,	)	No. 88-C-1085-B
HUDSON, LEROY, et al.,	)	No. 88-C-753-E
INMAN, DAN, et al.,	)	No. 88-C-1049-C
JARMIN, JAMES A., et al.,	)	No. 88-C-949-E
JONES, CHARLEY R., et al.,	)	No. 88-C-976-B
JONES, WILLIAM, et al.,	)	No. 88-C-1267-B
KAHLER, LELAND, et al.,	)	No. 88-C-807-B
LANKFORD, ROY LEE, et al.,	)	No. 88-C-874-B
MAHAN, HAROLD, et al.,	)	No. 88-C-826-B
MARTIN, EDWARD O., et al.,	)	No. 88-C-954-E
MARTIN, JERRY W., et al.,	)	No. 88-C-868-C
MARTIN, RICHARD, et al.,	)	No. 88-C-1270-C
MASTERTSON, IVAN, et al.,	)	No. 88-C-906-B
McKEE, E. L., et al.,	)	No. 88-C-820-B
MYERS, JACKY, et al.,	)	No. 88-C-985-B

ORDER OF DISMISSAL

PENNOCK, JOSEPH, et al.,	)	No. 88-C-1163-C
PESEK, ROBERT L., et al.,	)	No. 88-C-846-E
PETERNELL, ROBERT, et al.,	)	No. 82-C-823-B
RIDINGS, LAWRENCE, et al.,	)	No. 88-C-802-E
RIGGINS, LEONARD H., et al.,	)	No. 88-C-832-C
ROPP, ROBERT DALE, et al.,	)	No. 88-C-1004-B
SMITH, CHARLES R., et al.,	)	No. 88-C-725-E
TARTER, DONALD, et al.,	)	No. 88-C-1044-E
TREASE, MELVIN, et al.,	)	No. 88-C-1104-E
TRONE, MARION, et al.,	)	No. 88-C-1408-B
TUSINGER, CHARLES F., et al.,	)	No. 88-C-783-E
VINCENT, JAMES, et al.,	)	No. 88-C-1311-C
WAGNER, ROBERT LEE, et al.,	)	No. 88-C-788-E
WALKER, HUBERT, et al.,	)	No. 88-C-1409-B
WATERS, HARSE, et al.,	)	No. 88-C-1180-C
WATTERSON, CHARLES, et al.,	)	No. 88-C-978-E
WYNN, ELMER, et al.,	)	No. 88-C-1190-B
WYNN, WILLIAM J., et al.,	)	No. 88-C-951-C
YINGER, JOSEPH, et al.,	)	No. 88-C-977-E

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

ORDER OF DISMISSAL

This matter comes on for hearing the ____ day of _____, 1990, and after considering pleadings of parties, it is hereby Ordered that the Defendants ANCHOR PACKING COMPANY, GARLOCK, INC., and A. W. CHESTERON COMPANY, shall be dismissed with prejudice from the above-referenced matter(s). Each party is to bear their/its own costs.

Dated this ____ day of _____, 1990.

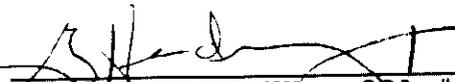
U.S. DISTRICT COURT JUDGE

U.S. DISTRICT COURT JUDGE

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APPROVED AS TO FORM:

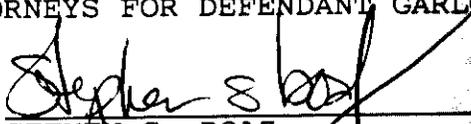
NORMAN & EDEM
ATTORNEYS FOR PLAINTIFFS

By: 
GINA L. HENDRYX - OBA #10330
JAMES M. HAYS, III - OBA #4016
JOHN W. NORMAN - OBA #6699
DONNA L. ARNOLD - OBA #013649
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405-272-0200 (O)
405-235-2949 (F)

RHODES, HIERONYMOS, JONES, TUCKER & GABLE
ATTORNEYS FOR DEFENDANT ANCHOR PACKING CO.

By: 
CHRIS L. RHODES
2800 Fourth National Bank Bldg.
Tulsa, OK 74119
918-582-1173 (O)
918-592-3390 (F)

DURBIN, LARIMORE & BIALICK
ATTORNEYS FOR DEFENDANT GARLOCK, INC.

By: 
STEVEN S. BOAZ
920 N. Harvey
Oklahoma City, OK 73102-2610
405-235-9584 (O)
405-235-0551 (F)

FELDMAN, HALL, FRANDEN, WOODARD & FARRIS
ATTORNEYS FOR DEFENDANT A. W. CHESTERTON CO.

By: 
JACQUELINE O'NEIL HAGLUND
525 S. Main, Suite 1400
Tulsa, OK 74103-4409
918-583-7129 (O)
918-584-3814 (F)

GLH/LAL/ta
08-31-90

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

FILED
OCT -1 1990

JACK C. SILVER, CLERK
U.S. DISTRICT COURT
Master #1417

IN RE: ASBESTOS LITIGATION

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) ASB - TW # 4562

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ABEL, EARNEST, et al.,)	No. 88-C-1126-B
ABLE, MILLARD, et al.,)	No. 88-C-803-B
ADDINGTON, LEWIS, et al.,)	No. 88-C-990-E
ALLGOOD, MARION, et al.,	)	No. 88-C-1096-B
ANDERSON, DELMAR R., et al.,	)	No. 88-C-838-C
ANDREWS, BRENDA, et al.,	)	No. 88-C-808-E
ANDREWS, J. M., et al.,	)	No. 88-C-911-C
ARCHDALE, ROBERT, et al.,	)	No. 88-C-765-B
ARMSTRONG, RONALD, et al.,	)	No. 88-C-1251-E
ARNOLD, THOMAS, et al.,	)	No. 88-C-1176-E
ATKINSON, ELMER, et al.,	)	No. 88-C-1136-C
ATTERBERRY, CLYDE, et al.,	)	No. 88-C-1137-E
AYRES, RALPH, et al.,	)	No. 88-C-1106-E
BAKER, VIRGIL D., et al.,	)	No. 88-C-983-E
BALDRIDGE, BILL, et al.,	)	No. 88-C-992-C
BARGER, EVERETT, et al.,	)	No. 88-C-963-E
BARGER, LAWRENCE, et al.,	)	No. 88-C-1026-E
BARGER, RAYMOND, et al.,	)	No. 88-C-1024-B
BARNES, RICHARD, et al.,	)	No. 88-C-1187-B
BARNETT, RAYMOND, et al.,	)	No. 88-C-1252-C
BASS, THOMAS E., et al.,	)	No. 88-C-746-B
BATTENFIELD, KENNETH, et al.,	)	No. 88-C-770-B
BATTENFIELD, LAROY, et al.,	)	No. 88-C-1388-B
BATY, CHARLES, et al.,	)	No. 88-C-1001-E
BEEHLER, MARVIN, et al.,	)	No. 88-C-797-E
BEST, CLAUDE, et al.,	)	No. 88-C-1077-C
BINGHAM, TOM, et al.,	)	No. 88-C-1138-B
BLACK, NAOMI, et al.,	)	No. 88-C-1139-B
BOWEN, SANFORD, et al.,	)	No. 88-C-772-C
BOWMAN, CHARLES L., et al.,	)	No. 88-C-799-B
BOYD, RAYMOND E., et al.,	)	No. 88-C-873-B
BRADY, JOSEPH, et al.,	)	No. 88-C-937-B
BRASHERS, HELEN A., et al.,	)	No. 88-C-900-B
BRASHERS, WINFORD, et al.,	)	No. 88-C-938-E
BREWSTER, ALBERT, et al.,	)	No. 88-C-989-B
BROWN, KENNETH L., et al.,	)	No. 88-C-855-C
BROWN, LOGAN W., et al.,	)	No. 88-C-854-B
BROWN, WALTER S., et al.,	)	No. 88-C-885-C

ORDER TO DISMISS

BRUCE, JAMES, et al.,	)	No. 88-C-1188-C
BRYANT, WESLEY, et al.,	)	No. 88-C-1112-E
BURNSIDE, HARRY, et al.,	)	No. 88-C-1093-E
BURROWS, ROBERT E., et al.,	)	No. 88-C-1030-B
BUTLER, ARLIS R., et al.,	)	No. 88-C-1084-E
BUTLER, ELMO J., et al.,	)	No. 88-C-743-E
BUTTON, CHARLES, et al.,	)	No. 88-C-1253-B
BUZZARD, BLAINE, et al.,	)	No. 88-C-1124-E
BUZZARD, GARNETT, et al.,	)	No. 88-C-903-B
CAMPBELL, FLOYD L., et al.,	)	No. 88-C-964-B
CAPTAIN, GEORGE F., et al.,	)	No. 88-C-907-B
CARDER, DONALD EARL, et al.,	)	No. 88-C-801-E
CAVIN, JERRY REED, et al.,	)	No. 87-C-66-E
CAVIN, JOSEPH N., et. al.,	)	No. 88-C-1061-C
CHAMBERLAIN, TERRY, et. al.,	)	No. 88-C-1149-E
CHANEY, BILL, et al.,	)	No. 88-C-877-E
CHANEY, GEORGE, et. al.,	)	No. 88-C-1189-C
CHANEY, RAYMOND, et al.,	)	No. 88-C-724-E
CHARLOE, DAVE E., et. al.,	)	No. 88-C-1035-C
CHENOWETH, DON, et. al.,	)	No. 88-C-1207-B
CLARK, PAUL D., et al.,	)	No. 88-C-871-E
CLARK, WILLIAM, et al.,	)	No. 88-C-912-E
COLLINS, CARL, et al.,	)	No. 88-C-1401-E
COLLINS, ROY, et. al.,	)	No. 88-C-1317-E
CONKLIN, CHARLES T., et. al.,	)	No. 88-C-847-E
COOK, CHARLES, et. al.,	)	No. 88-C-1181-B
COOPER, CHARLES, et. al.,	)	No. 88-C-1100-B
COPPEDGE, JAMES, et. al.,	)	No. 88-C-1120-E
CORRELL, MARVIN R., et. al.,	)	No. 88-C-697-B
COUNTRYMAN, JAMES, et. al.,	)	No. 88-C-1031-C
COWLEY, WALDRON, et. al.,	)	No. 88-C-1186-C
COX, DONALD L., et. al.,	)	No. 88-C-1025-C
COYNE, CHARLES, et. al.,	)	No. 88-C-940-B
CRANE, BOBBY R., et. al.,	)	No. 88-C-1254-B
CRAWFORD, BOB, et. al.,	)	No. 88-C-1047-E
CROW, VIRGIL L., et. al.,	)	No. 88-C-717-E
CROW, WILBUR, et. al.,	)	No. 88-C-1083-B
CROWNOVER, HERALD K., et. al.,	)	No. 88-C-835-E
CULVER, ROGER, et. al.,	)	No. 88-C-1179-C
CUNDIFF, JEWELL E., et. al.,	)	No. 88-C-966-E
CURLEE, HAROLD, et al.,	)	No. 90-C-386-C
DARTER, DONALD, et. al.,	)	No. 88-C-939-E
DAVIS, JOHN MORRIS, et. al.,	)	No. 88-C-867-E
DAVIS, LONNIE E., et. al.,	)	No. 88-C-700-B
DEEMS, EUGENE F., et. al.,	)	No. 88-C-822-C
DEMOSS, BILL, et. al.,	)	No. 88-C-1033-C
DEVILLIERS, JOE, et. al.,	)	No. 88-C-1142-E
DIEBOLD, THEODORE, et. al.,	)	No. 88-C-1255-E
DILLINGHAM, DAVID L., et. al.,	)	No. 88-C-942-B
DILLON, JOHN B., et. al.,	)	No. 88-C-779-E
DITMORE, CLINTON, et al.,	)	No. 88-C-751-E

ORDER TO DISMISS

DOUTHIT, FRANK H., et. al.,	)	No. 88-C-819-E
DOWTY, RONALD W., et. al.,	)	No. 88-C-786-E
DUNIPHIN, DONALD J., et. al.,	)	No. 88-C-842-B
EARP, DENNIS, et al.,	)	No. 88-C-704-B
EAST, MERVIN, et al.,	)	No. 88-C-824-E
EAST, ROY, et al.,	)	No. 88-C-941-C
ELDRIDGE, JAMES, et. al.,	)	No. 88-C-1140-C
ENGLAND, ELORES, et. al.,	)	No. 88-C-805-C
ENGLAND, JAMES, et. al.,	)	No. 88-C-1256-E
ENOCH, DUANE C., et. al.,	)	No. 88-C-1157-E
ESKRIDGE, DAN, et. al.,	)	No. 88-C-1217-B
ESSEX, L. M., et. al.,	)	No. 88-C-1121-C
FAHNESTOCK, JOHN, et. al.,	)	No. 88-C-1148-B
FAHNESTOCK, PAUL, et. al.,	)	No. 88-C-997-C
FERGUSON, JOHN, et. al.,	)	No. 88-C-1316-E
FISHER, TRELLE, et al.,	)	No. 88-C-944-E
FLEMING, JAMES, et. al.,	)	No. 88-C-1125-E
FLINT, WILLIAM, et. al.,	)	No. 88-C-1315-C
FOLSOM, WILBURN, et. al.,	)	No. 88-C-1155-B
FORSON, LLOYD W., et. al.,	)	No. 88-C-1060-B
FURNAS, WAYNE, et. al.,	)	No. 88-C-837-B
GABBARD, BILLY L., et al.,	)	No. 88-C-766-C
GAINER, J. L., et al.,	)	No. 88-C-1257-E
GANDY, HENRY, et al.,	)	No. 88-C-943-C
GANDY, ROBERT J., et al.,	)	No. 88-C-960-C
GARRITSON, EDWARD, et al.,	)	No. 88-C-1048-B
GOINS, DOYLE, et al.,	)	No. 88-C-1399-E
GOKEY, OLIN, et al.,	)	No. 88-C-1398-E
GRAHAM, ROBERT, et al.,	)	No. 88-C-723-B
GRANT, JACK D., et al.,	)	No. 88-C-821-B
GREEN, EARNEST, et al.,	)	No. 88-C-1113-E
GRENINGER, JOHN, et al.,	)	No. 88-C-806-B
GRESS, MARVIN, et al.,	)	No. 88-C-1166-B
GULLETT, JOHN, et al.,	)	No. 88-C-718-B
HALE, CLAUDE, et. al.,	)	No. 88-C-1259-B
HALLAM, ARTHUR, et. al.,	)	No. 88-C-1191-B
HAMBRIGHT, WILLIAM, et. al.,	)	No. 88-C-1260-E
HAMILTON, STANLEY, et. al.,	)	No. 88-C-1206-E
HAMILTON, W. R., et. al.,	)	No. 88-C-984-B
HARDCASTLE, JOHN, et. al.,	)	No. 88-C-1395-C
HARRIS, EUGENE, et. al.,	)	No. 88-C-816-B
HARRIS, FRANK, et. al.,	)	No. 88-C-1078-C
HARRIS, GILBERT, et. al.,	)	No. 88-C-1396-B
HARRISON, AFTON, et. al.,	)	No. 88-C-1390-B
HARROD, RAY STANLEY, et. al.,	)	No. 88-C-1009-C
HASKINS, BILLY, et. al.,	)	No. 88-C-1620-E
HAWKINS, JOE D., et. al.,	)	No. 88-C-884-C
HAYNES, JIMMY H., et. al.,	)	No. 87-C-66-E
HELTON, GEORGE, et al.,	)	No. 88-C-745-E
HELTZEL, ALVIN, et. al.,	)	No. 88-C-1204-C

ORDER TO DISMISS

HEMPHILL, JOHN B., et. al.,	)	No. 88-C-721-C
HERREL, ARTHUR E., et. al.,	)	No. 88-C-702-E
HERREL, EVERETT, et. al.,	)	No. 88-C-780-E
HERREL, LEONARD H., et. al.,	)	No. 88-C-962-B
HIGHSMITH, BOBBY M., et. al.,	)	No. 88-C-787-B
HIMES, DANNY EUGENE, et. al.,	)	No. 88-C-752-B
HOFFMAN, H. A., et. al.,	)	No. 88-C-1021-B
HOLDEN, DELMER, et. al.,	)	No. 88-C-1318-B
HOLLANDSWORTH, W. D., et. al.,	)	No. 88-C-1023-E
HOLLON, EMMETT, et. al.,	)	No. 88-C-1314-C
HONEY, WILLIAM, et. al.,	)	No. 88-C-1209-E
HOOPER, ROBERT LEON, et. al.,	)	No. 88-C-981-E
HOOVER, HOWARD W., et. al.,	)	No. 88-C-1266-C
HOPPER, W. D., et al.,	)	No. 88-C-841-E
HORRELL, ALLEN C., et. al.,	)	No. 88-C-961-E
HOUSMAN, JEHU W., et. al.,	)	No. 88-C-726-C
HOWARD, LAWRENCE, et. al.,	)	No. 88-C-1391-B
HUBBELL, DONALD D., et. al.,	)	No. 88-C-892-B
HUGHEY, JAMES, et. al.,	)	No. 88-C-1310-E
HULSEY, BOBBIE, et al.,	)	No. 88-C-848-C
HUNT, RICHARD, et al.,	)	No. 88-C-843-B
HUTSON, DONALD, et. al.,	)	No. 88-C-1081-B
IRICK, LEO, et. al.,	)	No. 88-C-749-B
JOHNSON, DOYLE, et al.,	)	No. 88-C-1032-E
JOHNSON, ERNEST W., et. al.,	)	No. 88-C-886-E
JOHNSON, LAUREN, et. al.,	)	No. 88-C-1135-B
JOHNSON, LESLIE, et. al.,	)	No. 88-C-1066-E
JONES, ALBERT MERLE, et. al.,	)	No. 88-C-965-B
JONES, BUDDY, et al.,	)	No. 88-C-790-C
JONES, CHARLES S., et. al.,	)	No. 88-C-1003-B
JONES, HAROLD GENE, et. al.,	)	No. 88-C-839-B
JONES, J. B., et. al.,	)	No. 88-C-1397-B
KARR, DONALD LEE, et. al.,	)	No. 88-C-991-B
KASTEN, GEORGE, et al.,	)	No. 88-C-836-B
KAYS, GEORGE K., et. al.,	)	No. 88-C-1005-B
KEITH, GERALD D., et. al.,	)	No. 88-C-1027-B
KELSO, WILLIAM, et al.,	)	No. 88-C-1082-E
KERBY, ALVIS, et. al.,	)	No. 88-C-1392-B
KERBY, W. R., et. al.,	)	No. 88-C-995-C
KERLEY, EDWIN, et. al.,	)	No. 88-C-1178-B
KINION, RILEY D., et. al.,	)	No. 88-C-904-E
KINZER, CHARLES, et. al.,	)	No. 88-C-1057-E
KIRK, ELLIS M., et. al.,	)	No. 88-C-946-B
KIRKSEY, HAROLD D., et. al.,	)	No. 88-C-1039-E
KLAUS, DOUGLAS, et. al.,	)	No. 88-C-781-B
KNIGHT, ERNEST, et. al.,	)	No. 88-C-1268-E
KNOX, CLARENCE, et. al.,	)	No. 88-C-947-B
KROPP, GERALD, et. al.,	)	No. 88-C-1398-E
KUHN, LARRY W., et. al.,	)	No. 88-C-1038-B
LADUKE, WAYNE, et al.,	)	No. 89-C-162-B
LAFALIER, JOHNNY, et. al.,	)	No. 88-C-876-E
LANDERS, W. W., et. al.,	)	No. 88-C-1059-C

ORDER TO DISMISS

LAWSON, ORLEY, et. al.,	)	No. 88-C-1010-B
LEAMON, LOUIE, et. al.,	)	No. 88-C-708-C
LEE, C. M., et. al.,	)	No. 88-C-1051-C
LEE, Gordon H., et. al.,	)	No. 88-C-1154-C
LEONARD, Ralph, et. al.,	)	No. 88-C-1301-E
LISH, JR., JOHN, et. al.,	)	No. 88-C-870-C
LITTLE, Don, et. al.,	)	No. 88-C-1402-E
LOFGREN, Preston, et. al.,	)	No. 88-C-1269-E
LOWE, JEFF, et al.,	)	No. 88-C-994-B
LYNCH, DENNIS E., et. al.,	)	No. 88-C-771-E
MACKLIN, O. C., et. al.,	)	No. 88-C-1018-E
MAHURIN, WAYNE, et. al.,	)	No. 88-C-1168-E
MALONE, HARRY D., et. al.,	)	No. 88-C-883-E
MALOTTE, DAVE, et. al.,	)	No. 88-C-1309-E
MANN, ROBERT, et. al.,	)	No. 88-C-1098-E
MASHBURN, JUNIOR L., et al.,	)	No. 88-C-798-B
MATHIS, W. J., et. al.,	)	No. 88-C-1271-C
MATTHEWS, JAMES, et. al.,	)	No. 88-C-1102-E
MATTHEWS, OPAL C., et. al.,	)	No. 88-C-953-C
MAYHOOD, DALE, et. al.,	)	No. 88-C-1400-C
MAYS, KENNETH C., et. al.,	)	No. 88-C-800-E
McAFFREY, JAMES, et al.,	)	No. 88-C-1272-B
McCLURE, RAYMOND, et. al.,	)	No. 88-C-1308-E
MCCOIN, J. B., et al.,	)	No. 88-C-890-E
MCCORD, DONALD, et. al.,	)	No. 88-C-1273-C
MCCORKELL, JACK, et. al.,	)	No. 88-C-1403-B
MCCOY, JACK, et. al.,	)	No. 88-C-1128-C
McFALL, EDWARD, et. al.,	)	No. 88-C-1162-B
McGHEE, EUGENE W., et. al.,	)	No. 88-C-722-C
MCKIBBEN, HOWARD, et. al.,	)	No. 88-C-764-C
MCMINN, COLIN L., et. al.,	)	No. 88-C-750-C
McNELIS, WILLIAM, et al.,	)	No. 88-C-935-E
McVAY, JOHN, et. al.,	)	No. 88-C-1109-C
MERIT, RAYMOND, et. al.,	)	No. 88-C-1097-C
MILES, KENNETH, et. al.,	)	No. 88-C-1274-E
MILLER, ARTHUR, et. al.,	)	No. 88-C-1105-C
MILLER, BILLIE, et. al.,	)	No. 88-C-1275-B
MILLER, CLINTON, et. al.,	)	No. 88-C-1210-E
MILLER, DONALD, et. al.,	)	No. 88-C-1174-E
MILLER, JAMES, et. al.,	)	No. 88-C-1079-C
MILLER, MICKY, et. al.,	)	No. 88-C-1141-E
MILLER, ROY, et. al.,	)	No. 88-C-850-E
MILLER, VERNON, et. al.,	)	No. 88-C-1170-E
MONTGOMERY, JOE, et. al.,	)	No. 88-C-1169-B
MOODY, CECIL, et. al.,	)	No. 88-C-1076-E
MORGAN, JOHN B., et. al.,	)	No. 88-C-785-B
MORRIS, ROY, et. al.,	)	No. 88-C-1312-E
MOSELEY, B. C., et. al.,	)	No. 88-C-1053-E
MURPHY, HASKEL, et. al.,	)	No. 88-C-1291-B
MURPHY, ROY W., et. al.,	)	No. 88-C-936-B
NEAL, HAROLD, et. al.,	)	No. 88-C-1111-E
NELSON, LESLIE, et. al.,	)	No. 88-C-1205-B

ORDER TO DISMISS

NIGGEMANN, JOSEPH, et. al.,	)	No. 88-C-817-C
NIGH, THOMAS E., et. al.,	)	No. 88-C-849-C
NORTH, LARRY, et. al.,	)	No. 88-C-1393-B
OCHSENBEIN, THOMAS, et. al.,	)	No. 88-C-703-B
ODOM, LEONARD W. C., et. al.,	)	No. 88-C-782-B
OLDS, BENNY, et. al.,	)	No. 88-C-1037-E
OLEMAN, EARL, et al.,	)	No. 88-C-744-B
OLEMAN, JOHN K., et. al.,	)	No. 88-C-968-B
OLSON, CHARLES, et. al.,	)	No. 88-C-1110-B
OSBURN, FLOYD D., et. al.,	)	No. 88-C-769-B
OSKIN, JIMMIE, et. al.,	)	No. 88-C-1404-E
OWEN, CLOYCE, et. al.,	)	No. 88-C-1319-E
OWENS, WILLIAM, et. al.,	)	No. 88-C-1193-E
PATTERSON, DILLION, et. al.,	)	No. 88-C-1022-C
PATTON, LINDSEY R., et al.,	)	No. 88-C-1394-E
PERRY, PATRICK, et al.,	)	No. 88-C-719-E
PHILLIPS, JACK, et al.,	)	No. 88-C-888-B
PIERCE, C. JERRY, et. al.,	)	No. 88-C-791-C
PIERCE, GENE JOSEPH, et. al.,	)	No. 88-C-857-E
PIERCE, JAMES A., et. al.,	)	No. 88-C-748-E
PITTS, GLENN DALE, et. al.,	)	No. 88-C-998-E
PLILER, RICHARD, et. al.,	)	No. 88-C-1167-C
POTTER, MARTIN H., et. al.,	)	No. 88-C-853-B
PRICE, EVERETT, et. al.,	)	No. 88-C-1108-B
PRICE, PATRICK, et. al.,	)	No. 88-C-1161-B
PRICE, RAYMOND E., et. al.,	)	No. 88-C-825-E
PUGH, DELMAR, et. al.,	)	No. 88-C-852-B
RADFORD, BILLY, et. al.,	)	No. 88-C-1195-E
RADFORD, SHERMAN, et. al.,	)	No. 88-C-1002-B
RANDALL, GLEN, et. al.,	)	No. 88-C-1292-B
RANDALL, LLOYD, et. al.,	)	No. 88-C-1216-E
RANSOM, JACK, et. al.,	)	No. 88-C-1173-B
REAVIS, ELDON, et. al.,	)	No. 88-C-1094-E
REISCH, BENTLY, et. al.,	)	No. 88-C-1387-B
RENTFROW, BILLY E., et. al.,	)	No. 88-C-982-C
REYNOLDS, BILLY J., et. al.,	)	No. 88-C-872-B
RHODES, RAYMOND D., et. al.,	)	No. 88-C-869-B
RHODES, RAYMOND L., et. al.,	)	No. 88-C-1302-C
RICE, JOSEPH L., et. al.,	)	No. 88-C-755-B
RIDDLE, EDWIN, et. al.,	)	No. 88-C-1064-B
RILEY, JAMES, et. al.,	)	No. 88-C-1175-E
ROBERTS, DONALD, et. al.,	)	No. 88-C-1293-E
ROBERTS, HAROLD, et. al.,	)	No. 88-C-1313-B
ROBERTSON, BILL, et. al.,	)	No. 88-C-1134-B
ROBINSON, ALVIN, et. al.,	)	No. 88-C-1294-C
ROBLYER, GLEN A., et. al.,	)	No. 88-C-979-E
ROLLINS, CHARLES, et. al.,	)	No. 88-C-354-E
ROOK, CLARENCE, et al.,	)	No. 88-C-1050-E
RUPERT, JAMES, et. al.,	)	No. 88-C-1208-E
RUTH, NORMAN G., et. al.,	)	No. 88-C-796-B
SANDERS, ELBERT, et. al.,	)	No. 88-C-1127-B
SCHENK, JOHN, et. al.,	)	No. 88-C-1218-E

ORDER TO DISMISS

SCHULTE, CLARENCE, et. al.,	)	No. 88-C-1129-B
SCHUPBACH, CHARLES, et. al.,	)	No. 88-C-1203-B
SHAFER, STANLEY, et. al.,	)	No. 88-C-1143-B
SHAFFER, JESSE G., et. al.,	)	No. 88-C-856-E
SHARP, JOIE R., et. al.,	)	No. 88-C-1065-C
SHUMAKE, CLAUDE L., et. al.,	)	No. 88-C-891-E
SILL, CHARLES, et al.,	)	No. 88-C-698-E
SIMMONS, CHARLES, et. al.,	)	No. 88-C-1405-C
SIMMONS, DARREL, et. al.,	)	No. 88-C-1177-E
SIMMONS, MELVIN, et. al.,	)	No. 88-C-1295-B
SIPPY, RAY, et. al.,	)	No. 88-C-1406-E
SKELTON, JIMMIE L., et. al.,	)	No. 88-C-754-E
SMITH, CHARLES W., et. al.,	)	No. 88-C-955-C
SMITH, CLYDE, et. al.,	)	No. 88-C-768-E
SMITH, JOSEPH, et. al.,	)	No. 88-C-763-B
SMITH, MERLE, et. al.,	)	No. 88-C-773-E
SNIDER, DEAN, et. al.,	)	No. 88-C-1150-E
SOPER, EARL, et. al.,	)	No. 88-C-889-B
SOPER, JACK D., et. al.,	)	No. 88-C-789-C
SPARKMAN, KENNETH R., et. al.,	)	No. 88-C-714-B
SPARLIN, THEODORE, et. al.,	)	No. 88-C-1194-B
SPENCER, CLARENCE, et. al.,	)	No. 88-C-840-B
SPRINKLE, ROBERT C., et. al.,	)	No. 88-C-996-B
SPUNAUGLE, JIMMY, et. al.,	)	No. 88-C-1123-E
STAFFORD, L. P., et. al.,	)	No. 88-C-1006-C
STANLEY, CHARLES E., et. al.,	)	No. 88-C-1034-B
STANLEY, WOODROW, et al.,	)	No. 88-C-969-C
STARK, HAROLD, et. al.,	)	No. 88-C-1497-C
STICH, EUGENE, et al.,	)	No. 88-C-950-B
STICKLAND, KENNETH, et. al.,	)	No. 88-C-1192-C
STILL, ROGER, et. al.,	)	No. 88-C-1202-E
STOGSDILL, LARRY, et al.,	)	No. 88-C-715-E
STONER, CLIFFORD, et. al.,	)	No. 88-C-1101-C
STONER, RALPH, et. al.,	)	No. 88-C-910-B
STREET, DONALD, et. al.,	)	No. 88-C-1407-C
SWEETEN, WILLIAM, et. al.,	)	No. 88-C-1052-B
TALBOT, JERRY, et. al.,	)	No. 88-C-1152-E
TEDLOCK, DANIEL, et. al.,	)	No. 88-C-1165-B
THOMAS, ALVIN H., et. al.,	)	No. 88-C-851-E
THOMAS, JACK B., et. al.,	)	No. 88-C-893-B
THOMAS, JACK C., et. al.,	)	No. 88-C-895-E
THOMASSON, LOYDE, et. al.,	)	No. 88-C-1063-E
THOMPSON, DANNY, et. al.,	)	No. 88-C-1151-B
TUNNELL, ESTELL, et. al.,	)	No. 88-C-1045-E
VANDEVENTER, HENRY, et. al.,	)	No. 88-C-1296-E
VINCENT, RONALD, et. al.,	)	No. 88-C-1485-E
WALL, JOSEPH, et al.,	)	No. 88-C-1410-C
WALSER, ADOLPH, et. al.,	)	No. 88-C-1122-B
WARD, J. D., et al.,	)	No. 88-C-980-B
WARNER, RICHARD, et al.,	)	No. 88-C-814-E
WARREN, TERRY P., et. al.,	)	No. 88-C-804-B
WEBB, WAYNE L., et. al.,	)	No. 88-C-901-E

ORDER TO DISMISS

WEBBER, WOODROW, et al.,	)	No. 88-C-948-E
WEBER, GLENN E., et. al.,	)	No. 88-C-775-E
WESTERVELT, JAMES, et al.,	)	No. 88-C-1008-C
WHITE, BILLY, et. al.,	)	No. 88-C-1298-E
WHITE, ROBERT, et. al.,	)	No. 88-C-1153-C
WHITEHEAD, CLIFFORD, et. al.,	)	No. 88-C-1164-B
WHITEHEAD, WILLIAM, et. al.,	)	No. 88-C-1297-B
WHITWORTH, RICHARD, et. al.,	)	No. 88-C-875-C
WILBURN, EDWARD, et al.,	)	No. 88-C-1007-E
WILCOX, EARL, et. al.,	)	No. 88-C-1107-B
WILLIAMS, BOBBY, et al.,	)	No. 87-C-66-E
WILLIAMS, DOUGLAS, et. al.,	)	No. 88-C-1046-B
WILLIAMS, GENE R., et. al.,	)	No. 88-C-774-B
WILLIAMS, JOE, et. al.,	)	No. 88-C-1095-E
WILLIAMS, LEROY, et. al.,	)	No. 88-C-818-E
WILLIAMS, VIRGIL, et. al.,	)	No. 88-C-1099-E
WILMOTH, FRANCIS, et. al.,	)	No. 88-C-952-B
WILSON, ELLEN, et. al.,	)	No. 88-C-1411-B
WILSON, JULIAN L., et. al.,	)	No. 88-C-993-E
WILSON, MARVIN, et. al.,	)	No. 88-C-1080-E
WINDLE, LEONARD L., et. al.,	)	No. 88-C-902-E
WITTE, PAUL, et. al.,	)	No. 88-C-1299-C
WOOLDRIDGE, MORRIS, et. al.,	)	No. 88-C-747-C
WOOLDRIDGE, SIDNEY, et. al.,	)	No. 88-C-1300-E
WYRICK, WILLIAM, et. al.,	)	No. 88-C-1412-B
YOST, BENJAMIN R., et. al.,	)	No. 88-C-767-E

) Plaintiffs,)

vs.)

ANCHOR PACKING COMPANY, et al.,)

) Defendants.)

ORDER OF DISMISSAL

This matter comes on for hearing the ____ day of _____, 1990, and after considering pleadings of parties, it is hereby Ordered that the Defendants ANCHOR PACKING COMPANY, GARLOCK, INC., and A. W. CHESTERON COMPANY, shall be dismissed without prejudice from the above-referenced matter(s). Each party is to bear their/its own costs.

Dated this _____ day of _____, 1990.

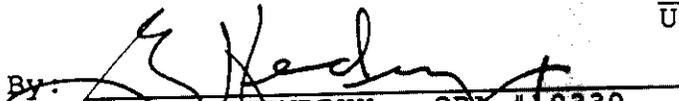
U.S. DISTRICT COURT JUDGE

APPROVED AS TO FORM:

U.S. DISTRICT COURT JUDGE

NORMAN & EDEM
ATTORNEYS FOR PLAINTIFFS

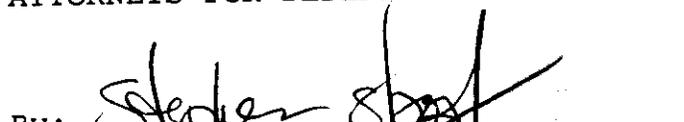
U.S. DISTRICT COURT JUDGE

By: 
GINA L. HENDRYX - OBA #10330
JAMES M. HAYS, III - OBA #4016
JOHN W. NORMAN - OBA #6699
DONNA L. ARNOLD - OBA #013649
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405-272-0200 (O)
405-235-2949 (F)

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CHRIS L. RHODES
2800 Fourth National Bank Bldg.
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918-582-1173 (O)
918-592-3390 (F)

DURBIN, LARIMORE & BIALICK
ATTORNEYS FOR DEFENDANT GARLOCK, INC.

By: 
STEVEN S. BOAZ
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Oklahoma City, OK 73102-2610
405-235-9584 (O)
405-235-0551 (F)

FELDMAN, HALL, FRANDEN, WOODARD & FARRIS
ATTORNEYS FOR DEFENDANT A. W. CHESTERTON CO.

By:

Jacqueline O. Haglund

JACQUELINE O'NEIL HAGLUND

525 S. Main, Suite 1400

Tulsa, OK 74103-4409

918-583-7129 (O)

918-584-3814 (F)

FILED

OCT 1 1990

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

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

FEDERAL DEPOSIT INSURANCE CORPORATION,)
as Receiver for FIRST NATIONAL BANK &)
TRUST COMPANY, CUSHING, OKLAHOMA,)

Plaintiff,)

v.)

Case No. 90-C0039 B

ASBESTOS DISPOSAL SERVICES, INC., an)
Oklahoma corporation; REX RUDY, a/k/a)
REX R. RUDY, an individual; REX RUDY,)
d/b/a ASBESTOS DISPOSAL SERVICE;)
REX RUDY II, an individual; BONNIE)
RUDY, a/k/a BONNIE L. RUDY, an)
individual; FEDERAL NATIONAL MORTGAGE)
ASSOCIATION; AMERICAN FLORAL SERVICES,)
INC.; FOUNDERS BANK & TRUST COMPANY;)
UNITED STATES OF AMERICA, DEPARTMENT)
OF THE TREASURY, INTERNAL REVENUE)
DIVISION; STATE OF OKLAHOMA, OKLAHOMA)
TAX COMMISSION; and TIVOLI VENTURES,)
INC.)

Defendants.)

ORDER SUBSTITUTING MOUNTAIN STATES FINANCIAL
RESOURCES, CORPORATION AS PLAINTIFF AND REAL PARTY
IN INTEREST IN THE FIRST, SECOND, FIFTH AND
SEVENTH CAUSES OF ACTION IN CASE NO. 90-C0039 B
AND DISMISSING THE FEDERAL DEPOSIT INSURANCE
CORPORATION, AS RECEIVER FOR FIRST NATIONAL
BANK & TRUST COMPANY, CUSHING, OKLAHOMA THEREFROM

On the 1st day of ~~September~~ *October*, 1990, there comes on for hearing
before the Honorable Thomas R. Brett, Judge for the United States
District Court for the Northern District of Oklahoma, Plaintiff,
Federal Deposit Insurance Corporation, as Receiver for First
National Bank & Trust Company, Cushing, Oklahoma's ("FDIC")
Disclaimer and Motion for Substitution of Mountain States Financial

Resources, Corporation ("Mountain States") as the Plaintiff and real party in interest as to the First, Second, Fifth and Seventh Causes of Action presented in Case No. 90-C0039 B, and for the dismissal of FDIC as party Plaintiff pertaining to the First, Second, Fifth and Seventh Causes of Action in Case No. 90-C0039 B. FDIC appears by and through its attorney of record, Donald P. Fischbach with the firm of Edwards, Sonders & Propester and Mountain States appears by and through its attorney of record, Bruce F. Klein, with Bay, Spears & Klein. Thereupon, the Court proceeded to examine the file herein in its entirety, and having considered FDIC's "Disclaimer and Motion" and having heard the statements of counsel and being fully advised of the premises, finds that for good cause shown, Mountain States should be and is hereby substituted as Plaintiff and real party in interest as to the First, Second, Fifth and Seventh Causes of Action presented in Case No. 90-C0039 B, and FDIC is hereby dismissed from the First, Second, Fifth and Seventh Causes of Action presented in Case No. 90-C0039 B.

IT IS SO ORDERED.

S/ THOMAS R. BRETT

THOMAS R. BRETT, Judge of the United States District Court for the Northern District of Oklahoma

APPROVED:

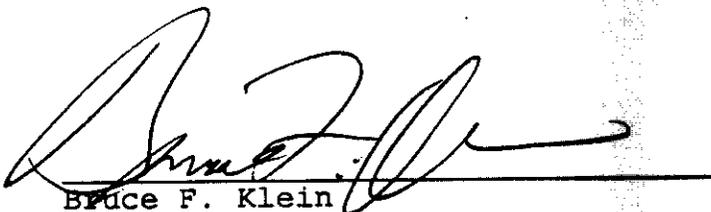


Donald P. Fischbach

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Telephone: (405) 239-2121

ATTORNEYS FOR PLAINTIFF, FEDERAL DEPOSIT
INSURANCE CORPORATION, as Receiver for
First National Bank & Trust Company,
Cushing, Oklahoma



Bruce F. Klein

BAY, SPEARS & KLEIN
501 N.W. 13th St.
Oklahoma City, Oklahoma 73143
Telephone: (405) 235-5605

ATTORNEY FOR MOUNTAIN STATES FINANCIAL
RESOURCES, CORPORATION

W.S./ta
28/90

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

STOGSDILL, LARRY, et al.,
Plaintiff(s),
vs.
ANCHOR PACKING COMPANY, et al.,
Defendants.

No. 88-C-715-E ✓

FILED

OCT 1 1990

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

ORDER OF DISMISSAL

This matter comes on for hearing the 26 day of September 1990, and after considering pleadings of parties, it is hereby Ordered that the Defendants ANCHOR PACKING COMPANY, GARLOCK, INC., and A. W. CHESTERON COMPANY, shall be dismissed without prejudice from the above-referenced matter(s). Each party is to bear their/its own costs.

Dated this 26 day of September, 1990.

S/ JAMES O. ELLISON

U.S. DISTRICT COURT JUDGE

62

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA OCT 1 1990

JOHN EARL McCASKEY, et al.,

Plaintiffs,

vs.

UNITED STATES OF AMERICA,
et al.,

Defendants.

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

No. 90-C-490-E

ORDER

This matter is before the Court on the Motion of Defendant Tulsa Regional Medical Center to dismiss for failure to state a claim, the Motion of Defendant United States of America to dismiss for lack of subject matter jurisdiction, and the Motion of Defendant James R. Marshall, D.O. to dismiss for lack of subject matter jurisdiction. The motions are granted because in its present form, Plaintiffs' cause fails to support any claim for denial of stabilizing treatment by Defendant Tulsa Regional Medical Center and Defendant James R. Marshall, D.O. Thompson v. St. Anne's Hospital, 716 F.Supp. 8 (N.D. Ill. 1989).

IT IS THEREFORE ORDERED that Defendants' respective Motions to Dismiss are hereby granted and that Plaintiffs' claims against Defendants Osteopathic Hospital Founders Association, Inc. d/b/a Oklahoma Osteopathic Hospital a/k/a Tulsa Regional Medical Center and James R. Marshall, D.O. are hereby dismissed without prejudice.

ORDERED this 28th day of September, 1990.



JAMES P. ELLISON
UNITED STATES DISTRICT JUDGE

LAL/ta
05/23/90

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

HOPPER, W. D., et al.,

Plaintiff(s),

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-841-E ✓

FILED

OCT 1 1990 8

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

ORDER OF DISMISSAL

This matter comes on for hearing the 26 day of September 1990, and after considering pleadings of parties, it is hereby Ordered that the Defendants ANCHOR PACKING COMPANY, GARLOCK, INC., and A. W. CHESTERON COMPANY, shall be dismissed without prejudice from the above-referenced matter(s). Each party is to bear their/its own costs.

Dated this 26 day of September, 1990.

S/ JAMES O. ELLISON

U.S. DISTRICT COURT JUDGE

Ln LAL/ta
08/28/90

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

GREEN, EARNEST, et al.,

Plaintiff(s),

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-1113-E ✓

FILED

OCT 1 1990 8

ORDER OF DISMISSAL

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

This matter comes on for hearing the 26 day of September, 1990, and after considering pleadings of parties, it is hereby Ordered that the Defendants ANCHOR PACKING COMPANY, GARLOCK, INC., and A. W. CHESTERON COMPANY, shall be dismissed without prejudice from the above-referenced matter(s). Each party is to bear their/its own costs.

Dated this 26 day of September, 1990.

S/ JAMES O. ELLISON

U.S. DISTRICT COURT JUDGE

AL/ta
05/18/90

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

DITMORE, CLINTON, et al.,

Plaintiff(s),

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-751-E ✓

FILED

OCT 1 1990 ✓

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

ORDER OF DISMISSAL

This matter comes on for hearing the 26 day of September, 1990, and after considering pleadings of parties, it is hereby Ordered that the Defendants ANCHOR PACKING COMPANY, GARLOCK, INC., and A. W. CHESTERON COMPANY, shall be dismissed without prejudice from the above-referenced matter(s). Each party is to bear their/its own costs.

Dated this 26 day of September, 1990.

S/ JAMES O. ELLISON

U.S. DISTRICT COURT JUDGE

26

GLT:JAL/ta
08/28/90

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

EAST, MERVIN, et al.,

Plaintiff(s),

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-824-E ✓

FILED

OCT 1 1990 8

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

ORDER OF DISMISSAL

This matter comes on for hearing the 26 day of September, 1990, and after considering pleadings of parties, it is hereby Ordered that the Defendants ANCHOR PACKING COMPANY, GARLOCK, INC., and A. W. CHESTERON COMPANY, shall be dismissed without prejudice from the above-referenced matter(s). Each party is to bear their/its own costs.

Dated this 26 day of September, 1990.

S/ JAMES O. ELLISON

U.S. DISTRICT COURT JUDGE

GLH/LAL/ta
08/28/90

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

CHANEY, RAYMOND, et al.,

Plaintiff(s),

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-724-E ✓

FILED

OCT 1 1990 8

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

ORDER OF DISMISSAL

This matter comes on for hearing the 26 day of September, 1990, and after considering pleadings of parties, it is hereby Ordered that the Defendants ANCHOR PACKING COMPANY, GARLOCK, INC., and A. W. CHESTERON COMPANY, shall be dismissed without prejudice from the above-referenced matter(s). Each party is to bear their/its own costs.

Dated this 26 day of September, 1990.

S/ JAMES O. ELLISON

U.S. DISTRICT COURT JUDGE

14

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

88-C-429-E

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

UNITED STATES OF AMERICA,
et al.,

Defendants.

and

No. 88-C-504-E

FILED

OCT 3 1990

Jack C. Silver, Clerk
S. DISTRICT COURT

No. 89-C-44-E

No. 89-C-62-E

No. 89-C-242-E

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

NATIONAL TREASURY EMPLOYEES
UNION, et al.,

Defendants.

No. 89-C-317-E

No. 89-C-429-E
(Consolidated)

JUDGMENT

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

IT IS THEREFORE ORDERED that the Plaintiff Herbert L. Miller take nothing from the Defendants, that the action be dismissed on the merits, and that the Defendants recover of the Plaintiff their costs of action.

ORDERED this 28th day of September, 1990.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

UNITED STATES OF AMERICA,
et al.,

Defendants.

and

No. 88-C-504-E

FILED

OCT 1 1990

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

No. 89-C-44-E

No. 89-C-62-E

No. 89-C-242-E

HERBERT L. MILLER,
Plaintiff,

vs.

DEPARTMENT OF THE TREASURY,
et al.,

Defendants.

and

HERBERT L. MILLER,
Plaintiff,

vs.

NATIONAL TREASURY EMPLOYEES
UNION, et al.,

Defendants.

No. 89-C-317-E

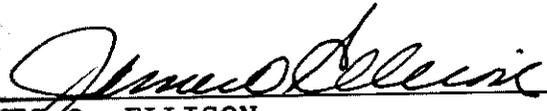
No. 89-C-429-E
(Consolidated)

JUDGMENT

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

IT IS THEREFORE ORDERED that the Plaintiff Herbert L. Miller take nothing from the Defendants, that the action be dismissed on the merits, and that the Defendants recover of the Plaintiff their costs of action.

ORDERED this 28th day of September, 1990.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

JLH/LAL/ta
08/24/90

FILED

OCT 1 1990

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

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

ELSTEN, DONALD, et al.,

Plaintiff(s),

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-705-E

ORDER OF DISMISSAL

This matter comes on for hearing the 26 day of September, 1990, and after considering pleadings of parties, it is hereby Ordered that the Defendants ANCHOR PACKING COMPANY, GARLOCK, INC., and A. W. CHESTERON COMPANY, shall be dismissed with prejudice from the above-referenced matter(s). Each party is to bear their/its own costs.

Dated this 26 day of September, 1990.

S/ JAMES O. ELLISON

U.S. DISTRICT COURT JUDGE