

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

DARRELL RAY TUCKER,  
Petitioner,

vs.

JOHN MAKOWSKI; ROBERT H.  
HENRY, Attorney General,  
Respondents.

No. 85-C-1098-E

**FILED**

NOV 20 1991

O R D E R

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

This matter is before the Court on remand from the Tenth Circuit. The Circuit's judgment instructs this Court to review the transcripts in order to resolve two issues: 1) whether the state violated Defendant's Fourteenth Amendment right to due process because its prosecution of his actions in successive actions was fundamentally unfair; and 2) whether the use of evidence of both crimes at each trial was fundamentally unfair because the cross-referenced evidence prejudiced the minds of the jurors against the Defendant. The Court has reviewed the trial transcripts in light of the relevant law and finds as follows:

1. Successive Trials. "[W]hether an impermissible use of multiple trials has taken place cannot be based on any overall formula. Here, as elsewhere, 'The pattern of due process is picked out in the facts and circumstances of each case.'" Hoag v. State of New Jersey, 356 U.S. 464, 468, 78 S.Ct. 829, 833 (1958), quoting, Brock v. State of North Carolina, 344 U.S. 424, 427-428, 73 S.Ct. 349, 350-

351, 97 L.Ed. 456. States have traditionally been afforded the broadest latitude in the administration of their respective criminal justice systems; therefore a federal court must consider only whether the use of successive trials in a particular case was so arbitrary that it offends our most basic notions of "ordered justice". Hoag, 356 U.S. at 468-470, 78 S.Ct. at 833 quoting Brock, 344 U.S. at 428, 73 S.Ct. at 351. In Hoag, Defendant was subjected to multiple trials for multiple robberies arising out of the same criminal transaction. The Court inferred from the record that the State's decision to prosecute the Defendant in successive trials was not arbitrary because of the unexpected recantation of testimony by certain of State's witnesses. Id. The analysis employed in Hoag was developed further in the case of Ciucci v. State of Illinois, 356 U.S. 575, 78 S.Ct. 839 (1958). There, the Court determined that it is constitutionally permissible for a state to institute separate criminal proceedings for multiple offenses committed during the same criminal transaction and to introduce relevant evidence arising from the transaction "in the absence of proof establishing that such a course of action entailed fundamental unfairness." Id. 356 U.S. at 573, 78 S.Ct. at 840. (emphasis added). Ciucci places the burden of proof on Defendant; State is afforded a presumption that successive trials, in a particular case, comport with due process. In Ciucci

Defendant was convicted in three successive trials for the murder of certain family members. The separate crimes were perpetrated within a single criminal transaction. The Court held that nothing in the record established that the multiple trials violated Defendant's due process rights.

Based upon the foregoing analysis applied to the record in the instant case, the Court finds no evidence of fundamental unfairness in the successive prosecutions of Defendant's successive crimes. The Court, then, concludes that the successive trials did not deprive Defendant of his Fourteenth Amendment right to due process.

2. "Other Crimes" Evidence. The more difficult issue is whether the cross-referencing of the two crimes in both trials so prejudiced the minds of the jurors that Defendant was denied due process. The analysis of the record by the Court on this issue has been guided principally by Brinlee v. Crisp, 608 F.2d 839 (10th Cir. 1979). In Brinlee the Circuit asserted that state court evidentiary rulings are generally not cognizable grounds for habeas challenges unless "they render the trial so fundamentally unfair as to constitute a denial of federal constitutional rights." Id. at 850. The Court then reviewed the record for references to other crimes made at trial and found that while some references were

undeniably damaging to Defendant "in view of the overall case against him we feel that the minds of average jurors would not have found the case significantly less persuasive had these matters been excluded..." Id. at 850-851. Similarly, in the instant case, two areas of the record concern the Court because references to the kidnapping which were introduced at the robbery trial must surely have had a deleterious effect on Defendant's case. The first troublesome reference occurred during the testimony of victim Dickerson when he was questioned about Defendant's activities after the robbery. That testimony implicated Defendant as the perpetrator of the kidnapping. Transcript at 110 (No. 23282). Nevertheless, the record indicates that the testimony was necessary to establish the identity of the Defendant. The Court, therefore, finds that the testimony does not offend fundamental motions of fairness in violation of the Fourteenth Amendment. The second questionable reference occurs during State's closing argument where evidence of the kidnapping was presented for the jury's consideration. Transcript at 370 (No. 23282). Standing alone the prosecutor's statements appear to be impermissibly prejudicial to Defendant. However, as in Brinlee, given "the overall case against Defendant" the Court does not believe that the prosecutor's statements played a significant role in the jury's verdict. Id. at

850. Accordingly, the Court finds that any error in connection with the reference to the other crime was harmless beyond a reasonable doubt. See Id. at 851, citing Schreble v. Florida, 405 U.S. 427, 92 S.Ct. 1056, 31 L.Ed.2d 340; Bond v. State of Oklahoma, 546 F.2d at 1376-77. In sum, the Court's review of the record leads to the conclusion that Defendant did not suffer deprivation of his constitutional right to due process under either theory advanced.

IT IS THEREFORE ORDERED that the Petition for habeas corpus pursuant to 28 U.S.C. §2254 is denied.

So ORDERED this 20<sup>th</sup> day of November, 1991.

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

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

UNITED STATES FIDELITY AND  
GUARANTY COMPANY, A Maryland  
Corporation,

Plaintiff,

vs.

CANEY MEMORIAL POST NO. 9768,  
VETERANS OF FOREIGN WARES OF  
THE UNITED STATES; JONATHAN  
RYAN, A Minor; JOSEPH RYAN,  
Individually and As Next Friend  
of JONATHAN RYAN; RON A.  
CUNNINGHAM; SAMMY A. ROUNDTREE;  
and KATHY ROUNDTREE,

Defendants.

Case No. 91-C-251-E

**FILED**

NOV 19 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

JUDGMENT

On the 1st day of November, 1991, the above matter came on for trial, after all parties consented that the matter could be assigned to the Magistrate for all further proceedings. The parties waived jury trial and the Court proceeded to hear statements of counsel and witness testimony.

The Court finds that the parties have entered into a settlement of this case, as follows: USF&G has agreed to pay the total sum of \$100,000.00 in settlement of all claims and a dismissal of all litigation, including the State Court action. Of this sum, \$70,000.00 will be paid to Jonathan Ryan, his parents and attorneys; and \$30,000.00 will be paid to Sammy M. Roundtree, Kathy Roundtree and their attorney. Of the \$70,000.00 paid to Jonathan Ryan, his parents and attorneys, the amount will be distributed as follows: \$25,575.00 to Jonathan Ryan's parents and LaSorsa, Weber

and Miles, P.C. for their attorneys' fees and reimbursement of expenses; the remaining sum of \$44,425.00 will be paid to Joseph Ryan, individually and as next friend of Jonathan Ryan, for the use and benefit of Jonathan Ryan. The sum of money paid for the use and benefit of Jonathan Ryan will be placed in a trust account at the Phillips 66 Federal Credit Union in Bartlesville, Oklahoma, to be removed only upon order of the Court.

The Court finds that the above-described settlement is reasonable and in the best interest of the parties. The Court further finds that the above-described settlement should be approved.

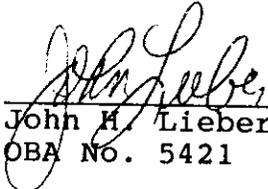
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the above-described settlement is approved.

/S/ JOHN LEO WAGNER  
UNITED STATES MAGISTRATE JUDGE

\_\_\_\_\_  
MAGISTRATE LEO WAGNER

APPROVALS:

ELLER AND DETRICH,  
A Professional Corporation

By: 

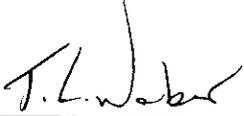
\_\_\_\_\_  
John H. Lieber  
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ATTORNEYS FOR PLAINTIFF,  
UNITED STATES FIDELITY  
& GUARANTY COMPANY

LaSORSA, WEBER AND MILES, P.C.

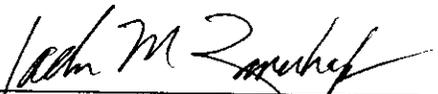
By:

  
Terry Weber

OBA No. 10149

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Tulsa, Oklahoma 74172

ATTORNEYS FOR DEFENDANTS,  
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AND AS FATHER AND NEXT  
FRIEND OF JONATHAN RYAN

  
Jackson M. Zanerhaft

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ATTORNEY FOR DEFENDANTS,  
SAMMY M. ROUNDTREE AND  
KATHY ROUNDTREE

4.USF&G\RYAN\JUDGMENT

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

**FILED**

NOV 19 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

RENA MILLER, as personal )  
Representative of the Estate )  
of REX ROSS, Deceased, )  
Plaintiff, )  
Vs. )  
THE CITY OF MIAMI, a municipal )  
Corporation; VICKIE HANSFORD, )  
STEVE JOHNSTON, individually )  
and as officers and jailers )  
for the City of Miami, )  
Oklahoma; BILL MELTON, )  
individually and as Chief of )  
Police of the City of Miami, )  
Defendants. )

No. 91-C-0045-E ✓

J U D G M E N T

NOW on this 19th day of November 1991, this matter comes on for hearing in the above styled case and the Court, being fully advised in the premises finds:

Judgment granting defendants's motion for summary judgment was entered by this Court on November 15, 1991, and the remaining issues herein now appear to be moot.

IT IS THEREFORE ORDERED that this action be dismissed. The Court retains jurisdiction to vacate this order and to reopen the action upon cause shown within twenty (20) days should further litigation be necessary.

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

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UNITED STATES DISTRICT JUDGE  
HON. JAMES O. ELLISON

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

**FILED**

NOV 18 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

SAMUEL H. HARRIS,

Plaintiff,

v.

SECRETARY OF HEALTH & HUMAN  
SERVICES,

Defendant.

90-C-28-B

ORDER

The Court has for consideration the Report and Recommendation of the United States Magistrate Judge filed October 16, 1991 in which the Magistrate Judge recommended that the Secretary's Motion to Remand be granted.

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

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

It is, therefore, Ordered that the Secretary's Motion to Remand is granted.

Dated this 18<sup>th</sup> day of Nov., 1991.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

RESOLUTION TRUST CORPORATION, as )  
Receiver for SOONER FEDERAL )  
SAVINGS ASSOCIATION, )

Plaintiff )

vs. )

HOME OWNERS WARRANTY CORPORATION, )

Defendant )

Case No. 90-CV-0001 B  
**FILED**

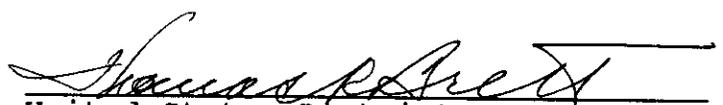
NOV 18 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL WITH PREJUDICE

NOW before the Court is the Stipulation of Dismissal With Prejudice filed by the parties hereto. This Court finds that such Stipulations of Dismissal shall be honored.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this matter be, and hereby is, dismissed with prejudice as to all actions against the Defendant Home Owners Warranty Company and INA Underwriters Insurance Company (now CIGNA Insurance Company). All parties stipulated and agreed to bear their own respective cost and expense of this litigation.

  
United States District Judge

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

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

EMERY F. THOMPSON,  
444-58-2835

Defendant,

CONSENT JUDGMENT

CIVIL NO. 91-C-610 E

**FILED**

NOV 18 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

The Court, having been advised by the parties of their desire to enter into a consent judgment, finds:

1. The Court has jurisdiction over the subject matter and the parties to this litigation.

2. The parties have agreed on the entry of judgment in favor of the plaintiff, United States of America, against defendant, EMERY F. THOMPSON, as follows:

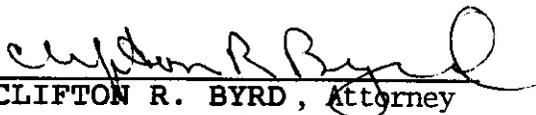
3. Defendant, EMERY F. THOMPSON, is indebted or liable to the plaintiff in the principal amount of \$642.09, accrued interest and costs through October 16, 1990, in the amount of \$688.40, and interest thereafter on the principal amount at the rate of 12.25% per annum to the date of this judgment and thereafter at the rate of 5.4% until paid and the costs of this action.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED.

DATED this 15<sup>th</sup> day of November, 1991.

UNITED STATES DISTRICT JUDGE

APPROVAL AND CONSENT  
TO ENTRY OF JUDGMENT  
CLIFTON R. BYRD  
District Counsel

  
CLIFTON R. BYRD, Attorney  
Department of Veterans Affairs  
Office of District Counsel  
125 South Main Street  
Muskogee, OK 74401  
918/687-2191

  
EMERY F. THOMPSON  
Defendant

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

VIRGINIA MCGANN,

Plaintiff

vs.

RESOLUTION TRUST CORPORATION, as  
Receiver for SOONER FEDERAL  
SAVINGS ASSOCIATION,

Defendant

vs.

INA UNDERWRITERS INSURANCE  
COMPANY (now CIGNA INSURANCE  
COMPANY), et al.,

Third-Party Defendants

Case No. 90-C-112-E

**FILED**

NOV 15 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL WITH PREJUDICE

NOW before the Court is the Stipulation of Dismissal With Prejudice filed by the parties hereto. This Court finds that such Stipulations of Dismissal shall be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this matter be, and hereby is, dismissed with prejudice as to all actions against the Third-Party Defendant INA Underwriters Insurance Company (now CIGNA Insurance Company). All parties stipulated and agreed to bear their own respective cost and expense of this litigation.

S/ JAMES O. ELLISON

United States District Judge

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

PIPELINERS LOCAL UNION NO. 798  
of the UNITED ASSOCIATION OF  
JOURNEYMEN AND APPRENTICES OF  
THE PLUMBING AND PIPE FITTING  
INDUSTRY OF THE UNITED STATES  
AND CANADA,

Plaintiff,

vs.

HIGH PLAINS CONSTRUCTION CO.,  
an Oklahoma corporation,

Defendant.

**FILED**

NOV 15 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

No. 91-C-588-E

**AMENDED DEFAULT JUDGMENT**

Judgment is hereby entered in favor of Pipeliners Local Union No. 798 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada on its Complaint in the amount of \$1,130.12, together with reasonable attorney fees of \$250.00 together with Court Costs herein of \$100.00.

DATED this 14th day of November, 1991.

S/ JAMES O. ELLISON

JUDGE OF THE UNITED STATES DISTRICT COURT

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

**FILED**

NOV 15 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

PIPELINERS LOCAL UNION NO. 798 )  
of the UNITED ASSOCIATION OF )  
JOURNEYMEN AND APPRENTICES OF )  
THE PLUMBING AND PIPE FITTING )  
INDUSTRY OF THE UNITED STATES )  
AND CANADA, )

Plaintiff, )

vs. )

O&M (MOTE) CONSTRUCTION, INC., )  
an Indiana corporation, )

Defendant. )

No. 91-C-587-E

**AMENDED DEFAULT JUDGMENT**

Judgment is hereby entered in favor of Pipeliners Local Union No. 798 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada on its Complaint in the amount of \$1,306.11, together with reasonable attorney fees of \$250.00 together with Court Costs herein of \$100.00.

DATED this 14th day of November, 1991.

S/ JAMES O. ELLISON

JUDGE OF THE UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 LARRY W. TERRY a/k/a LARRY )  
 TERRY a/k/a LARRY WINSTON TERRY; )  
 LORA J. TERRY a/k/a LORA JANE )  
 TERRY; FIDELITY FINANCIAL )  
 SERVICES, INC. f/k/a GENERAL )  
 CREDIT COMPANY; HAROLD GLOVER )  
 BAIL BOND SERVICE; C & M BONDING )  
 COMPANY; COUNTY TREASURER, Tulsa )  
 County, Oklahoma; and BOARD OF )  
 COUNTY COMMISSIONERS, Tulsa )  
 County, Oklahoma, )  
 )  
 Defendants. )

**FILED**

NOV 15 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION NO. 91-C-299-E

**JUDGMENT OF FORECLOSURE**

This matter comes on for consideration this 14 day of November, 1991. 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, Larry W. Terry a/k/a Larry Terry a/k/a Larry Winston Terry, appears pro se; and the Defendants, Lora J. Terry a/k/a Lora Jane Terry; Fidelity Financial Services, Inc. f/k/a General Credit Company; Harold Glover Bail Bond Service; and C & M Bonding Company, appear not, but make default.

The Court being fully advised and having examined the court file finds that the Defendant, Larry W. Terry a/k/a Larry

Terry a/k/a Larry Winston Terry, was served with Summons and Complaint on August 2, 1991; that the Defendant, Lora J. Terry a/k/a Lora Jane Terry, acknowledged receipt of Summons and Complaint on September 7, 1991; that the Defendant, Fidelity Financial Services, Inc. f/k/a General Credit Company, acknowledged receipt of Summons and Complaint on May 10, 1991; that the Defendant, Harold Glover Bail Bond Service, was served with Summons and Complaint on July 18, 1991; that the Defendant, C & M Bonding Company, acknowledged receipt of Summons and Complaint on August 5, 1991; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on May 9, 1991; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on May 9, 1991.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers on May 28, 1991; that the Defendants, Lora J. Terry a/k/a Lora Jane Terry; Fidelity Financial Services, Inc. f/k/a General Credit Company; Harold Glover Bail Bond Service; and C & M Bonding Company, 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 Nine (9), Block Three (3), SUBURBAN ACRES  
FOURTH ADDITION to the City of Tulsa, County  
of Tulsa, State of Oklahoma, according to the  
recorded plat thereof.

The Court further finds that on September 20, 1978,  
Larry W. Terry and Lora J. Terry 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 \$13,700.00, payable in  
monthly installments, with interest thereon at the rate of  
9.50 percent per annum.

The Court further finds that as security for the  
payment of the above-described note, Larry W. Terry and Lora J.  
Terry executed and delivered to the United States of America,  
acting on behalf of the Administrator of Veterans Affairs, now  
known as Secretary of Veterans Affairsz, a mortgage dated  
September 20, 1978, covering the above-described property. Said  
mortgage was recorded on September 20, 1978, in Book 4353, Page  
3104, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Larry W.  
Terry a/k/a Larry Terry a/k/a Larry Winston Terry and Lora J.  
Terry a/k/a Lora Jane Terry, 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, Larry W.  
Terry a/k/a Larry Terry a/k/a Larry Winston Terry and Lora J.  
Terry a/k/a Lora Jane Terry, are indebted to the Plaintiff in the  
principal sum of \$12,968.56, plus interest at the rate of

9.50 percent per annum from February 1, 1990 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$33.60 (\$20.00 docket fees, \$13.60 fees for service of Summons and Complaint).

The Court further finds that the Defendants, Fidelity Financial Services, Inc. f/k/a General Credit Company; Harold Glover Bail Bond Service; and C & M Bonding Company, are in default and have no right, title, or interest in the subject real property.

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

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that the Plaintiff have and recover judgment against the Defendants, Larry W. Terry a/k/a Larry Terry a/k/a Larry Winston Terry and Lora J. Terry a/k/a Lora Jane Terry, in the principal sum of \$12,968.56, plus interest at the rate of 9.50 percent per annum from February 1, 1990 until judgment, plus interest thereafter at the current legal rate of 5.42 percent per annum until paid, plus the costs of this action in the amount of \$33.60 (\$20.00 docket fees, \$13.60 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 for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Fidelity Financial Services, Inc. f/k/a General Credit Company; Harold Glover Bail Bond Service; C & M Bonding Company; and County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Larry W. Terry a/k/a Larry Terry a/k/a Larry Winston Terry and Lora J. Terry a/k/a Lora Jane Terry, 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 according to Plaintiff's election with or without 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.

---

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

  
\_\_\_\_\_  
LARRY W. TERRY a/k/a LARRY TERRY  
a/k/a LARRY WINSTON TERRY, pro se

  
\_\_\_\_\_  
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. 91-C-299-E

PP/css



by Defendant in this action on November 7, 1991, and filed with the Court on November 8, 1991, may be immediately released to Defendant.

Dated: November 13, 1991.

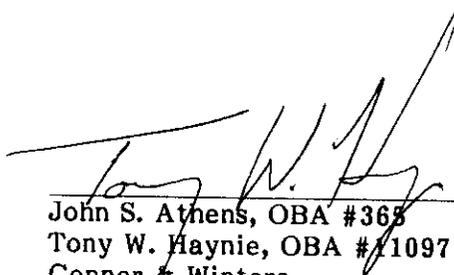


James M. Sturdivant, OBA #8723  
Patrick O. Waddel, OBA #9254  
John Henry Rule, OBA #7824  
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AMADEO C. RICHARDSON

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ATTORNEYS FOR DEFENDANT  
MERRILL LYNCH, PIERCE, FENNER &  
SMITH, INC.

Of Counsel:

Christopher C. Coss  
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MCS Building - Suite 202  
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Paoli, Pennsylvania 19301

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

**FILED**

NOV 14 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

BILLY R. VINING, TRUSTEE )  
ON BEHALF OF THE BANKRUPTCY )  
ESTATE OF STEVE D. THOMPSON )  
TRUCKING, INC., )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
TAPE SPECIALISTS, INC., )  
 )  
Defendant. )

Case No. 91-C-645 *EB*

**ORDER GRANTING DISMISSAL**

NOW on this 14<sup>th</sup> day of November, 1991, the Plaintiff's Dismissal With Prejudice having been previously filed herein it is the findings of this court that the said cause of action should be Dismissed With Prejudice.

IT IS THEREFORE ORDERED, ADJUSTED AND DECREED that the above entitled cause of action be and is hereby Dismissed With Prejudice.

*9/11/91*

\_\_\_\_\_  
Judge

APPROVED:

*[Handwritten Signature]*  
\_\_\_\_\_  
Charles L. Broadway, OBA# 11624  
ATTORNEY FOR PLAINTIFF

\_\_\_\_\_

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

FEDERAL DEPOSIT INSURANCE CORPORATION,  
in its corporate capacity,

Plaintiff,

vs.

CHARLES R. RITTENBERRY and RAYLEEN S.  
RITTENBERRY, husband and wife;  
TRAVELERS INSURANCE COMPANY, a  
Connecticut Corporation; and STATE OF  
OKLAHOMA, ex rel. OKLAHOMA TAX  
COMMISSION;

Defendants.

No. 90-C-626-B

**FILED**

NOV 14 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

AMENDED ORDER CONFIRMING SHERIFF'S SALE AND DIRECTING  
PAYMENT OF REGISTRY FUNDS

NOW, on this 14th day of November, 1991, this  
matter comes on to be heard upon the Report and Recommendation of  
the Magistrate Judge in the above-entitled cause as to Plaintiff's  
Motion to Confirm the sale of real estate made by the Sheriff of  
Tulsa County, Oklahoma, to the purchaser N. Franklyn Casey on  
August 27, 1991, under an order of sale issued out of the Office of  
the Court Clerk of the United States District Court for the  
Northern District of Oklahoma, said sale being of the following  
described real estate situated in Tulsa County, Oklahoma, to-wit:

Lots Six (6) and Eleven (11), Block One (1), TOWN AND  
COUNTRY ESTATES, an Addition to Tulsa County, State of  
Oklahoma, according to the recorded plat thereof, a/k/a  
3801 East 74th Street, Tulsa, Oklahoma 74136 (the  
"Property")

and the Court, having examined the Report and Recommendation as to  
the proceedings herein and the proceedings of said Sheriff and his  
return thereof under order of sale herein, finds that due and  
proper notice of this hearing has been given to the judgment

debtors, any holder of record of an interest in the Property, and all other persons required to be notified pursuant to 12 O.S. §765; the Court further finds that the sale proceedings have been performed and done in all respects in conformity to law; that the bid of N. Franklyn Casey for the sum of \$478,000.00, is the highest and best bid that could be obtained, such bid being for more than two-thirds of the appraised value, said appraised value thereof being the sum of \$700,000.00; and that said sale was made after due and legal notice of the time and place of sale.

The Court finds that Plaintiff has exercised due diligence and has given personal notice of the Sheriff's Sale to those parties who had an interest or estate in the Property and whose actual whereabouts were known or could have been ascertained with due diligence, all in accordance with 12 O.S. §764. The Court finds the notice of the Sheriff's Sale given herein meets both statutory requirements and the minimum standards of state and federal due process.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by this Court that the Clerk make an entry on the journal that the Court is satisfied with the legality of said sale and that the Report and Recommendation of the Magistrate be affirmed and adopted by this Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by this Court that the Clerk pay all of the funds currently deposited in the Court's Registry of Funds related to this matter and less the Clerk's fees, if any, to the Federal Deposit Insurance Corporation

in its corporate capacity and that the purchaser, N. Franklyn Casey, pay the remaining of the purchase price, to-wit \$430,200.00, to the Federal Deposit Insurance Corporation in its corporate capacity.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that the said sale and all of the proceedings herein be, and the same are hereby, in all respects approved and confirmed; and that Stanley Glanz, Sheriff of Tulsa County, Oklahoma (upon payment of the balance of the purchase price by N. Franklyn Casey to the Federal Deposit Insurance Corporation in its corporate capacity), make and execute to N. Franklyn Casey, a good and sufficient deed for said lands and tenements.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the said purchaser of said premises, lands and tenements at said sale, as aforesaid, be immediately let into possession of said premises, and each and every part thereof, and the Clerk of this Court is ordered, upon request of purchaser, to issue a writ of assistance to the Sheriff of this County, directing him to place said purchaser of said premises in full possession thereof; and the said Defendants, and each of them, and every person who has come into possession of said premises, or any part thereof, under the said Defendants, or any of them, since the commencement of this action, shall, upon presentation of such writ of assistance, immediately deliver possession thereof to said purchaser; and the refusal of said Defendants, or any of them, or anyone in possession of said premises so to do shall constitute contempt of this Court.



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

**FILED**  
NOV 14 1991  
Richard M. Lawrence, Clerk  
U.S. DISTRICT COURT

DAVID A. COBB, an individual, )  
and HERITAGE HOUSE )  
SMORGASBORD OF TULSA, a )  
Limited Partnership, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
HERITAGE HOUSE RESTAURANTS, )  
INC., an Illinois corporation, )  
 )  
Defendant. )

No. 91-C-518-B

NOTICE OF DISMISSAL

COMES NOW the Plaintiffs, DAVID A. COBB and HERITAGE HOUSE SMORGASBORD OF TULSA, and pursuant to Title 28, Rule 41 (a) (1) of the United States Code, hereby dismiss this Action without prejudice to refiling the same.

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Charles W. Jackson, OBA# 4581  
JACKSON & JACKSON  
ATTORNEY FOR PLAINTIFFS  
DAVID A. COBB, and  
HERITAGE HOUSE SMORGASBORD  
OF TULSA  
1411 Classen Blvd., Suite 111  
Oklahoma City, OK 73106  
Telephone: (405) 521-9933

Certificate of Service

This is to certify that a true and correct copy of the above and foregoing was mailed, postage prepaid, this \_\_\_\_ day of November, 1991, to:

Brooke S. Murphy  
CROWE & DUNLEVY  
1800 Mid-America Tower  
20 N. Broadway  
Oklahoma City, OK 73102

---

Charles W. Jackson

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

**FILED**

NOV 14 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

THE BOARD OF TRUSTEES OF THE  
PIPELINE INDUSTRY BENEFIT FUND,  
  
Plaintiff,  
  
vs.  
  
O&M (MOTE) CONSTRUCTION, INC.,  
an Indiana corporation,  
  
Defendant.

No. 91-C-594-B

**AMENDED DEFAULT JUDGMENT**

Judgment is hereby entered in favor of The Board of Trustees of the Pipeline Industry Benefit Fund on its Complaint in the amount of \$6,637.22, together with reasonable attorney fees of \$250.00, together with Court Costs herein of \$100.00.

DATED this 14<sup>th</sup> day of Nov, 1991.

  
JUDGE OF THE UNITED STATES DISTRICT COURT

FILED

NOV 14 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

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

MOUNTAIN STATES FINANCIAL  
RESOURCES, CORP.,

Plaintiff,

vs.

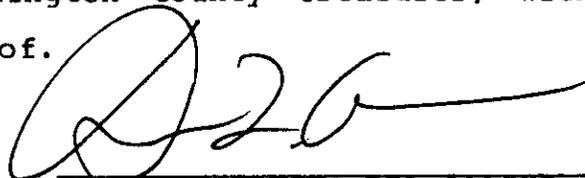
Case No. 91-C-94-E

JOHN M. MAHONEY and  
BETTE JO MAHONEY, et al.,

Defendants.

DISMISSAL WITHOUT PREJUDICE OF  
COUNTY COMMISSIONERS OF WASHINGTON COUNTY  
AND STAN STEVENS, WASHINGTON COUNTY TREASURER

COMES NOW, Mountain States Financial Resources, Corp.,  
plaintiff herein, and dismisses the above styled and numbered  
cause against the defendants, County Commissioners of Washington  
County and Stan Stevens, Washington County Treasurer, without  
prejudice to the refiling thereof.



BRUCE F. KLEIN, OBA #11389  
205 N.W. 63rd Street, Suite 160  
Oklahoma City, Oklahoma 73116  
(405) 848-8842

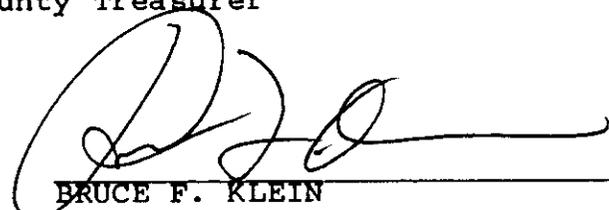
CERTIFICATE OF MAILING

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_,  
1991, a true and correct copy of the above and foregoing was  
mailed, postage prepaid, to:

John and Bette Jo Mahoney  
P.O. Box 167  
Binita, OK 74012

County Commissioners of Washington County  
420 S. Johnstone Street  
Bartlesville, OK 74003

Stan Stevens, Washington County Treasurer  
420 S. Johnstone Street  
Bartlesville, OK 74003



BRUCE F. KLEIN

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

STATE FARM FIRE AND CASUALTY CO., )  
A Foreign Corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CITY OF TULSA, )  
A Municipal Corporation, )  
 )  
Defendant. )

Case No. 90-C-786-B

**FILED**

NOV 14 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

ORDER

Before this Court for decision are the Motions for Imposition of Court Sanctions Pursuant to Fed.R.Civ.P. 11 filed on behalf of the Plaintiff, State Farm Fire and Casualty Company ("State Farm"), and the Defendant, City of Tulsa (the "City"), and an Application For Order of Dismissal Without Prejudice filed on behalf of State Farm.

This action was initially filed Sept. 12, 1990, by Neal E. Stauffer and Joseph R. Roberts on behalf of State Farm seeking a declaratory judgment as to the constitutionality of OKLA. STAT. tit. 51, §163(b) and an award for property damage in the amount of \$1,331.66. State Farm's complaint specifically stated:

3. Plaintiff provided homeowners insurance to Granvel W. and Beverly L. Coker, covering their homestead which was damaged in a sewer backup occurrence at 6005 E. 79th Street, Tulsa, Oklahoma, on March 11, 1990, when the city sewer operated by the City of Tulsa failed to properly drain and backed up into the insured homestead, causing property damage. The homestead was damaged in the amount of \$1,331.66 and Plaintiff paid a claim to their insureds and were legally assigned to the claim or cause of action of their insured homeowner against the City of Tulsa.

3. Claim was duly and timely submitted to the

Defendant, City of Tulsa, under the Government Tort Claims Act, but was denied on the basis that OKLA. STAT. tit. 51, §163(d) precludes such claims. OKLA. STAT. tit. 51, §163(d) states:

All actions against the state or political subdivision shall be filed in the name of the real party or parties in interest, and in no event shall any claim be presented nor recovery made under the right of subrogation. (emphasis added)

4. Plaintiff alleges that a genuine controversy exists concerning the proper meaning and interpretation of said state statute ....

In a letter dated October 1, 1990, the Assistant City Attorney, David L. Pauling (Pauling), informed State Farm that the Cokers had filed a claim with the City on their own behalf and the claim had been denied based exclusively on the merits of the case. Pauling informed State Farm's counsel that the City had never received or denied a claim submitted by State Farm in regards to this matter and thus there was no "actual controversy" between the parties as stated in State Farm's complaint.<sup>1</sup> Pauling also informed State Farm that it was not too late for State Farm to file a claim with the City.

On April 1, 1991, State Farm amended its complaint but did not change any of the allegations quoted above. Instead, State Farm merely added an additional basis for its argument that OKLA. STAT. tit. 51, §163(d) was unconstitutional.

On June 16, 1991, State Farm filed an Application For Order of

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<sup>1</sup> State Farm relied on a "genuine controversy" between the parties as to the constitutionality of OKLA. STAT. tit. 51 §163(b) as its basis for this Court's jurisdiction.

Dismissal Without Prejudice<sup>2</sup> stating that "[c]ounsel for defendant has been consulted and has no objection to this application<sup>3</sup>." The City immediately objected to State Farm's Application for Order of Dismissal and moved for the imposition of sanctions.<sup>4</sup>

The federal courts are given the authority to impose sanctions against attorneys and parties in Fed.R.Civ.P. 11 which provides:

Every pleading, motion or other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name .... The signature of an attorney or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other paper; that to the best of the signer's knowledge, information and belief formed after reasonable inquiry it is well grounded in fact .... If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

The United States Supreme Court recently addressed the standard of review for Rule 11 sanctions and concluded that Rule 11 imposes on the signer "an affirmative duty to conduct a reasonable

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<sup>2</sup> State Farm claims it decided to dismiss this case because after discovery was commenced State Farm "became aware that it had at its disposal a case which was better suited towards having 51 O.S. §163(d) declared unconstitutional than the present one."

<sup>3</sup> State Farm later amended its application and noted the City's objection. State Farm contends that it discussed the application with the City previously and that the City did not object to the dismissal of the suit but did request \$400 for attorney's fees. The City contends that its acquiescence to the application was conditioned upon receiving the \$400. State Farm informed the City that it would not pay the \$400 after it filed the original application.

<sup>4</sup> The City only objects to the application for dismissal "in the absence of a review by the Court of plaintiff's conduct ...."

inquiry into the facts and the law before filing, and the applicable standard is one of reasonableness under the circumstances." Business Guides v. Chromatic Communications Enterprises, Inc., 111 S.Ct. 922,933 (1991).

The City alleges that State Farm violated Rule 11 by commencing and maintaining this action "with full knowledge that the facts stated in plaintiff's complaint are factually unfounded and seeking the recovery of liquidated damages exceeding the amount of damages actually sustained by plaintiff."

Specifically, the City alleges that:

1. State Farm falsely claimed that the City had denied State Farm's tort claim "on the basis that Okla. Stat. tit. 51, §163(d) precludes such claims" when in fact no such subrogation claim was ever presented; and

2. State Farm falsely alleged that a "genuine controversy exists"; and

3. State Farm falsely claimed entitlement to recover liquidated damages in the amount of \$1,331.66 when State Farm's own records only indicate damages in the amount of \$318.20.

During discovery, the City submitted the following requests for admissions to the plaintiff and received the following responses:

REQUEST NO.1: Please admit that plaintiff State Farm never presented on its own behalf a written notice of claim to the clerk of City's governing body as required by Tit. 51 Okl. Stat. §156(d).

RESPONSE TO RFA NO. 1: Denied.

REQUEST NO. 3: Please admit that any notice of claim

which was submitted by either State Farm or its insured to the City of Tulsa with regard to the subject property loss was never denied by City's governing body or Mayor upon statement, report or representation that such claim would not be honored or it was in fact denied because it represented a subrogation claim.

RESPONSE TO RFA NO. 3: Denied.

State Farm's response to the City's allegations that State Farm maintained this suit with full knowledge that it was factually unfounded is a futile and convoluted attempt to explain away all the inaccuracies and inconsistencies in the "pleading[s], motion[s] and other papers" that were signed by State Farm representatives and their counsel. In fact, State Farm's response to the City's motion for sanctions may be as inaccurate, misleading and worthy of sanctions as any of the previous pleadings.

First, State Farm now admits that it never submitted a claim to the City on its own behalf but explains that "[n]owhere on the face of the complaint does the plaintiff state or allege that it, as a corporation, submitted claims to the defendant." State Farm then tries to explain how paragraph 3 and misnumbered paragraph 3 (quoted above) "clearly state" that State Farm was assigned its interest in this lawsuit from Granvel W. and Beverly L. Coker ("Cokers") and that the legally assignable subrogation claim was duly and timely submitted to the defendant.

While the complaint does not expressly say that State Farm submitted a claim, it is quite clear that the complaint was intended to imply that State Farm submitted a claim to the City on its own behalf after it was assigned the Cokers' "claim or cause of

action." The complaint (and the amended complaint) states in paragraph two that the Cokers' assigned their claim against the City to State Farm and then in the next paragraph states that the City denied the claim because of a state statute prohibiting subrogation claims. State Farm now admits that the Cokers' filed a claim on their own behalf, which was denied, before assigning their claim to State Farm.

Regardless, State Farm fails to explain its response to the City's Request for Admission No. 1 (quoted above). This would have been the perfect opportunity for State Farm to clear up any misunderstanding about who submitted the claim to the City. The Court finds no reasonable explanation for this inconsistency.

Next, State Farm attempts to justify its allegation in the complaint that the City denied the claim on the basis of OKLA. STAT. tit. 51, §163(d).<sup>5</sup> State Farm alleges that the City knows that the majority of citizens have homeowners insurance and thus that the City fraudulently denies citizens' claims "based on the merits" so that the insurance companies will have to pay the claim and the City can avoid liability on a subsequent subrogation claim by relying on the state statute. Therefore, State Farm now contends that the "true reason" the City denied the Cokers' claim was that the City knew it could later rely on §163(d) to avoid liability if the Cokers' insurance carrier filed a subrogation claim. State Farm

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<sup>5</sup> The City's letter in response to the Coker's claim does not mention OKLA. STAT. tit. 51, §163(d) and clearly explains that "the Legal Department concludes that the damage sustained by the claimant is unrelated to any negligent act or omission by the City and, accordingly, recommends that this claim be denied."

claims that this unexecuted plot<sup>6</sup> creates the "controversy" necessary to give this court jurisdiction.

This creative explanation simply is not consistent with the record in this case. The complaint states that the City denied the claim because §163(d) precludes "such" claims. Clearly, this statement was intended to imply that the City denied this claim because it was a subrogation claim. It can not possibly be read to mean that the City denied the claim on the basis that §163(d) would preclude a future subrogation claim that an insurance carrier may bring.

Finally, State Farm now admits that the damages listed in the Complaint are in error and that the correct amount should be \$568.20. State Farm provides no explanation for the error. State Farm was made aware of the error during discovery and yet did not correct the error when it filed an amended complaint. Without an explanation for the discrepancy, the Court is left to presume that State Farm either did not make a reasonable inquiry into the facts before filing the complaint or intentionally misled the Court.

State Farm seems to attempt to justify the discrepancies in its pleadings by stating that the suit was filed "for the express purpose of obtaining a declaratory judgment finding OKLA. STAT. tit. 51, §163(d) unconstitutional." State Farm also stresses that the applicable standard is "one of [objective] reasonableness under

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<sup>6</sup> State Farm never submitted a claim to the City on its own behalf so the City never had the opportunity to complete the alleged plan of denying State Farm's claim on the basis of the state statute.

the circumstances." The Court fails to see what unusual circumstances were present in this case that would make State Farm's otherwise unreasonable actions reasonable. The fact that State Farm was seeking a declaratory judgment does not lessen the necessary level of inquiry.

The Court is convinced that none of the pleadings filed and signed by State Farm was "well grounded" in fact. State Farm was made well aware of the inaccuracies very early in the process and yet failed to correct the errors or dismiss the suit.<sup>7</sup> State Farm provides no reason for the factual inaccuracies in the "papers" which were signed by State Farm's counsel and by State Farm's corporate representative.<sup>8</sup> State Farm has attempted to explain away each inaccuracy it has presented to the Court rather than correct the error and in the process has created a sewage overflow comparable to the one the Cokers suffered.

State Farm has also filed a motion seeking Rule 11 sanctions against the City for the City's attempt to have sanctions imposed against State Farm. There is no merit in State Farm's motion and it is hereby DENIED. State Farm's Motion to Dismiss is long overdue and the same is hereby GRANTED. The City's Motion for the Imposition of Sanctions is GRANTED. State Farm and State Farm's

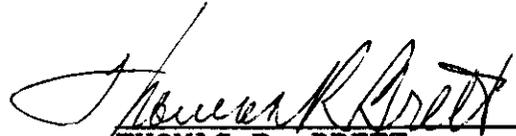
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<sup>7</sup> State Farm filed two other similar suits against the City at the same time this suit was filed. After being informed of the inaccuracies in all three suits, State Farm dismissed the other two cases. State Farm could have saved itself, the City and the Court a great deal of time and expense by dismissing this case at the same time.

<sup>8</sup> Tam Traugott, a claims representative for State Farm, signed the discovery responses on behalf of State Farm.

counsel, Neal E. Stauffer and Joseph R. Roberts, are held jointly and severally liable for the amount of \$400.00. Although the City seeks a hearing to determine its attorney's fees, the Court determines that \$400.00 is an appropriate sanction.

IT IS SO ORDERED THIS 14<sup>th</sup> DAY OF NOVEMBER, 1991.

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

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

NOV 14 1991

RICHARD D. LAWRENCE  
CLERK  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OK

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
JOHANNA L. MORRIS; OSTEOPATHIC )  
RADIOLOGY, INC.; COUNTY )  
TREASURER, Tulsa County, )  
Oklahoma; BOARD OF COUNTY )  
COMMISSIONERS, Tulsa County, )  
Oklahoma; and SECURITY NATIONAL )  
BANK, an Oklahoma Banking )  
Corporation, )  
 )  
Defendants. )

CIVIL ACTION NO. 90-C-860-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 14<sup>th</sup> day of November, 1991. The Plaintiff appears by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Kathleen Bliss Adams, 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, Osteopathic Radiology, Inc., appears by its attorney Mark G. Robb; the Defendant, Security National Bank, an Oklahoma Banking Corporation, appears not, having previously filed its Disclaimer; and the Defendant, Johanna L. Morris, appears not, but makes default.

The Court being fully advised and having examined the court file finds that the Defendant, Johanna L. Morris, was served with Summons and Amended Complaint on July 19, 1991; that

the Defendant, Osteopathic Radiology, Inc., acknowledged receipt of Summons and Complaint on October 17, 1990; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on October 15, 1990; that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on October 15, 1990; and that the Defendant, Security National Bank, an Oklahoma Banking Corporation, acknowledged receipt of Summons and Amended Complaint on February 15, 1991;.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, filed its Answer on October 30, 1990; that the Defendant, Board of County Commissioners, filed its Answers on October 30, 1990 and November 13, 1990; that the Defendant, Osteopathic Radiology, Inc., filed its Answer on October 19, 1990; that the Defendant, Security National Bank, an Oklahoma Banking Corporation, filed its Disclaimer on March 7, 1991; and that the Defendant, Johanna L. Morris, has failed to answer and her 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:

A tract of land situated in the North Half of the Northwest Quarter of the Southwest Quarter (N/2 NW/4 SW/4) of Section Twenty (20), Township Twenty-two North (22N), Range Fourteen East (14E), Tulsa County, State of Oklahoma,

more particularly described as follows to-wit: Beginning at the Northeast (NE) corner of the NW/4 SW/4, Section 20, Township 22 North, Range 14 East, thence due West along the North line of said NW/4 SW/4, a distance of 333.10 feet, thence South  $00^{\circ} 27' 47''$  East a distance of 183.84 feet to the point of beginning; thence continuing South  $00^{\circ} 27' 47''$  East a distance of 175.00 feet; thence North  $88^{\circ} 24' 23''$  West a distance of 191.09 feet; thence North  $00^{\circ} 28' 30''$  West a distance of 175.00 feet; thence South  $88^{\circ} 24' 23''$  East a distance of 191.07 feet to the point of beginning according to the U. S. Government Survey thereof. The above described tract is subject to a 20-foot roadway on the South boundary and a 40-foot roadway on the East boundary.

The Court further finds that this is a suit brought for the further purpose of judicially determining the death of Eddie Joe Morris and of judicially terminating the joint tenancy of Eddie Joe Morris and Johanna L. Morris.

The Court further finds that Eddie Joe Morris and Johanna L. Morris became the record owners of the real property involved in this action by virtue of that certain Warranty Deed dated July 27, 1977, from Michael L. Hall and Linda L. Hall, husband and wife, to Eddie Joe Morris and Johanna L. Morris, husband and wife, as joint tenants, and not as tenants in common, on the death of one the survivor, the heirs and assigns of the survivor, to take the entire fee simple title, which Warranty Deed was filed of record on July 29, 1977, in Book 4276, Page 1008, in the records of the County Clerk of Tulsa County, Oklahoma.

The Court further finds that on July 27, 1977, Eddie Joe Morris and Johanna L. Morris executed and delivered to First Continental Mortgage Co., their mortgage note in the amount of

\$28,500.00, payable in monthly installments, with interest thereon at the rate of 8.5 percent per annum.

The Court further finds that as security for the payment of the above-described note, Eddie Joe Morris and Johanna L. Morris executed and delivered to First Continental Mortgage Co., a real estate mortgage dated July 27, 1977, covering the above-described property. Said mortgage was recorded on July 29, 1977, in Book 4276, Page 1071, in the records of Tulsa County, Oklahoma.

The Court further finds that on February 21, 1984, Eddie Joe Morris and Johanna Lucille Morris filed their voluntary petition in bankruptcy in Chapter 7 in the United States Bankruptcy Court, Northern District of Oklahoma, Case No. 84-B-210. On April 12, 1984, the United States Bankruptcy Court for the Northern District of Oklahoma entered its Discharge of Debtor releasing the debtors from all dischargeable debts. On May 30, 1986, the subject bankruptcy case was closed.

The Court further finds that on October 22, 1985, First Continental Mortgage Company assigned the above-described mortgage to the Veterans Administration. This Assignment of Mortgage was recorded on January 6, 1986, in Book 4916, Page 1581, in the records of Tulsa County, Oklahoma.

The Court further finds that on February 24, 1986, Eddie Joe Morris and Johanna L. Morris 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 Modification and Reamortization Agreement

pursuant to which the entire debt due on that date was made principal.

The Court further finds that Eddie Joe Morris died on January 13, 1988. Upon the death of Eddie Joe Morris, the subject property vested in his surviving joint tenant, Johanna L. Morris, by operation of law. Certificate of Death No. 07330, State Department of Health, State of Oklahoma, certifies the death of Eddie Joe Morris.

The Court further finds that on October 11, 1990, Johanna Lucille Morris filed her voluntary petition in bankruptcy in Chapter 7 in the United States Bankruptcy Court, Northern District of Oklahoma, Case No. 90-03058-W. On November 14, 1990, the United States Bankruptcy Court for the Northern District of Oklahoma entered its order modifying the automatic stay afforded the debtor by 11 U.S.C. § 362 and directing abandonment of the real property subject to this foreclosure action and which is described above.

The Court further finds that Eddie Joe Morris, now deceased, and Johanna L. Morris made default under the terms of the aforesaid note, mortgage and the modification and reamortization agreement by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, Johanna L. Morris, is indebted to the Plaintiff in the principal sum of \$26,888.90, plus interest at the rate of 8.5 percent per annum from May 1, 1989 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of

\$38.00 (\$20.00 docket fees, \$18.00 fees for service of Summons and Complaint).

The Court further finds that Plaintiff is entitled to a judicial determination of the death of Eddie Joe Morris and to a judicial termination of the joint tenancy of Eddie Joe Morris and Johanna L. Morris in the real property involved herein.

The Court further finds that the Defendant, Osteopathic Radiology, Inc., has a lien on the property which is the subject matter of this action in the amount of \$1,345.00 plus interest and attorney's fees, by virtue of an Affidavit of Judgment, Case No. SC-89-07176, dated September 12, 1989, filed on September 13, 1989, in District Court, Tulsa County, Oklahoma, and recorded on September 15, 1989, in Book 5207, Page 1770 in the records of Tulsa County, Oklahoma. Said lien is inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, Security National Bank, an Oklahoma Banking Corporation, disclaims any right, title, or interest in the subject real property.

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

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that the death of Eddie Joe Morris be and the same hereby is judicially determined to have occurred on January 13, 1988, in the City of Tulsa, Tulsa County, Oklahoma.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the joint tenancy of Eddie Joe Morris and Johanna L. Morris in the above-described real property be and the same hereby is judicially terminated as of the date of the death of Eddie Joe Morris on January 13, 1988.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment in rem against the Defendant, Johanna L. Morris, in the principal sum of \$26,888.90, plus interest at the rate of 8.5 percent per annum from May 1, 1989 until judgment, plus interest thereafter at the current legal rate of 5.42 percent per annum until paid, plus the costs of this action in the amount of \$38.00 (\$20.00 docket fees, \$18.00 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 for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, Osteopathic Radiology, Inc., have and recover judgment in the amount of \$1,345.00 plus interest and attorney's fees, by virtue of an Affidavit of Judgment, Case No. SC-89-07176, dated September 12, 1989, filed on September 13, 1989, in District Court, Tulsa County, Oklahoma, and recorded on September 15, 1989, in Book 5207, Page 1770 in the records of Tulsa County, Oklahoma.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Security National Bank, an Oklahoma Banking

Corporation and County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, Johanna L. Morris, to satisfy the judgment in rem 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 according to Plaintiff's election with or without appraisalment the real property involved herein and apply the proceeds of the sale as follows:

**First:**

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

**Second:**

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

**Third:**

In payment of the judgment rendered herein in favor of Defendant, Osteopathic Radiology, Inc.

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

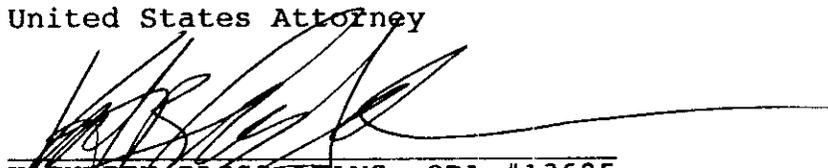
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under

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.

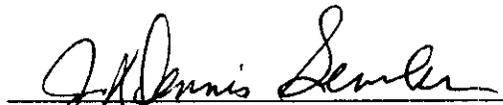
S/ THOMAS B. BRETT  
UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM  
United States Attorney

  
KATHLEEN BLISS ADAMS, OBA #13625  
Assistant United States Attorney  
3600 U.S. Courthouse  
Tulsa, Oklahoma 74103  
(918) 581-7463

  
MARK G. ROBB, OBA #11489  
Attorney for Defendant,  
Osteopathic Radiology, Inc.

  
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-860-B

KBA/css

**FILED**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

NOV 14 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

LYNN MARTIN, Secretary of Labor, )  
United States Department of )  
Labor, )

Civil Action

Plaintiff, )

No. 90-C-901-E

v. )

BOARD OF COUNTY COMMISSIONERS OF )  
THE COUNTY OF CREEK, )

Defendant. )

CONSENT JUDGMENT

Plaintiff has filed her complaint and defendant has waived its defenses and has agreed to the entry of judgment without contest regarding the issues remaining for adjudication in this case, the complaint allegations regarding the deputy sheriffs having been dismissed pursuant to Rule 41(a) of the Federal Rules of Civil Procedure. It is, therefore, upon motion of the plaintiff and for cause shown,

ORDERED, ADJUDGED and DECREED that defendant, its officers agents, servants, employees and all persons in active concert or participation with it be and they hereby are permanently enjoined and restrained from violating the provisions of §§ 7, 11(c), 15(a)(2) and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, et seq., hereinafter referred to as the Act, in any of the following manners:

Defendant shall not, contrary to Sections 7 and 15(a)(2) of the Act, 29 U.S.C. §§ 207 and 215(a)(2) employ any employee in commerce or in the production of goods for commerce, or in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, for workweeks longer than forty (40) hours, unless the employee receives compensation for his employment in excess of forty (40) hours at a rate not less than one and one-half times the regular rate at which he is employed.

Defendant shall not, contrary to Sections 11(c) and 15(a)(5) of the Act, 29 U.S.C. §§ 211(c) and 215(a)(5), fail to make, keep and preserve adequate and accurate records of the persons employed by defendant, and the wages, hours and other conditions and practices of employment maintained by it as prescribed by regulations issued by the Administrator of the Employment Standards Administration, United States Department of Labor (29 C.F.R. Part 516).

Defendant has paid overtime compensation in the total amount of \$1,630.59 which the parties agree, and the court finds, is due under the Act to defendant's employees named in Exhibit A attached hereto in the amounts indicated for the period October 23, 1988 thru November 30, 1989.

It is further ORDERED, that plaintiff shall promptly proceed to make distribution of such unpaid compensation, less income tax and social security deductions, to defendant's employees named

herein in the amounts indicated, or to their estate if necessary. In the event that any of said money cannot be distributed within the period of one (1) year hereof because of inability to locate the proper person, or because of their refusal to accept such sums, the plaintiff shall deposit such funds with the Clerk of this Court who shall forthwith deposit such money with the Treasurer of the United States pursuant to 28 U.S.C. § 2041.

It is further ORDERED, that each of the parties shall bear his or her own costs, fees or other expenses incurred in connection with any stage of this proceeding.

Dated this 13 day of November, 1991.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

Defendant consents to the entry of this judgment:

Plaintiff moves for entry of this judgment:

DAVID S. FORTNEY  
Solicitor of Labor

JAMES E. WHITE  
Regional Solicitor

BOBBIE J. GANNAWAY  
Counsel for Employment  
Standards

By:

  
\_\_\_\_\_  
J. BRUCE SCHULTZ  
Assistant District Attorney

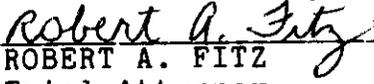
ADDRESS:

Judicial District Number 24  
Creek County Courthouse  
P. O., Box 1006  
Sapulpa, Oklahoma 74067

Telephone: 918/224-3921

Attorney for Defendant.

By:

  
\_\_\_\_\_  
ROBERT A. FITZ  
Trial Attorney

ADDRESS:

Office of the Solicitor  
U. S. Department of Labor  
525 Griffin Street, Suite 501  
Dallas, Texas 75202

Telephone: 214/767-4902

Attorneys for Plaintiff.

RSOL Case No. 90-00924

EXHIBIT A

<u>NAME</u>	<u>AMOUNT</u>
Mylora Burks	\$807.75
Zelma Hindman	253.56
Billy Knight	223.20
Gene Rice	346.08
	<hr/>
	\$1,630.59

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

NOV 14 1991

Richard M. Lawrence, Clerk  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

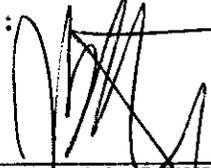
LYNN MARTIN, Secretary of Labor, )  
United States Department of )  
Labor, )  
 )  
Plaintiff, )  
 )  
 )  
v. )  
 )  
BOARD OF COUNTY COMMISSIONERS OF )  
THE COUNTY OF CREEK, )  
 )  
Defendant. )

Civil Action  
No. 90-C-901-E

AGREED MOTION FOR ENTRY OF CONSENT JUDGMENT

Comes now the Secretary of Labor and defendant herein by and through their respective Counsel of Record, and respectfully request this Court to enter the attached Consent Judgment.

Respectfully submitted,  
  
DAVID S. FORTNEY  
Deputy Solicitor of Labor  
  
JAMES E. WHITE  
Regional Solicitor  
  
BOBBIE J. GANNAWAY  
Counsel for Employment Standards

By:   
\_\_\_\_\_  
J. BRUCE SCHULTZ  
Assistant District Attorney  
  
Attorney for Defendant

By:   
\_\_\_\_\_  
ROBERT A. FITZ  
Trial Attorney  
  
Attorneys for Plaintiff.



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

**FILED**  
NOV 14 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

OWEN LEE SWAIM, )  
)  
Petitioner, )  
)  
v. )  
)  
H. N. SCOTT, Warden, and )  
THE ATTORNEY GENERAL OF )  
THE STATE OF OKLAHOMA, )  
)  
Respondents. )

91-C-243-B

ORDER

This order pertains to petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Docket #1)<sup>1</sup> and respondents' Response (#6). The background of this matter was summarized by Magistrate Judge John Leo Wagner in his order of April 23, 1991, and is incorporated herein by reference.

The petitioner alleges that his rights under the Sixth and Fourteenth Amendments of the United States Constitution were violated when he appealed his conviction and the Oklahoma Court of Criminal Appeals ordered his first degree murder conviction changed to second degree murder and his death sentence changed to ten years to life. The respondents contend that petitioner's rights were not violated, because the offense to which the Oklahoma Court of Criminal Appeals reduced the conviction was a lesser included offense of the one for which he was originally convicted.

Petitioner was charged and convicted for murder in the first degree with a predicate felony of armed robbery. Under 21 O.S. § 701.1(2), which was repealed in 1976, a

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<sup>1</sup> "Docket numbers" refer to numerical designations assigned sequentially to each pleading, motion, order, or other filing and are included for purposes of record keeping only. "Docket numbers" have no independent legal significance and are to be used in conjunction with the docket sheet prepared and maintained by the United States Court Clerk, Northern District of Oklahoma.

homicide perpetrated without authority of law and with a premeditated design to bring about the death of any human being, was murder in the first degree when perpetrated by one committing or attempting to commit armed robbery. In ruling on petitioner's appeal, the Oklahoma Court of Criminal Appeals examined the legislative history of this statute and 21 O.S. § 801, the armed robbery statute, and determined that the legislature, by using the word "armed" as a limiting adjective to the element of robbery in enacting § 701.1(2), had not intended to include all forms of robbery within the first degree murder statute.

The Oklahoma Court of Criminal Appeals concluded that petitioner's offense did not qualify as armed robbery because the weapon used was a belt, which was not a dangerous weapon. Thus petitioner could not be guilty of first degree murder since there was no armed robbery within the meaning of § 701.1(2). The court reduced the petitioner's conviction to second degree felony murder with a predicate felony of robbery.

The Tenth Circuit Court of Appeals ruled in Franks v. Alford, 820 F.2d 345, 347 (10th Cir. 1987), that, because under Oklahoma law the elements of a lesser included offense must necessarily be included in an offense charged, when a jury convicts a defendant it necessarily finds all of the elements of a true lesser included offense. "Under those circumstances, a reduction on appeal to the lesser included offense does not run afoul of the Sixth Amendment, because the jury has found all the elements of the lesser offense." Id. See, Morris v. Mathews, 475 U.S. 237, 247 (1986).

Robbery is a lesser included offense of armed robbery, so under Franks, petitioner's rights were not violated when the Court of Criminal Appeals ordered his conviction to be changed. The jury convicted him of first degree murder with a predicate felony of armed

robbery, so it necessarily found all of the elements of second degree murder with a predicate felony of robbery.

There is no merit to petitioner's claim and his petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is denied.

Dated this 14 day of Nov, 1991.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

**FILED**  
**OKLAHOMA COURT**

**NOV 14 1991**

**Richard M. Lawrence, Clerk**  
**U.S. DISTRICT COURT**

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

v.

THE ISLANDS MARINA, LTD., an  
Oklahoma corporation; et al.,  
  
Defendants.

Case No. 88-C-1335-E

and

GENMAR INDUSTRIES, INC.,  
  
Plaintiff,

v.

FIRST NATIONAL BANK & TRUST  
COMPANY OF VINITA,  
  
Defendant.

Case No. 88-C-1499-E  
(Consolidated)

JUDGMENT

This action came on for consideration before the Court upon Stipulated Facts submitted by The First National Bank and Trust Company of Vinita, Vinita, Oklahoma ("FNBV"), and Harris-Kayot, Inc., d/b/a Harris Flotebote ("Flotebote"), and at the request of FNBV and Flotebote for the Court to resolve FNBV's claim against Flotebote on the Stipulated Facts and a decision having been duly rendered,

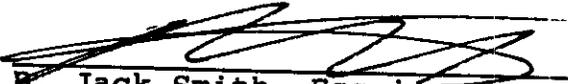
IT IS ORDERED AND ADJUDGED that FNBV recover of Defendant Flotebote the sum of TWENTY-SIX THOUSAND FOUR HUNDRED SIXTEEN and 50/100 DOLLARS (\$26,416.50), with prejudgment interest thereon at the rate of 10.03% from October 9, 1987 through December 31, 1987, 9.95% from January 1, 1988 through December 31, 1988, 10.92% from January 1, 1989 through December 31, 1989, 12.35% from January 1, 1990 through December 31, 1990, and 11.71% from January 1, 1991 until date of filing of this Judgment, pursuant to Okla. Stat. tit. 12, §727, and costs of the action.

DATED at Tulsa, Oklahoma, this 14<sup>th</sup> day of November, 1991.

  
JUDGE

APPROVED AS TO FORM:

  
Richard W. Lowry, O.B.A. #5552  
Logan, Lowry, Johnston,  
McGeady, Curnutte & Logan  
P. O. Box 558  
Vinita, Oklahoma 74301  
(Attorneys for Defendant The First  
National Bank and Trust Company of Vinita)

  
B. Jack Smith, Esquire 483/7  
Works, Lentz & Pottorf  
Boston Place Building  
50 East 15th Street  
Tulsa, Oklahoma 74119  
(Co-Counsel for Defendant Harris-Kayot, Inc.,  
d/b/a Harris Flotebote)

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

**FILED**  
**COURT**

NOV 14 1991

Richard M. Lawrence, Clerk  
U.S. DISTRICT COURT

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

v.

THE ISLANDS MARINA, LTD., an  
Oklahoma corporation; et al.,  
Defendants.

Case No. 88-C-1335-E

and

GENMAR INDUSTRIES, INC.,  
Plaintiff,

v.

FIRST NATIONAL BANK & TRUST  
COMPANY OF VINITA,  
Defendant.

Case No. 88-C-1499-E  
(Consolidated)

JUDGMENT

This action came on for consideration before the Court upon Stipulated Facts submitted by The First National Bank and Trust Company of Vinita, Vinita, Oklahoma ("FNBV"), and Harris-Kayot, Inc., d/b/a Harris Flotebote ("Flotebote"), and at the request of FNBV and Flotebote for the Court to resolve FNBV's claim against Flotebote on the Stipulated Facts and a decision having been duly rendered,

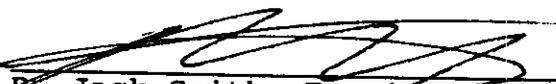
IT IS ORDERED AND ADJUDGED that FNBV recover of Defendant Flotebote the sum of TWENTY-SIX THOUSAND FOUR HUNDRED SIXTEEN and 50/100 DOLLARS (\$26,416.50), with prejudgment interest thereon at the rate of 10.03% from October 9, 1987 through December 31, 1987, 9.95% from January 1, 1988 through December 31, 1988, 10.92% from January 1, 1989 through December 31, 1989, 12.35% from January 1, 1990 through December 31, 1990, and 11.71% from January 1, 1991 until date of filing of this Judgment, pursuant to Okla. Stat. tit. 12, §727, and costs of the action.

DATED at Tulsa, Oklahoma, this 14<sup>th</sup> day of November, 1991.

  
JUDGE

APPROVED AS TO FORM:

  
Richard W. Lowry, O.B.A. #5552  
Logan, Lowry, Johnston,  
McGeady, Curnutte & Logan  
P. O. Box 558  
Vinita, Oklahoma 74301  
(Attorneys for Defendant The First  
National Bank and Trust Company of Vinita)

  
B. Jack Smith, Esquire #8317  
Works, Lentz & Pottorf  
Boston Place Building  
50 East 15th Street  
Tulsa, Oklahoma 74119  
(Co-Counsel for Defendant Harris-Kayot, Inc.,  
d/b/a Harris Flotebote)

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

FRANCES T. GATHRIGHT and )  
CARY K. GATHRIGHT, husband and )  
wife, )  
 )  
Plaintiffs, )

vs. )

AMERICAN REPUBLIC INSURANCE )  
COMPANY, )  
 )  
Defendant and )  
Third-Party Plaintiff, )

vs. )

LINUS MUSE, )  
 )  
Third-Party Defendant. )

Case No. 89-C-1059-C

District Court No.  
CJ-89-6363 - Tulsa County

FILED

NOV 18 1991

Walter J. Tompkins, Clerk  
U.S. District Court  
Northern District of Oklahoma

AMENDED JUDGMENT

This matter was tried before a jury from February 19, 1991, through February 25, 1991, the Honorable H. Dale Cook presiding. On February 25, 1991, the jury returned the following verdicts:

1. In favor of the Plaintiffs, Frances T. and Cary K. Gathright, and against Defendant, American Republic Insurance Company, with respect to Defendant's affirmative defense of misrepresentation and omission in the insurance application submitted by Plaintiffs, finding that no material misrepresentations or omission were made.

2. In favor of the Defendant and against Plaintiffs as to Plaintiffs' claim that Defendant committed an Unfair Trade Practice as a result of noncompliance with certain provisions of 36 O.S. § 1219.

152

3. In favor of the Plaintiffs and against Defendant with respect to Plaintiffs' claim that Defendant breached the obligations of good faith and fair dealing that it owes to Plaintiffs, finding that as a result of the breach of such obligations, Plaintiff Frances T. Gathright is entitled to actual damages in the amount of \$10,000.00, and Plaintiff Cary K. Gathright is entitled to actual damages in the amount of \$10,000.00.

4. In favor of Plaintiffs and against Defendant with respect to Plaintiffs' claim for punitive damages as a result of Defendant's breach of the obligations of good faith and fair dealing that it owes to Plaintiffs, finding that Plaintiffs are entitled to recover punitive damages in the amount of \$50,000.00.

Upon a finding by the Court, the punitive damage award has been reduced to the amount of \$20,000.00 for the reasons set out in the Court's Order of October 24, 1991. Therefore, punitive damages of \$20,000.00 should be awarded the Plaintiffs.

5. In favor of the Third Party Defendant, Linus Muse, and against Defendant, with respect to the Defendant's third party claim against Muse for indemnification.

As a result of the jury's verdict set forth in paragraph 1, above, the Plaintiffs are entitled to recover from Defendant the amount of \$53,545.71, representing the amount of medical expenses which Plaintiffs had incurred and been billed for as of February 19, 1991, which would be covered under the provisions of health insurance policy number 5952622 (the Policy), issued by Defendant to Plaintiffs on May 4, 1989, together with interest on

such expenses, calculated in accordance with the provisions of 36 O.S. § 3629, through the date of the verdict herein, in the amount of \$11,101.91. As a further result of such verdict, Plaintiff Frances T. Gathright is entitled to be reinstated as an insured party under the terms of the Policy, as though she had been insured continuously from the date of issuance of such policy, and Defendant is entitled to deduct from the damages for medical expenses set forth above, premiums that would have been paid with respect to Plaintiff Frances T. Gathright for insurance coverage under the Policy, in the total amount of \$1,800.60.

IT IS, THEREFORE, ORDERED that judgment should be and hereby is entered on behalf of Plaintiffs and against Defendant for expenses covered by the Policy, and interest thereon, in the amount of \$62,847.02, for actual damages for Defendant's breach of its obligations of good faith and fair dealing in the amount of \$10,000.00 to Plaintiff Frances T. Gathright and \$10,000.00 to Plaintiff Cary K. Gathright, for punitive damages in the amount of \$20,000.00, with post-judgment interest on all of such judgment amounts at the rate of 6.21% per annum until paid.

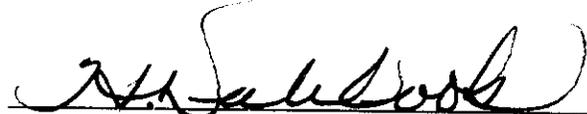
IT IS FURTHER ORDERED by the Court, that Plaintiff Frances T. Gathright is to be immediately reinstated as an insured party under the terms of health insurance policy number 5952622 issued by Defendant on May 4, 1989, as though said Plaintiff had been insured thereunder from the date of issue of said policy.

IT IS FURTHER ORDERED that Plaintiffs are granted judgment for recovery of their costs in the amount of \$7,353.65, and

recovery of their attorneys' fees in the amount of \$90,000.00, as provided for by the Court's Order of July 29, 1991.

IT IS FURTHER ORDERED that Defendant should have no recovery of its attorneys' fees as provided for in the Court's Order of October 29, 1991.

IT IS SO ORDERED this 13 day of November, 1991.

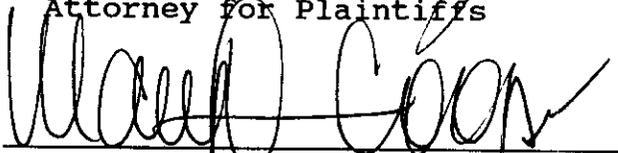


H. DALE COOK, CHIEF JUDGE  
UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF OKLAHOMA

APPROVED:



DALLAS E. FERGUSON,  
Attorney for Plaintiffs



MARY QUINN-COOPER,  
Attorney for Defendant

FILED

United States District Court

NOV 13 1991

NORTHERN

DISTRICT OF

OKLAHOMA

RICHARD M. LAWRENCE

CLERK

U.S. DISTRICT COURT

OKLAHOMA

BRENDA PAPER,

Plaintiff,

v.

WAL-MART STORES, INC.

Defendant.

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 89-C-346-E

- Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict. as set forth below:
- Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

Based upon the verdict returned by the jury in this case on August 23, 1991, and previous Orders of the Court, judgment is hereby entered on Plaintiff's First Cause of Action partially in favor of the Plaintiff and against the Defendant in the amount of \$8,687.80, plus costs as assessed by the Court Clerk. Judgment on Plaintiff's First Cause of Action is entered partially in favor of Defendant and against Plaintiff, and judgment on Plaintiff's Second and Third Causes of Action is hereby entered in favor of the Defendant and against Plaintiff, in accordance with the jury's verdict and previous Orders of the Court.

November 13, 1991

Date

Clerk

**TIME STUDY CASE**  
Record Time Spent by Judge or Magistrate

*Helen R. Miller*  
(By) Deputy Clerk

APPROVED AS TO FORM:

By: Robert J. Briggs  
Robert Briggs, Esq.  
CHAPEL, RIGGS, ABNEY,  
NEAL & TURPEN  
502 West Sixth Street  
Tulsa, OK 74119

Attorneys for Plaintiff, Brenda Paper

By: John J. Carwile  
Lynn P. Mattson, Esq.  
John J. Carwile, Esq.  
DOERNER, STUART, SAUNDERS,  
DANIEL & ANDERSON  
320 South Boston, Suite 500  
Tulsa, Oklahoma 74103  
(918)582-1211

Attorneys for Defendant, Wal-Mart Stores, Inc.





acknowledged receipt of Summons and Complaint on April 18, 1991; that Defendant, County Treasurer, Rogers County, Oklahoma, acknowledged receipt of Summons and Complaint on April 22, 1991; and that Defendant, Board of County Commissioners, Rogers County, Oklahoma, acknowledged receipt of Summons and Complaint on April 22, 1991.

It appears that the Defendants, County Treasurer, Rogers County, Oklahoma, and Board of County Commissioners, Rogers County, Oklahoma, filed their Answer on April 24, 1991; that the Defendant, Dr. Larry Lane, filed his Disclaimer on May 13, 1991; and that the Defendants, Randy Charles Leathers and Bethany E. Leathers, have failed to answer and their default has therefore been entered by the Clerk of this Court.

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

The Easterly 31 feet of Lot 2, and all of Lot 3 in Block 32, of the Town of Chelsea, Oklahoma, according to the U.S. Government Plat thereof, Rogers County, Oklahoma.

The Court further finds that on September 19, 1978, the Defendants, Randy Charles Leathers and Bethany E. Leathers, executed and delivered to Midland Mortgage Co. their mortgage note in the amount of \$23,500.00, payable in monthly installments, with interest thereon at the rate of 9.5 percent per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Randy Charles Leathers and Bethany E. Leathers, executed and delivered to Midland Mortgage Co., a mortgage dated September 19, 1978, covering the above-described property. Said mortgage was recorded on September 27, 1978, in Book 544, Page 932, in the records of Rogers County, Oklahoma.

The Court further finds that on November 15, 1988, Midland Mortgage Co. assigned the above-described mortgage to MidFirst Savings and Loan Association. This Assignment of Mortgage of Real Estate was recorded on November 30, 1988, in Book 797, Page 29 in the records of Rogers County, Oklahoma.

The Court further finds that on June 23, 1989, MidFirst Savings and Loan Association assigned the above-described mortgage to the Secretary of Veterans Affairs. This Assignment of Mortgage of Real Estate was recorded on October 13, 1989, in Book 817, Page 845 in the records of Rogers County, Oklahoma. The mortgage interest rate was reduced to 7.5 percent per annum.

The Court further finds that the Defendants, Randy Charles Leathers and Bethany E. Leathers, 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, Randy Charles Leathers and Bethany E. Leathers, are indebted to the Plaintiff in the principal sum of \$20,374.22, plus interest at the rate of 7.5 percent per annum from November 1, 1989 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$56.00 (\$20.00 docket fees, \$28.00 fees for service of Summons and Complaint, \$8.00 fee for recording Notice of Lis Pendens).

The Court further finds that the Defendant, Dr. Larry Lane, disclaims any right, title, or interest in the subject real property.

The Court further finds that the Defendant, Bank of Chelsea, has a lien on the property which is the subject matter of this action in the amount of \$6,572.08, plus interest at the rate of 13.25 percent per annum and costs, by virtue of a Real Estate Mortgage, dated October 22, 1990, and recorded on November 5, 1990, in Book 842, Page 670 in the records of Rogers County, Oklahoma. Said lien is inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Rogers 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, Randy Charles Leathers and Bethany E. Leathers, in the principal sum of \$20,374.22, plus interest at the rate of 7.5 percent per annum from November 1, 1989 until judgment, plus interest thereafter at the current legal rate of 5.42 percent per annum until paid, plus the costs of this action in the amount of \$56.00 (\$20.00 docket fees, \$28.00 fees for service of Summons and Complaint, \$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 for the preservation of the subject property.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the Defendant, Bank of Chelsea, have and recover judgment in the

amount of \$6,572.08 , plus interest at the rate of 13.25 percent per annum and costs, by virtue of a Real Estate Mortgage, dated October 22, 1990, and recorded on November 5, 1990, in Book 842, Page 670 in the records of Rogers County, Oklahoma.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Dr. Larry Lane and County Treasurer and Board of County Commissioners, Rogers 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, Randy Charles Leathers and Bethany E. Leathers, 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 advertize and sell according to Plaintiff's election with or without appraisalment the real property involved herein and apply the proceeds of the sale as follows:

**First:**

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

**Second:**

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

**Third:**

In payment of the judgment rendered herein in favor of the Defendant, Bank of Chelsea.

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.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

APPROVED:

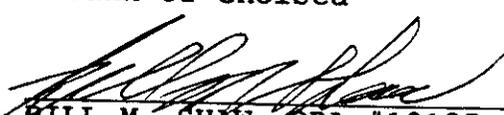
TONY M. GRAHAM  
United States Attorney



KATHLEEN BLISS ADAMS, OBA #13625  
Assistant United States Attorney  
3600 U.S. Courthouse  
Tulsa, Oklahoma 74103  
(918) 581-7463



TOM H. BRUNER, OBA #1253  
Attorney for Defendant,  
Bank of Chelsea



BILL M. SHAW, OBA #10127  
Assistant District Attorney  
Attorney for Defendants,  
County Treasurer and  
Board of County Commissioners,  
Rogers County, Oklahoma

Judgment of Foreclosure  
Civil Action No. 91-C-247-C

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

FILED

NOV 13 1991

RECEIVED  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

THE BOARD OF TRUSTEES OF THE )  
PIPELINE INDUSTRY BENEFIT FUND, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
HIGH PLAINS CONSTRUCTION CO., )  
an Oklahoma corporation, )  
 )  
Defendant. )

No. 91-C-591-C

**AMENDED DEFAULT JUDGMENT**

Judgment is hereby entered in favor of The Board of Trustees of the Pipeline Industry Benefit Fund on its Complaint in the amount of \$6,509.67, together with reasonable attorney fees of \$250.00, together with Court Costs herein of \$100.00.

DATED this 13 day of Nov, 1991.

(Signed) H. Dale Cook

JUDGE OF THE UNITED STATES DISTRICT COURT

THIS ORDER IS TO BE MAILED  
BY MAIL TO ALL CONCERNED AND  
PRO SE PARTIES IMMEDIATELY  
UPON RECEIPT.

entered

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

CHARLES H. DAVIS, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 AMERICAN EXPRESS COMPANY, a New York )  
 corporation, )  
 )  
 Defendant, )  
 )  
 AMERICAN EXPRESS TRAVEL RELATED SERVICES )  
 COMPANY, INC. d/b/a AMEX TRAVEL; and )  
 AMEX ASSURANCE COMPANY, )  
 )  
 Additional Party Defendants and )  
 Third-Party Plaintiffs, )  
 )  
 v. )  
 )  
 INTERNATIONAL CLAIM SERVICE )  
 CORPORATION, )  
 )  
 Third-Party Defendant. )

No. 90-C-651-C ✓

FILED  
 NOV 13 1991 pw  
 Clerk of the United States District Court  
 Northern District of Oklahoma

ORDER OF DISMISSAL WITHOUT PREJUDICE

Upon stipulation by the parties, the Court hereby dismisses without prejudice Defendant American Express Company. This dismissal is effective only as to Defendant American Express Company.

Dated this 13 day of November, 1991.

  
 United States District Judge

64



Freinckle and Lee Freinckle, with interest and costs to date of sale is \$48,989.74.

The Court further finds that the appraised value of the real property at the time of sale was \$14,500.00.

The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Amended Judgment of this Court entered January 14, 1991, for the sum of \$24,697.00 which is more than the market value.

The Court further finds that the Marshal's sale was confirmed pursuant to the Order of this Court on November 1, 1991.

The Court further finds that the Plaintiff, United States of America on behalf of the Secretary of Veterans Affairs, is accordingly entitled to a deficiency judgment against the Defendants, Craig A. Freinckle and Lee Freinckle, as follows:

Principal Balance as of 1-14-91	\$41,663.45
Interest	5,531.34
Late Charges to Date of Judgment	318.88
Appraisal by Agency	500.00
Management Broker Fees to Date of Sale	339.25
Abstracting	262.00
Publication Fees of Notice of Sale	149.82
Court Appraisers' Fees	<u>225.00</u>
TOTAL	\$48,989.74
Less Credit of Sale Proceeds	- <u>24,697.00</u>
DEFICIENCY	\$24,292.74

plus interest on said deficiency judgment at the legal rate of 5.42 percent per annum from date of deficiency judgment until

paid; said deficiency being the difference between the amount of Judgment rendered herein and the sale proceeds of the property herein.

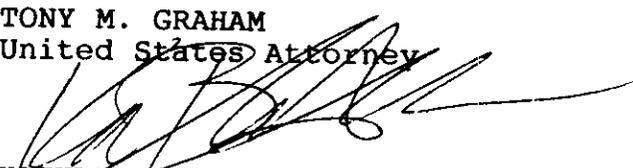
IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the United States of America on behalf of the Secretary of Veterans Affairs have and recover from Defendants, Craig A. Freincle and Lee Freincle, a deficiency judgment in the amount of \$24,292.74, plus interest at the legal rate of 5.42 percent per annum on said deficiency judgment from date of judgment until paid.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

TONY M. GRAHAM  
United States Attorney

  
KATHLEEN BLISS ADAMS, OBA #13625  
Assistant United States Attorney  
3600 U.S. Courthouse  
Tulsa, Oklahoma 74103  
(918) 581-7463

KBA/esr



UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 CURTIS D. BALL; JACKIE BALL; )  
 GLENN R. TAYLOR; COUNTY )  
 TREASURER, Tulsa County, )  
 Oklahoma; and BOARD OF COUNTY )  
 COMMISSIONERS, Tulsa County, )  
 Oklahoma, )  
 )  
 Defendants. )

FILED

NOV 12 1991

Richard M. Lawrence, Clerk  
U.S. DISTRICT COURT

CIVIL ACTION NO. 91-C-0071-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 12<sup>th</sup> day of November, 1991. The Plaintiff appears by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Kathleen Bliss Adams, 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, Curtis D. Ball, Jackie Ball and Glenn R. Taylor, appear not, but make default.

The Court, being fully advised and having examined the court file, finds that the Defendant, Curtis D. Ball, acknowledged receipt of Summons and Complaint on February 19, 1991; that the Defendant, Jackie Ball, was served with Summons and Complaint on April 12, 1991; that the Defendant, Glenn R. Taylor, was served with Summons and Complaint on April 22, 1991; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on February 19,

1991; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on February 8, 1991.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, filed his Answer on February 28, 1991; that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, filed their Answer on February 28, 1991; and that the Defendants, Curtis D. Ball, Jackie Ball and Glenn R. Taylor, 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 Seven (7), Block Fifty-three (53), VALLEY VIEW ACRES THIRD ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

The Court further finds that on February 27, 1976, the Defendant, Curtis D. Ball, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, his mortgage note in the amount of \$10,850.00, payable in monthly installments, with interest thereon at the rate of 9 percent (9%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendant, Curtis D.

Ball, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated February 27, 1976, covering the above-described property. Said mortgage was recorded on March 1, 1976, in Book 4204, Page 1744, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendant, Curtis D. Ball, made default under the terms of the aforesaid note and mortgage by reason of his failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, Curtis D. Ball, is indebted to the Plaintiff in the principal sum of \$9,010.65, plus interest at the rate of 9 percent per annum from January 1, 1990 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$33.44 (\$20.00 docket fees, \$13.44 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, Curtis D. Ball, Jackie Ball and Glenn R. Taylor, are in default and have 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, Curtis D. Ball, in the principal sum of \$9,010.65, plus interest at the

rate of 9 percent per annum from January 1, 1990 until judgment, plus interest thereafter at the current legal rate of 5.42 percent per annum until paid, plus the costs of this action in the amount of \$33.44 (\$20.00 docket fees, \$13.44 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 for the preservation of the subject property.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the Defendants, Curtis D. Ball, Jackie Ball, Glenn R. Taylor, and County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that upon the failure of said Defendant, Curtis D. Ball, 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, according to Plaintiff's election with or without 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.

~~CLARENCE O. ELLISON~~  
UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM  
United States Attorney



KATHLEEN BLISS ADAMS, OBA #13625  
Assistant United States Attorney  
3600 U.S. Courthouse  
Tulsa, Oklahoma 74103  
(918) 581-7463

Judgment of Foreclosure  
Civil Action No. 91-C-0071-E

KBA/esr

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

STATE FEDERAL SAVINGS ASSOCIATION,  
by and through its Conservator,  
Resolution Trust Corporation,  
as successor-in-interest to certain  
assets of State Federal Savings  
and Loan Association,

Plaintiff,

vs.

TEAM DEVELOPMENT CORPORATION; JOHN  
F. CANTRELL, County Treasurer,  
Tulsa County; BOARD OF COUNTY  
COMMISSIONERS, Tulsa County, Oklahoma;  
and HARRIET C. SHERRILL,

Defendants.

**FILED**

NOV 12 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

No. 90-C-810-B

ORDER CONFIRMING SHERIFF'S SALE

NOW, on this 12<sup>th</sup> day of November, 1991, this  
matter comes on to be heard upon the Report and Recommendation of  
the Magistrate Judge in the above-entitled cause as to Plaintiff's  
Motion to Confirm the sale of real estate made by the Sheriff of  
Tulsa County, Oklahoma, to the purchaser, Resolution Trust  
Corporation ("RTC") as Receiver for State Federal Savings  
Association, on May 21, 1991, under an order of sale issued out of  
the Office of the Court Clerk of the United States District Court  
for the Northern District of Oklahoma, said sale being of the  
following described real estate situated in Tulsa County, Oklahoma,  
to-wit:

Lot Seventeen (17) in Block Five (5) of HALE  
ACRES, an Addition in Tulsa County, Oklahoma,  
according to the recorded Plat thereof a/k/a  
11308 North Mingo Valley Expressway, Owasso,  
Oklahoma 74055 (the "Property")

and the Court, having examined the Report and Recommendation as to the proceedings herein and the proceedings of said Sheriff and his return thereof under order of sale herein, finds that due and proper notice of this hearing has been given to the judgment debtor, any holder of record of an interest in the Property, and all other persons required to be notified pursuant to 12 O.S. §765; the Court further finds that the sale proceedings have been performed and done in all respects in conformity to law; that the bid of Plaintiff in the amount of \$33,500.00 is the highest and best bid that could be obtained, such bid being for more than two-thirds of the appraised value, said appraised value thereof being the sum of \$50,000.00; and that said sale was made after due and legal notice of the time and place of sale.

The Court finds that Plaintiff has exercised due diligence and has given personal notice of the Sheriff's Sale to those parties who had an interest or estate in the Property and whose actual whereabouts were known or could have been ascertained with due diligence, all in accordance with 12 O.S. §764. The Court finds the notice of the Sheriff's Sale given herein meets both statutory requirements and the minimum standards of state and federal due process.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by this Court that the Clerk make an entry on the journal that the Court is satisfied with the legality of said sale and that the Report and Recommendation of the Magistrate be affirmed and adopted by this Court.

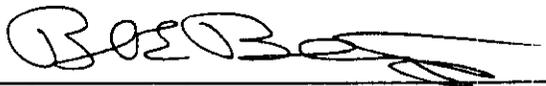
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that the said sale and all of the proceedings herein be, and the same are hereby, in all respects approved and confirmed; and that Stanley Glanz, Sheriff of Tulsa County, Oklahoma (upon credit of the purchase price on Plaintiff's judgment herein), make and execute to Resolution Trust Corporation as Receiver for State Federal Savings Association, a good and sufficient deed for said lands and tenements.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the said purchaser of said premises, lands and tenements at said sale, as aforesaid, be immediately let into possession of said premises, and each and every part thereof, and the Clerk of this Court is ordered, upon request of purchaser, to issue a writ of assistance to the Sheriff of this County, directing him to place said purchaser of said premises in full possession thereof; and the said Defendants, and each of them, and every person who has come into possession of said premises, or any part thereof, under the said Defendants, or any of them, since the commencement of this action, shall, upon presentation of such writ of assistance, immediately deliver possession thereof to said purchaser; and the refusal of said Defendants, or any of them, or anyone in possession of said premises so to do shall constitute contempt of this Court.

SI THOMAS R. BRETT

Judge of the United States  
District Court for the Northern  
District of Oklahoma

**APPROVED:**



---

Burk E. Bishop, OBA #628  
Boesche, McDermott & Eskridge  
100 West 5th Street  
800 ONEOK Plaza  
Tulsa, Oklahoma 74103  
(918) 583-1777

ATTORNEYS FOR PLAINTIFF,  
RESOLUTION TRUST CORPORATION,  
as Receiver for STATE FEDERAL  
SAVINGS ASSOCIATION

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

NOV 12 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

JUDY A. MILLER, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 SPECIAL-EYES, INC., )  
 an Oklahoma corporation, )  
 )

No. 91-C-285-B

ORDER APPROVING STIPULATION  
FOR DISMISSAL WITH PREJUDICE

On this 12<sup>th</sup> day of November 1991, this matter comes on for consideration by the Court of the Stipulation for Dismissal with Prejudice in the above-captioned action, and the Court, having reviewed the Stipulation and being fully advised, finds the Stipulation should be approved, and the above-captioned is hereby dismissed with prejudice, each party bearing its own costs.

S/ THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

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

COPY

FILED

NOV 12 1991

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

BILLY R. VINING, TRUSTEE  
ON BEHALF OF THE BANKRUPTCY  
ESTATE OF STEVE D. THOMPSON  
TRUCKING, INC.,

Plaintiff,

vs.

Case No. 91-C-653-B

B.P.C. INDUSTRIES, INC.  
f/k/a BOLT-PAC CO.,  
Defendant.

ORDER GRANTING DISMISSAL

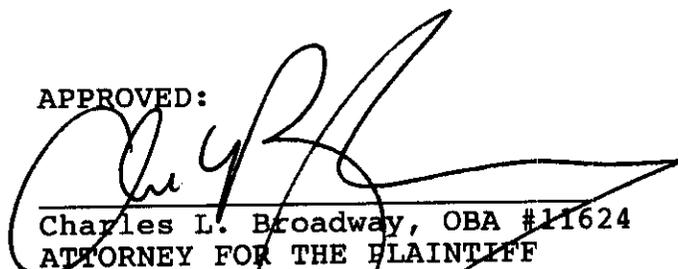
NOW on this 12<sup>th</sup> day of November, 1991, the Plaintiff's Dismissal With Prejudice having been previously filed herein it is the finding of this court that the said cause of action should be Dismissed With Prejudice.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above entitled cause of action be and is hereby Dismissed With Prejudice.

S/ THOMAS R. BRETT

Judge

APPROVED:

  
Charles L. Broadway, OBA #11624  
ATTORNEY FOR THE PLAINTIFF

  
Gary S. Hess, #12334  
ATTORNEY FOR DEFENDANT

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

FEDERAL DEPOSIT INSURANCE CORPORATION, )  
in its corporate capacity, )  
 )  
Plaintiff, )  
vs. )  
 )  
CHARLES R. RITTENBERRY and RAYLEEN S. )  
RITTENBERRY, husband and wife; )  
TRAVELERS INSURANCE COMPANY, a )  
Connecticut Corporation; and STATE OF )  
OKLAHOMA, ex rel. OKLAHOMA TAX )  
COMMISSION; )  
 )  
Defendants. )

No. 90-C-626-B ✓

**FILED**  
NOV 12 1991  
Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

**ORDER CONFIRMING SHERIFF'S SALE AND DIRECTING  
PAYMENT OF REGISTRY FUNDS**

NOW, on this 12<sup>th</sup> day of November, 1991, this matter comes on to be heard upon the Report and Recommendation of the Magistrate Judge in the above-entitled cause as to Plaintiff's Motion to Confirm the sale of real estate made by the Sheriff of Tulsa County, Oklahoma, to the purchaser N. Franklyn Casey on August 27, 1991, under an order of sale issued out of the Office of the Court Clerk of the United States District Court for the Northern District of Oklahoma, said sale being of the following described real estate situated in Tulsa County, Oklahoma, to-wit:

Lots Six (6) and Eleven (11), Block One (1), TOWN AND COUNTRY ESTATES, an Addition to Tulsa County, State of Oklahoma, according to the recorded plat thereof, a/k/a 3801 East 74th Street, Tulsa, Oklahoma 74136 (the "Property")

and the Court, having examined the Report and Recommendation as to the proceedings herein and the proceedings of said Sheriff and his return thereof under order of sale herein, finds that due and proper notice of this hearing has been given to the judgment

debtors, any holder of record of an interest in the Property, and all other persons required to be notified pursuant to 12 O.S. §765; the Court further finds that the sale proceedings have been performed and done in all respects in conformity to law; that the bid of N. Franklyn Casey for the sum of \$478,000.00, is the highest and best bid that could be obtained, such bid being for more than two-thirds of the appraised value, said appraised value thereof being the sum of \$700,000.00; and that said sale was made after due and legal notice of the time and place of sale.

The Court finds that Plaintiff has exercised due diligence and has given personal notice of the Sheriff's Sale to those parties who had an interest or estate in the Property and whose actual whereabouts were known or could have been ascertained with due diligence, all in accordance with 12 O.S. §764. The Court finds the notice of the Sheriff's Sale given herein meets both statutory requirements and the minimum standards of state and federal due process.

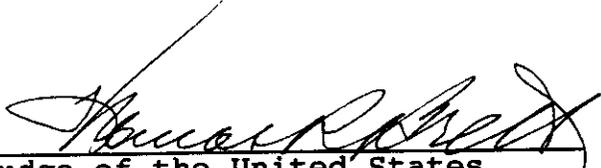
IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by this Court that the Clerk make an entry on the journal that the Court is satisfied with the legality of said sale and that the Report and Recommendation of the Magistrate be affirmed and adopted by this Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by this Court that the Clerk pay all of the funds currently deposited in the Court's Registry of Funds related to this matter and less the Clerk's fees, if any, to the Federal Deposit Insurance Corporation

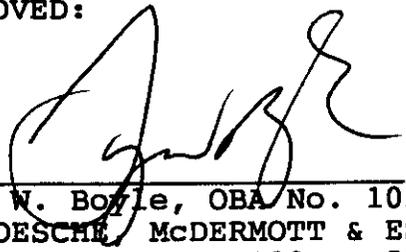
in its corporate capacity and that the purchaser, N. Franklyn Casey, pay the remaining of the purchase price, to-wit \$430,200.00, to the Federal Deposit Insurance Corporation in its corporate capacity.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that the said sale and all of the proceedings herein be, and the same are hereby, in all respects approved and confirmed; and that Stanley Glanz, Sheriff of Tulsa County, Oklahoma (upon payment of the purchase price by N. Franklyn Casey to the Clerk of this Court), make and execute to N. Franklyn Casey, a good and sufficient deed for said lands and tenements.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the said purchaser of said premises, lands and tenements at said sale, as aforesaid, be immediately let into possession of said premises, and each and every part thereof, and the Clerk of this Court is ordered, upon request of purchaser, to issue a writ of assistance to the Sheriff of this County, directing him to place said purchaser of said premises in full possession thereof; and the said Defendants, and each of them, and every person who has come into possession of said premises, or any part thereof, under the said Defendants, or any of them, since the commencement of this action, shall, upon presentation of such writ of assistance, immediately deliver possession thereof to said purchaser; and the refusal of said Defendants, or any of them, or anyone in possession of said premises so to do shall constitute contempt of this Court.

  
\_\_\_\_\_  
Judge of the United States  
District Court for the Northern  
District of Oklahoma

APPROVED:

  
\_\_\_\_\_  
Gary W. Boyle, OBA No. 1027  
Of BOESCHE, McDERMOTT & ESKRIDGE  
800 ONEOK Plaza, 100 W. 5th St.  
Tulsa, OK 74103  
(918) 583-1777

ATTORNEYS FOR PLAINTIFF  
FEDERAL DEPOSIT INSURANCE CORPORATION,  
in its corporate capacity

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
PHILLIP E. BRYANT,  
Defendant.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

Civil Action No. 91-C-489-E

**F I L E D**

NOV 12 1991

DEFAULT JUDGMENT

Richard M. Lawrence, Clerk  
U. S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

This matter comes on for consideration this 31 day of October, 1991, the Plaintiff appearing by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Kathleen Bliss Adams, Assistant United States Attorney, and the Defendant, Phillip E. Bryant, appearing not.

The Court being fully advised and having examined the court file finds that Defendant, Phillip E. Bryant, acknowledged receipt of Summons and Complaint on July 29, 1991. 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, Phillip E. Bryant, for the principal amount of \$2,143.56, plus administrative costs in the amount of \$92.25, plus accrued interest of \$1,630.14 as of May 2, 1991, plus interest thereafter at the

rate of 9 percent per annum until judgment, plus interest thereafter at the current legal rate of 5.42 percent per annum until paid, plus costs of this action.

S/ JAMES O. ELLISON

---

United States District Judge

Submitted By:



---

KATHLEEN BLISS ADAMS, OBA# 13625  
Assistant United States Attorney  
333 West 4th Street  
Tulsa, Oklahoma 74103  
(918)581-7463