

ENTERED ON...
JUN 10 1994

FILED

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

JUN 9 1994

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

RONALD E. O'DELL and PAULA
O'DELL, husband and wife,)

Plaintiffs,)

v.)

Case No. 93-C-754-B

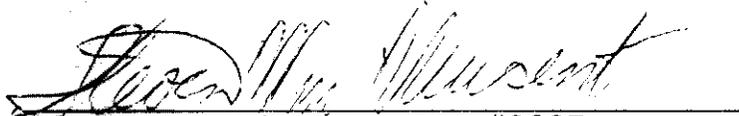
WILLIAM THOMAS McCOLLOUGH,)
SUN REFINING AND MARKETING)
COMPANY, JOHN H. TUCKER,)
ROBERT P. REDEMANN, AND)
RHODES, HIERONYMUS, JONES,)
TUCKER & GABLE, a)
Professional Corporation,)

Defendants.)

JOINT STIPULATION OF DISMISSAL
PURSUANT TO FED.R.CIV.P., RULE 41(a)(2)

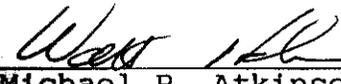
COME NOW the Plaintiffs, by and through their attorney of record, Steven Wm. Vincent, and upon agreement of counsel, hereby dismiss the law firm of Rhodes, Hieronymus, Jones, Tucker & Gable, Robert Redemann and John H. Tucker, without prejudice. This Dismissal shall become final and with prejudice on September 5, 1994.

Respectfully submitted,



Steven Wm. Vincent, OBA #9237
3314 E. 51st St., Suite 201-B
Tulsa, OK 74135-3527
(918) 743-3700

**ATKINSON, HASKINS, NELLIS, BOUDREAUX,
HOLEMAN, PHIPPS & BRITTINGHAM**


Michael P. Atkinson, OBA #374
Walter D. Haskins, OBA #3964
Galen L. Brittingham, OBA #12226
1500 ParkCentre
525 South Main
Tulsa, OK 74103-4524
Telephone: (918) 582-8877
Facsimile: (918) 585-8096

336\300\jntstip.mc

RECORDED ON DEPT. OF JUSTICE
JUN 10 1994

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 NINETEEN THOUSAND ONE)
 HUNDRED TWELVE DOLLARS)
 (\$19,112.00) IN UNITED)
 STATES CURRENCY,)
)
 Defendant.)

CIVIL ACTION NO. 93-C-393-B

FILED

JUN 08 1994

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

JUDGMENT OF FORFEITURE
BY DEFAULT AND BY STIPULATION

This cause having come before this Court upon the plaintiff's Motion for Judgment of Forfeiture by Default and by Stipulation against the defendant currency and all entities and/or persons interested in the defendant currency, the Court finds as follows:

The verified Complaint for Forfeiture In Rem was filed in this action on the 30th day of April 1993, alleging that the defendant currency was subject to forfeiture pursuant to 21 U.S.C. § 881, because it was furnished, or intended to be furnished, in exchange for a controlled substance, or was purchased with proceeds traceable to such an exchange.

Warrant of Arrest and Notice In Rem was issued on the 30th day of April 1993, by the Clerk of this Court to the United States Marshal for the Northern District of Oklahoma for the

seizure and arrest of the defendant currency and for publication in the Northern District of Oklahoma.

On the 14th day of June 1993, the United States Marshals Service served a copy of the Complaint for Forfeiture In Rem, the Warrant of Arrest and Notice In Rem, and the Order on the defendant currency.

Tom Nery Wilson, who was determined to be the only potential claimant in this action with possible standing to file a claim to the defendant currency, entered into a Stipulation for Forfeiture of the sum of Sixteen Thousand Six Hundred Twelve Dollars (\$16,612.00) of the defendant currency to the United States of America, and the plaintiff, the United States of America agreed to return to Claimant Tom Nery Wilson the sum of Two Thousand Five Hundred Dollars (\$2,500.00) of the defendant currency, and the cost and claim bond which he posted in the amount of One Thousand Nine Hundred Eleven Dollars (\$1,911.00), less costs and expenses incurred by the United States Marshals Service in the amount of One Hundred Seventeen and 44/100 Dollars (\$117.44).

USMS 285 reflecting the service upon the defendant currency is on file herein. On May 10, 1994, Tom Nery Wilson executed a Stipulation for Forfeiture of the above portion of the defendant currency. This Stipulation for Forfeiture was filed on May 17, 1994.

Dollars (\$16,612.00) of the defendant currency on May 10, 1994; filed May 17, 1994.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Judgment be entered against the following portion of the defendant currency:

**SIXTEEN THOUSAND SIX HUNDRED
TWELVE DOLLARS
(\$16,612.00) IN UNITED
STATES CURRENCY,**

and that such currency be, and it is, forfeited to the United States of America for disposition according to law.

IT IS FURTHER ORDERED by the Court that the sum of Two Thousand Five Hundred Dollars (\$2,500.00) of the seized currency be returned to Claimant Tom Nery Wilson, by mailing to his attorney, Janet Sherman, 2115 Main Street, Santa Monica, California 90405.

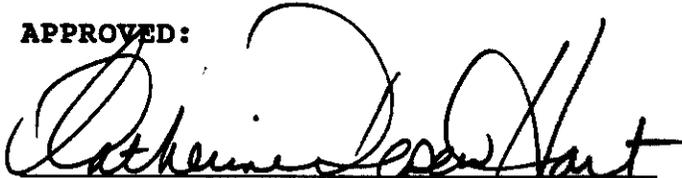
IT IS FURTHER ORDERED by the Court that the Costs and expenses incurred by the United States Marshals Service, in the amount of One Hundred Seventeen and 44/100 Dollars (\$117.44) be deducted from the cost and claim bond in the amount of One Thousand Nine Hundred Eleven Dollars (\$1,911.00) posted by Tom Nery Wilson, and that the remaining balance, the sum of One Thousand Seven Hundred Ninety-three and 56/100 Dollars (\$1,793.56) be returned to Claimant Tom Nery Wilson, by mailing

to his attorney, Janet Sherman, 2115 Main Street, Santa Monica,
California 90405.

S/ THOMAS R. BRETT

THOMAS R. BRETT,
United States District Judge

APPROVED:



CATHERINE DEPEW HART
Assistant United States Attorney

N:\UDD\CHOOK\FC\WILSON1\03928

ENTERED ON
DATE JUN 10 1994

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 David L. Reel; Dena K. Reel;)
 State of Oklahoma, ex rel.)
 Oklahoma Tax Commission;)
 Emergency Medical Services)
 Authority of the City of Tulsa;)
 COUNTY TREASURER, Tulsa County,)
 Oklahoma; BOARD OF COUNTY)
 COMMISSIONERS, Tulsa County,)
 Oklahoma,)
)
 Defendants.)

FILED

JUN 08 1994

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

CIVIL ACTION NO. 94-C 215B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 8th day
of June, 1994. The Plaintiff appears by Stephen C.
Lewis, United States Attorney for the Northern District of
Oklahoma, through Neal B. Kirkpatrick, Assistant United States
Attorney; the Defendant, **County Treasurer, Tulsa County,
Oklahoma**, appears by J. Dennis Semler, Assistant District
Attorney, Tulsa County, Oklahoma; Defendant, **Board of County
Commissioners, Tulsa County, Oklahoma**, appears not, having
previously claimed no right, title or interest in the subject
property; Defendant, State of Oklahoma, ex rel Oklahoma Tax
Commission appears by its attorney Kim D. Ashley, Assistant
General Counsel; Defendant **Emergency Medical Services Authority**
of the City of Tulsa appears by its attorney, Dan M. Webb; and
the Defendants, **David L. Reel and Dena K. Reel**, appear not, but
make default.

The Court being fully advised and having examined the court file finds that the Defendants, David L. Reel and Dena K. Reel, acknowledged receipt of Summons and Complaint on March 27, 1994; that the Defendant, **State of Oklahoma ex rel Oklahoma Tax Commission**, acknowledged receipt of Summons and Complaint on March 14, 1994; that Defendant, **County Treasurer, Tulsa County, Oklahoma**, acknowledged receipt of Summons and Complaint on March 14, 1994; and that Defendant, **Board of County Commissioners, Tulsa County, Oklahoma**, acknowledged receipt of Summons and Complaint on March 11, 1994.

It appears that the Defendant, **County Treasurer, Tulsa County, Oklahoma**, filed his Answer on March 23, 1994; that Defendant, **Board of County Commissioners, Tulsa County, Oklahoma**, filed its Answer on March 23, 1994; that the Defendant, **State of Oklahoma ex rel Oklahoma Tax Commission**, filed its Answer on April 1, 1994; that the Defendant, **Emergency Medical Services Authority of the City of Tulsa**, filed its answer on March 25, 1994; and that Defendants, **David L. Reel and Dena K. Reel** 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 Two (2), Block Two (2), HEFFLEFINGER ADDITION TO DAWSON, Tulsa County, State of Oklahoma, according to the recorded Plat thereof.

The Court further finds that on August 7, 1987, the Defendants, David L. Reel and Dena K. Reel, husband and wife, executed and delivered to COMMONWEALTH MORTGAGE COMPANY OF AMERICA, L.P., LIMITED PARTNERSHIP, their mortgage note in the amount of \$35,707.00, payable in monthly installments, with interest thereon at the rate of ten and one-half percent (10.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, David L. Reel and Dena K. Reel, husband and wife, executed and delivered to COMMONWEALTH MORTGAGE COMPANY OF AMERICA, L.P., LIMITED PARTNERSHIP a mortgage dated August 7, 1987, covering the above-described property. Said mortgage was recorded on August 10, 1987, in Book 5044, Page 1538, in the records of Tulsa County, Oklahoma.

The Court further finds that on March 1, 1989, COMMONWEALTH MORTGAGE COMPANY OF AMERICA, L.P., LIMITED PARTNERSHIP assigned the above-described mortgage note and mortgage to THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT OF WASHINGTON, D.C., his successors and assigns. This Assignment of Mortgage was originally recorded on November 29, 1988, in Book 5142, Page 1458, in the records of Tulsa County, Oklahoma, and was re-recorded with a correction on April 10, 1989, in Book 5176, Page 2551, in the records of Tulsa County, Oklahoma.

The Court further finds that on November 1, 1988, the Defendant, David L. Reel and Dena K. Reel, husband and wife, entered into an agreement with the Plaintiff lowering the amount of the monthly installments due under the note in exchange for the Plaintiff's forbearance of its right to foreclose. A superseding agreement was reached between these same parties on April 1989.

The Court further finds that the Defendants, David L. Reel and Dena K. Reel, made default under the terms of the aforesaid note and mortgage, as well as the terms and conditions of the forbearance agreements, by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, **David L. Reel and Dena K. Reel**, are indebted to the Plaintiff in the principal sum of \$62,337.00, plus interest at the rate of 10.5 percent per annum from March 1, 1994 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action.

The Court further finds that the Defendant, **County Treasurer, Tulsa County, Oklahoma**, has a lien on the property which is the subject matter of this action by virtue of personal property taxes in the amount of \$19.00, plus penalties and interest, for the year of 1992, and entered on the lien docket on June 25, 1993; and has a claim on the property which is the subject matter of this action by virtue of personal property taxes in the amount of \$20.00 for the year 1993. Said lien and

claim are inferior to the interest of the Plaintiff, United States of America.

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

The Court further finds that the Defendants, **David L. Reel and Dena K. Reel** are in default and have no right, title or interest in the subject real property.

The Court further finds that the Defendant, **State of Oklahoma ex rel Oklahoma Tax Commission**, has a lien on the property which is the subject matter of this action by virtue of tax warrant #ITI9000241000, in the amount of \$222.15, together with interest and penalty according to law, filed on March 27, 1990, in the records of Tulsa County, Oklahoma; and tax warrant #ITI9100120700, in the amount of \$218.45, together with interest and penalty according to law, filed on February 6, 1991, in the records of Tulsa County, Oklahoma. Said liens are inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, **Emergency Medical Services Authority of the City of Tulsa**, has a lien on the property which is the subject matter of this action by virtue of a judgment, case # SC-89-01386, in the amount of \$785.86 plus interest, costs, and attorney's fees, dated February 28, 1989 and recorded on March 1, 1989, in Book 5169, on Page 2320, in the records of Tulsa County, Oklahoma. An execution of judgment dated January 24, 1994, was recorded on January 24, 1994, in Book 5509, on Page 270, in the records of Tulsa County, Oklahoma.

Said judgment is inferior to the interest of the Plaintiff, United States of America.

The Court further finds that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, the United States of America, acting on behalf of the Secretary of Housing and Urban Development, have and recover judgment against the Defendants, **David L. Reel and Dena K. Reel**, in the principal sum of \$62,337.00, plus interest at the rate of 10.5 percent per annum from March 1, 1994 until judgment, plus interest thereafter at the current legal rate of 5.28 percent per annum until paid, plus the costs of this action plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, **County Treasurer, Tulsa County, Oklahoma**, have and recover judgment in the amount of \$39.00, plus penalties and interest, for personal property taxes for the years 1992 and 1993, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, **David L. Reel, Dena K. Reel, and the Board of County**

Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, have and recover judgment in the amount of \$440.60, together with interest and penalty according to law, for tax warrants.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, Emergency Medical Services Authority of the City of Tulsa have and recover judgment in the amount of \$785.86, together with interest thereon, costs, and attorney's fees, for judgment # SC-89-01386.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, David L. Reel and Dena K. Reel, to satisfy the 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 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 Defendant Emergency Medical Services Authority of the City of Tulsa, in the amount of \$785.86, together with interest thereon, costs, and attorney's fees.

Fourth:

In payment of Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, in the amount of \$440.60, together with interest and penalty according to law.

Fifth:

In payment of Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of \$39.00, personal property taxes which are currently due and owing.

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

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any

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

S/ THOMAS R. BRETT,

UNITED STATES DISTRICT JUDGE

APPROVED:

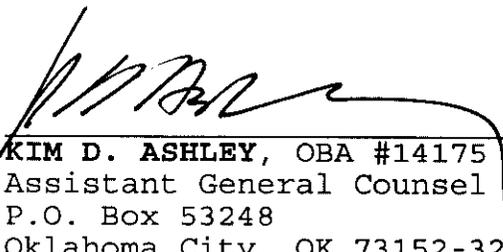
STEPHEN C. LEWIS
United States Attorney



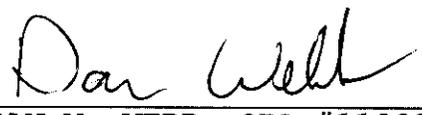
NEAL B. KIRKPATRICK
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463



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



KIM D. ASHLEY, OBA #14175
Assistant General Counsel
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Oklahoma City, OK 73152-3248
(405) 521-3141
Attorney for Defendant,
State of Oklahoma ex rel.
Oklahoma Tax Commission



DAN M. WEBB, OBA #11003
Works & Lentz, Inc.
Mapco Plaza Building
1717 South Boulder, Ste. 200
Tulsa, OK 74119
Attorney for Defendant,
Emergency Medical Services
Authority of the City of **Tulsa**

Judgment of Foreclosure
Civil Action No. 94-C 215B

NBK:lg

ENTERED ON RECORD

DATE JUN 10 1994

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

CHICAGO INSURANCE COMPANY, an
Illinois corporation,

Plaintiff,

vs.

JEVAN BARRY FITZSIMMONS, an
Oklahoma Resident, NEW MEDICO
ASSOCIATES, a Delaware
corporation, TIMBER RIDGE RANCH
NEUROREHABILITATION CENTER, INC.,
A Delaware Corporation; and
BARBARA BUNTEN, an Arkansas
Resident,

Defendants.

No. 94-C-118-B

FILED

JUN 07 1994

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

ORDER

NOW on this 10th day of ~~May~~ ^{June}, 1994, this matter comes on for
hearing on Plaintiff's Application for Dismissal of Action

For good cause shown, the Court finds that said Application is
granted and Plaintiff's claims for relief against the Defendant are
hereby dismissed.

IT IS SO ORDERED.

S/ THOMAS R. URETT

UNITED STATES DISTRICT JUDGE

ENTERED ON
DATE JUN 10 1994

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

FILED

JUN 08 1994

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

PERTRUDE JAMISON,)
)
Plaintiff,)
)
vs.)
)
RIVERSIDE NURSING HOME, INC.,)
)
Defendant.)

CASE NO. 94-C-182-B

ORDER ALLOWING DISMISSAL WITH PREJUDICE

This matter came on before the Court this 8 day of June, 1994, upon the parties' Stipulation of Dismissal with Prejudice, and for good cause shown, it is therefore ORDERED, ADJUDGED AND DECREED, that Plaintiff's cause of action against the Defendant is hereby dismissed with prejudice with each side to bear its own costs and attorney fees.

S/ THOMAS E. ANDERSON

UNITED STATES DISTRICT JUDGE

DATED: 6-8-94

ENTERED ON DOCKET

DATE 6-10-94

FILED

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

JUN 10 1994

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

ROBERT P. ZOLLER
and DEBBIE ZOLLER,

Plaintiffs,

v.

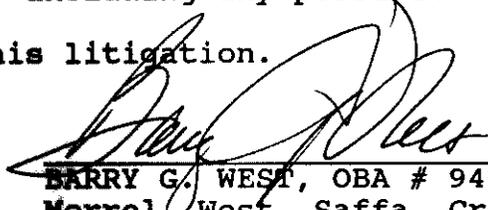
UNITED STATES OF AMERICA,

Defendant.

Case No. 93-C-499-E

STIPULATION FOR DISMISSAL

It is hereby stipulated and agreed that the complaint in the above-entitled case be dismissed with prejudice, the parties to bear their respective costs, including any possible attorneys' fees or other expenses of this litigation.



BARRY G. WEST, OBA # 9491
Morrel West, Saffa, Craige
& Hicks, Inc.
5310 East 31st Street, Suite 900
Tulsa, OK 74135-5014
Attorney for Plaintiffs



DENNIS M. DUFFY, OBA # 13030
Trial Attorney
Tax Division
U.S. Department of Justice
P. O. Box 7238
Ben Franklin Station
Washington, D.C. 20044
Attorney for United States

DATE 6/8/94

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 RANDALL GENE GEHRING; MADALYNN E.)
 GEHRING; STATE OF OKLAHOMA,)
ex rel. Department of Human)
 Services; STATE OF OKLAHOMA,)
ex rel. Oklahoma Tax Commission;)
 COUNTY TREASURER, Tulsa County,)
 Oklahoma;)
 BOARD OF COUNTY COMMISSIONERS,)
 Tulsa County, Oklahoma,)
)
 Defendants.)

FILED

JUN 6 1994

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

CIVIL ACTION NO. 94-C-236-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 6 day
of June, 1994. The Plaintiff appears by Stephen C.
Lewis, United States Attorney for the Northern District of
Oklahoma, through Neal B. Kirkpatrick, 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 Defendants, STATE OF
OKLAHOMA, ex rel. DEPARTMENT OF HUMAN SERVICES and MADALYNN E.
GEHRING, appear by Sheila Condren; and the Defendant, RANDALL
GENE GEHRING, appears not, but makes default.

The Court being fully advised and having examined the
court file finds that the Defendant, RANDALL GENE GEHRING,
acknowledged receipt of Summons and Complaint on March 31, 1994;
that the Defendant, MADALYNN E. GEHRING, acknowledged receipt of

Summons and Complaint on March 21, 1994; that the Defendant, STATE OF OKLAHOMA, ex rel. DEPARTMENT OF HUMAN SERVICES, acknowledged receipt of Summons and Complaint on March 21, 1994; that the Defendant, STATE OF OKLAHOMA, ex rel. OKLAHOMA TAX COMMISSION, acknowledged receipt of Summons and Complaint on March 17, 1994; that Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on March 21, 1994; and that Defendant, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on March 17, 1994.

It appears that the Defendants, COUNTY TREASURER, Tulsa County, Oklahoma, and BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, filed their Answers on April 5, 1994; that the Defendants, STATE OF OKLAHOMA, ex rel. DEPARTMENT OF HUMAN SERVICES and MADALYNN E. GEHRING, filed their Answer on March 28, 1994; and that the Defendant, RANDALL GENE GEHRING, has failed to answer and default has therefore been entered by the Clerk of this Court.

The Court further finds that the Defendant, STATE OF OKLAHOMA, ex rel. OKLAHOMA TAX COMMISSION, filed its Disclaimer of Interest on April 8, 1994, 1994.

The Court further finds that on June 19, 1991, RANDALL GENE GEHRING filed his voluntary petition in bankruptcy in the United States Bankruptcy Court, Northern District of Oklahoma, Case No. 91-02105-C, the case was subsequently closed on October 18, 1991.

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 Ten (10), Block Seven (7), ARROWWOOD, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof.

The Court further finds that on July 5, 1977, Ronald W. Bilyeu, a single person, executed and delivered to First Continental Mortgage Co., a mortgage note in the amount of \$31,550.00, payable in monthly installments, with interest thereon at the rate of Eight and One-Half percent (8.5%) per annum.

The Court further finds that as security for the payment of the above-described note, Ronald W. Bilyeu, a single person, executed and delivered to First Continental Mortgage Co., a mortgage dated July 5, 1977, covering the above-described property. Said mortgage was recorded on July 7, 1977, in Book 4272, Page 2519, in the records of Tulsa County, Oklahoma.

The Court further finds that on February 10, 1987, Commonwealth Savings Association successor by merger to First Continental Mortgage Co. assigned the above-described mortgage note and mortgage to Commonwealth Mortgage Company of America, L.P. This Assignment of Mortgage was recorded on June 18, 1987, in Book 5032, Page 352, in the records of Tulsa County, Oklahoma.

The Court further finds that on November 9, 1989, Commonwealth Mortgage Company of America, L.P. assigned the above-described mortgage note and mortgage to the Secretary of Housing and Urban Development of Washington, D.C., his successors

and assigns. This Assignment of Mortgage was recorded on February 5, 1990, in Book 5234, Page 1005, in the records of Tulsa County, Oklahoma.

On April 22, 1988, Myron E. Goforth and Dorothy A. Goforth, husband and wife, granted a general warranty deed to the Defendant, RANDALL GENE GEHRING, a single person. This deed was recorded with the Tulsa County Clerk on April 26, 1988, in Book 5095 at Page 1122 and Randall Gene Gehring, a single person, assumed thereafter payment of the amount due pursuant to the note and mortgage described above.

The Court further finds that on August 1, 1989, the Defendant, RANDALL GENE GEHRING, entered into an agreement with the Plaintiff lowering the amount of the monthly installments due under the note in exchange for the Plaintiff's forbearance of its right to foreclose. A superseding agreement was reached between these same parties on September 20, 1990.

The Court further finds that the Defendant, RANDALL GENE GEHRING, made default under the terms of the aforesaid note and mortgage, as well as the terms and conditions of the forbearance agreement, by reason of his failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, RANDALL GENE GEHRING, is indebted to the Plaintiff in the principal sum of \$35,454.59, plus interest at the rate of Eight and One-Half percent per annum from February 1, 1994 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action.

The Court further finds that the Defendants, STATE OF OKLAHOMA, ex rel. DEPARTMENT OF HUMAN SERVICES and MADALYNN E.

GEHRING, have a lien on the property which is the subject matter of this action by virtue of a Judgment in Case No. FD 87-2047, Affidavit of Judgment, filed June 19, 1991, in the amount of \$3,100. Said lien is inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of personal property taxes in the amount of \$34.00 which became a lien on the property as of June 25, 1993, and a claim in the amount of \$34.00 for taxes in 1993. Said lien is inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, STATE OF OKLAHOMA, ex rel. OKLAHOMA TAX COMMISSION, claims no right, title or interest in the subject real property.

The Court further finds that the Defendant, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, claims no right, title or interest in the subject real property.

The Court further finds that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, the United States of America, acting on behalf of the Secretary of Housing and Urban Development, have and recover judgment in rem against the Defendant, RANDALL GENE GEHRING, in the principal sum of \$35,454.59, plus interest at the rate of

Eight and One-Half percent *per annum* from February 1, 1994, until judgment, plus interest thereafter at the current legal rate of 5.28 percent *per annum* until paid, plus the costs of this action and 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, STATE OF OKLAHOMA, ex rel. DEPARTMENT OF HUMAN SERVICES and MADALYNN E. GEHRING, have and recover judgment in the amount of \$3,100 for judgment against the Defendant, RANDALL GENE GEHRING, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, have and recover judgment in the amount of \$68.00 for personal property taxes for the years 1992 and 1993, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, STATE OF OKLAHOMA, ex rel. OKLAHOMA TAX COMMISSION 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, RANDALL GENE GEHRING, 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 appraisal the real property involved herein and apply the proceeds of the sale as follows:

First:

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

Second:

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

Third:

In payment of Defendants, STATE OF OKLAHOMA, ex rel OKLAHOMA TAX COMMISSION and MADALYNN E. GEHRING, in the amount of 3,100.

Fourth:

In payment of Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, in the amount of \$68.00, personal property taxes which are currently due and owing.

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

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the

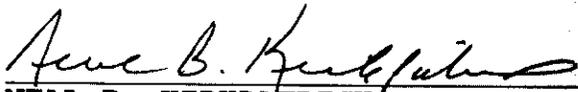
Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

S/ THOMAS R. BRETT

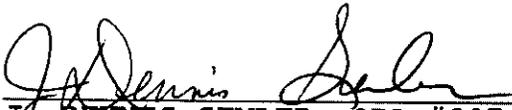
UNITED STATES DISTRICT JUDGE

APPROVED:

STEPHEN C. LEWIS
United States Attorney



NEAL B. KIRKPATRICK
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463



J. DENNIS SEMLER, OBA #8076
Assistant District Attorney
406 Tulsa County Courthouse
Tulsa, Oklahoma 74103
(918) 596-4841
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma



SHEILA CONDREN, OBA Firm #44
Department of Human Services
Tulsa District Child Support Ofc.
P.O. Box 3643
Tulsa, Oklahoma 74101-2203

Judgment of Foreclosure
Civil Action No. 94-C-236-B

NBK:flv

ENTERED ON DOCKET

DATE JUN 08 1994

FILED

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

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

CORENE RENTIE,
Plaintiff,

v.

PREMIER BIORESOURCES, INC.
a Texas corporation

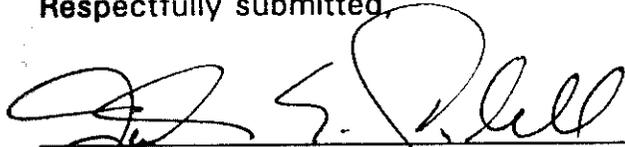
Defendant.

Case No. 93-C-599B

JOINT STIPULATION OF DISMISSAL WITH PREJUDICE

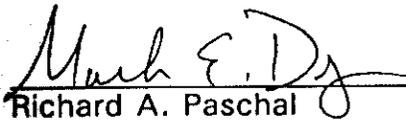
The plaintiff, Corene Rentie, and the defendant Premier BioResources, Inc., pursuant to the provisions of Rule 41(a)(1) or the Federal Rules of Civil Procedure, hereby stipulate to the dismissal, with prejudice, of plaintiff's claims against defendant.

Respectfully submitted,



John E. Dowdell, OBA #2460
Roger K. Eldredge, OBA #15003
NORMAN & WOHLGEMUTH
2900 Mid-Continent Tower
Tulsa, Oklahoma 74103
(918) 583-7571

Attorneys for Plaintiff, Corene Rentie.



Richard A. Paschal
Mark E. Dreyer
LIPE, GREEN, PASCHAL, TRUMP
& BRAGG, P.C.
3700 First National Tower
15 East 5th Street, Suite 3700
Tulsa, OK 74103-4344

Attorneys for Defendant, Premier BioResources, Inc.

DATE JUN 08 1994

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

FILED

LUSHUNA M. BLALOCK,)
)
 Plaintiff,)
)
 vs.)
)
 SKY CHEFS, a corporation in the)
 state of Delaware, GARY RUBLE,)
 and DAVID RUBLE,)
)
 Defendants.)

Case No. 93-C-1156-B

NOTICE OF STIPULATION OF DISMISSAL WITH PREJUDICE

The parties to this suit, by and through their attorneys of record, hereby stipulate pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii), that this action should be and hereby is dismissed, with prejudice. Each party is to bear his, her or its own costs of this action and attorney fees.

Katherine Waller
Katherine Waller, OBA 15051
5110 South Yale
Suite 415
Tulsa, Oklahoma 74135
(918) 488-9488

Thomas D. Robertson
Thomas D. Robertson, OBA 7665
NICHOLS, WOLFE, STAMPER,
NALLY & FALLIS, INC.
400 Old City Hall Building
124 East Fourth Street
Tulsa, Oklahoma 74103-5010
(918) 584-5182

ATTORNEY FOR LUSHUNA M.
BLALOCK

ATTORNEY FOR SKY CHEFS, INC., GARY
RUBLE and DAVID RUBLE

ENTERED ON DOCKET

DATE JUN 08 1994

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

ROLLIE A. PETERSON, an individual;)
and SUSAN P. PETERSON, an)
individual,)

Plaintiffs,)

v.)

No. 93-C-399-B

NANCY VALENTINY; HUGH V. RINEER;)
C. MICHAEL ZACHARIAS; SHARON L.)
CORBITT; N. SCOTT JOHNSON;)
RINEER, ZACHARIAS & CORBITT,)
a partnership; JEAN A. HOWARD;)
MARIAN B. HOWARD; SHARON DOTY;)
ROBERT W. BLOCK; and UNIVERSITY)
OF OKLAHOMA,)

Defendants.)

FILED

JUN 6 1994

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

ORDER OF DISMISSAL WITHOUT PREJUDICE AS TO CERTAIN
DEFENDANTS AND DISMISSAL WITHOUT PREJUDICE AS TO
PLAINTIFF'S CAUSE OF ACTION BASED ON ABUSE OF PROCESS

Now on this 6th day of June, 1994, the above matter comes on
for hearing before the undersigned United States District Judge for
the Northern District of Oklahoma upon Plaintiffs' Motion To
Dismiss Without Prejudice Certain Defendants And Motion To Dismiss
Without Prejudice Plaintiff's Cause Of Action Based On Abuse Of
Process; and the Court being fully advised in the premises, and
upon consideration thereof, finds that Plaintiffs' Motions should
be granted.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Court
that Defendants, Hugh V. Rineer, as an individual Defendant only
but not in his capacity as an agent and/or partner of Rineer,
Zacharias & Corbitt; C. Michael Zacharias, as an individual
Defendant only but not in his capacity as an agent and/or partner

Law

of Rineer, Zacharias & Corbitt; N. Scott Johnson, as an individual Defendant only but not in his capacity as an agent and/or employee of Rineer, Zacharias & Corbitt; and Marian B. Howard, an individual, are dismissed without prejudice.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that Plaintiff Rollie A. Peterson's cause of action based on abuse of process against Jean Howard, Hugh V. Rineer, C. Michael Zacharias, Sharon L. Corbitt, N. Scott Johnson, and Rineer, Zacharias & Corbitt, a partnership, is dismissed without prejudice.


UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET

DATE 6-8-94

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

FILED

JUN 6 1994

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

VESTA ENERGY COMPANY,)
)
 Plaintiff,)
)
 vs.)
)
 SOUTHWESTERN ENERGY COMPANY;)
 SOUTHWESTERN ENERGY PIPELINE)
 COMPANY; SOUTHWESTERN ENERGY)
 PRODUCTION COMPANY; SEECO,)
 INC.; ARKANSAS WESTERN GAS)
 COMPANY; NOARK PIPELINE)
 SYSTEM; GRUBB NOARK PIPELINE,)
 INC.; DAN B. GRUBB; JOHN DOES;)
 and JANE DOES,)
)
 Defendants.)

Case No. 93-C-1128-E

ORDER

Now before the Court is the Motion to Dismiss (Docket No. 5) of the Defendants (Collectively, Southwestern Energy), the Application to Amend the Amended Complaint (Docket #7) and the Application to File the Third Amended Complaint (Docket #26) of the Plaintiff Vesta energy Company (Vesta).

In this case, Plaintiff Vesta Energy Company (Vesta) claims that Defendants (collectively, Southwestern Energy) made false and misleading statements to induce Vesta to enter into contracts for 50,000 MMBtu/day of "firm" transportation services on the NOARK System (a natural gas pipeline from the northwestern portion of Arkansas to the northeastern portion of Arkansas). Essentially, Vesta claims that the Defendants represented that there would be enough natural gas to fulfill Vesta's firm transportation obligation and that they (the Defendants) would make the gas

available to Vesta. Vesta claims that these misrepresentations constitute fraud, breach of contractual obligations, and cause for rescission of the contracts. Vesta seeks actual and punitive damages.

1) Defendants' Motion to Dismiss: Defendants move to dismiss this case, asserting that there is not complete diversity because Vesta, an Oklahoma Corporation, is both the Plaintiff and a general partner of the Defendant NOARK Pipeline System (NOARK). NOARK is a limited partnership and a regulated natural gas pipeline company engaged in the business of providing transportation of natural gas across the northern portion of Arkansas. Defendants, citing Carden v. Arkoma Associates, 110 S.Ct. 1015 (1990), argue that the Court must look to the citizenship of the partnership's general and limited partners in determining whether there is diversity.

In response, Plaintiff argues that the citizenship of a partner who sues a partnership of which he is a member should not be attributed to the partnership, that the partnership can be "realigned" as a Plaintiff, and that the partnership is a nominal party whose citizenship is unimportant in determining diversity.

In Carden, the Court held that the citizenship of a limited partnership must be determined by looking to the citizenship of all of its members. Plaintiff argues that Carden does not apply here because the Carden Court was not faced with the factual circumstance that a member of the limited partnership was suing its partners. Nothing in Carden supports the factual distinction that is being made by Plaintiff, and the cases relied on by Plaintiff

were decided prior to Carden, and therefore are not applicable. The Courts that have considered the issue of the citizenship of a limited partnership when being sued by a partner since Carden have looked to the citizenship of all the partners and found that diversity did not exist. See, e.g., Buckley v. Control Data Corp., 923 F.2d 96 (8th Cir. 1991), Curley v. Brignoli, Curley & Roberts Assoc., 915 F.2d 81 (2nd Cir. 1990) and Whalen v. Carter, 954 F.2d 1087 (5th Cir. 1992).

Moreover, assuming for the sake of argument that NOARK could or should be realigned as a plaintiff, such realignment will not create diversity. Under Carden, NOARK, as a plaintiff, would have the citizenship of the Defendants, and diversity would not exist.

Lastly, NOARK is not a nominal or dispensable party whose citizenship can be disregarded for the purposes of diversity. Plaintiff's Amended Complaint contains claims for rescission and damages against the limited partnership. None of the cases cited by Vesta support its assertion that, under circumstances such as these, the partnership would be a nominal party whose citizenship need not be considered. The question is not one of capacity to sue or be sued, but whether NOARK is a nominal party. A nominal party is one with no real interest in the litigation. Bumberger v. Insurance Co. of North America, 952 F.2d 764 (3rd Cir. 1991). Based on the Amended Complaint on file, the Court does not conclude that NOARK has no real interest in the litigation.

2) Plaintiff's Motion to Amend Amended Complaint: Plaintiff seeks to Amend its Amended Complaint to make some general

corrections and to add a seventh claim which is an antitrust claim pursuant to 15 U.S.C. §1. Plaintiff argues that the Court would then have jurisdiction because of the antitrust claim. Plaintiff asserts that no new facts or parties are added by the amendment and that leave to amend "shall be freely given when justice so requires." Plaintiff argues that since the Defendants have not yet answered, there clearly would be no prejudice to the Defendants in allowing the amendment.

Defendants object to Vesta's motion for leave to amend, arguing that Vesta's motive for amending is to manufacture subject matter jurisdiction and that the amendment would be futile. Defendants argue that Vesta does not allege sufficient facts to support an antitrust claim, does not sufficiently allege antitrust standing or antitrust injury, and that venue for the antitrust claim would properly be in Arkansas, not the Northern District of Oklahoma.

In essence, Defendant argue that allowing the amendment would be futile because the proposed amendment does not sufficiently state an antitrust claim. In determining whether an antitrust complaint is sufficient to state a claim, the court must take as true all well pleaded facts. Cayman Exploration Corp. v. United Gas Pipe Line, 873 F.2d 1357, 1359 (10th Cir. 1989). Moreover, there is a presumption against rejecting pleadings for failure to state a claim. Id. However, courts may require "some minimal and reasonable particularity in pleading before they allow an antitrust action to proceed." Id., citing Associated General Contractors of

California, Inc. v. California State Council of Carpenters, 103 S.Ct. 897, 903 n.17 (1983). The Court finds that Plaintiff's conclusory allegations are insufficient to state an antitrust claim. The Court notes that the complaint contains no allegations or facts which would support an allegation of injury to competition or unreasonable restraint of trade.

Defendant's Motion to Dismiss is granted and Plaintiff's Motion to Amend is denied.

IT IS SO ORDERED THIS 6TH DAY OF JUNE, 1994.


JAMES O. ELLISON, CHIEF JUDGE
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET

DATE 6-8-94

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

FILED

JUN 7 1994

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

CAROLYN SUE BERGWALL, DEIDRE)
SLAMA, BETTY FORBES, and)
GAIL ROBERTS,)

Plaintiffs,)

vs.)

MIDWEST INDUSTRIAL CONTRACTORS,)
INC., MIDWEST SERVICE COMPANY)
and MATRIX SERVICE COMPANY,)

Defendants.)

Case No. 93-C-630-B

JOINT STIPULATION OF DISMISSAL WITHOUT PREJUDICE

COMES NOW the parties by and through their attorneys of record and stipulate to the dismissal of the Defendant Midwest Service Company and the Defendant Matrix Service Company. Pursuant to this stipulation the parties request an order from this Court dismissing Midwest Service Company and Matrix Service Company.

**RIGGS, ABNEY, NEAL, TURPEN,
ORBISON & LEWIS**

By: Mark W. Schilling
Mark W. Schilling, OBA #15174
502 West Sixth Street
Tulsa, Oklahoma 74119-1010
(918) 587-3161
ATTORNEYS FOR PLAINTIFFS

Roger R. Scott
Roger R. Scott, OBA #8028
1111 Park Centre
525 South Main
Tulsa, Oklahoma 74103
ATTORNEY FOR MIDWEST INDUSTRIAL
CONTRACTORS, INC.

CERTIFICATE OF MAILING

I hereby certify that on the 7th day of June,
1994, I mailed a true and correct copy of the above and foregoing
Joint Stipulation of Dismissal, with postage thereon fully prepaid,
to:

Roger C. Scott, Esq.
1111 Park Centre
525 South Main
Tulsa, Oklahoma 74103

W. W. Seb

ENTERED ON DOCKET

DATE 6-7-94

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

FILED

JUN 3 1994

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

COURTNEY DOWELL, an
individual,

Plaintiff,

v.

AMERICAN RED CROSS, a
corporation,

Defendant.

Case No. 93-C-730-E ✓

JOINT STIPULATION OF DISMISSAL WITH PREJUDICE

Plaintiff and Defendant, by and through their respective attorneys, jointly stipulate that all of Plaintiff's claims herein should be dismissed with prejudice with each side to bear its own costs and attorney fees.

DATED this 3rd day of June, 1994.

Respectfully submitted,

By: Thomas Bright
Tom Bright, Esq.
7130 S. Lewis
Suite 501
Tulsa, OK 74136

ATTORNEY FOR PLAINTIFF

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

By: J. Patrick Cremin
J. Patrick Cremin OBA #2013
Steven A. Broussard OBA #12582
4100 Bank of Oklahoma Tower
Tulsa, Oklahoma 74172-0141
(918) 588-2700

ATTORNEYS FOR AMERICAN RED CROSS

ENTERED ON DOCKET

DATE JUN 07 1994

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

FILED

JUN 6 1994

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

KEITH IVES and WELLNESS)
 PHARMACEUTICAL INTERNATIONAL,)
 INC.,)
)
 Plaintiffs,)
)
 vs.)
)
 WELLNESS INTERNATIONAL NETWORK,)
 LTD.,)
)
 Defendant.)

Case No. 94-C-337-B

ORDER

Now before the Court is the "Defendant's Motion To Dismiss For Improper Venue, Or, Alternatively, To Transfer Venue" (Docket #3). The premise of the Defendant's motion is that the disputes contained in Plaintiffs' Petition are expressly subject to a forum-selection clause in the agreement between the parties, specifying that jurisdiction and venue over disputes arising out of the agreement shall be proper only in certain courts located in the State of Texas. Defendant also states Plaintiffs have asserted the same causes of action in an action currently pending in the United States District Court for the Northern District of Texas. In a response filed May 24, 1994, Plaintiffs agreed that venue should be transferred to the Northern District of Texas.

There being no objection, and for good cause shown, Defendant's Motion to Transfer to the Northern District of Texas should be and is hereby GRANTED.

IT IS SO ORDERED THIS 6TH DAY OF JUNE, 1994.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET

DATE 6-7-94

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

FILED

JUN 6 1994

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

IN RE:)

SUNBELT FREIGHT, INC.,)

Employer Tax I.D. #73-0761474)

Debtor.)

SUNBELT FREIGHT, INC.,)

Plaintiff,)

v.)

GENERAL SUPPLY COMPANY,)

Defendant.)

Case No. 91-01539-W
(Chapter 11)

Adv. No. 93-0121-W

Dist. Ct. Case No. 94-C-52-E

STIPULATION OF DISMISSAL

Comes now the Plaintiff and pursuant to Rule 41(a)(1)(ii) Fed.
R. Civ. Proc. hereby stipulates to the dismissal of the above
District Court case, with prejudice.

DOERNER, STUART, SAUNDERS,
DANIEL, ANDERSON & BIOLCHINI

By: _____

Sam G. Bratton II
Sam G. Bratton II
320 South Boston, Suite 500
Tulsa, Oklahoma 74103
(918) 582-1211

Attorneys for Plaintiff
Sunbelt Freight, Inc.

APPROVED:

NELSON, SHERWOOD, BROWN
& STONECIPHER

By: _____

Mark K. Stonecipher
Mark K. Stonecipher
Liberty Tower, Suite 1500
100 N. Broadway
Oklahoma City, OK 73102

Attorneys for Defendant
General Supply Company

ENTERED ON DOCKET

RECEIVED

DATE 6-7-94

MAY 09 1994

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

SHELTER INSURANCE COMPANIES,

Plaintiff,

vs.

TED O. AND ROXANNE LAMB,

Defendants.

Case No. 93-C-645-E

FILED

JUN 6 1994

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

STIPULATION FOR DISMISSAL WITHOUT PREJUDICE

COMES NOW Shelter Insurance Companies and Ted O. and Roxanne Lamb, parties to the above-captioned matter, and hereby advise the Court of the following:

1. Jurisdiction of this Court was originally invoked under the Federal Declaratory Judgment Act of June 14, 1934, 48 Stat. 955, as amended, 28 U.S.C.A. § 2201.

2. The amount in controversy was originally deemed to be in excess of Fifty Thousand Dollars (\$50,000.00).

3. The state court action giving rise to the instant suit has been tried to a jury, with the jury's judgment against Roxanne Lamb in the amount of Five Thousand and One Dollars (\$5,001.00).

4. It is stipulated among the parties to the instant action that the jurisdictional requirements for a declaratory judgment in federal court have been defeated.

5. It is further stipulated among the parties that 28 U.S.C.A. § 2201 does not form an independent basis for jurisdiction for a declaratory judgment action absent diversity of citizenship and an amount in controversy exceeding Fifty Thousand Dollars

(\$50,000.00) as provided by 28 U.S.C.A. § 1332.

WHEREFORE, all parties stipulate that this cause should be dismissed without prejudice.

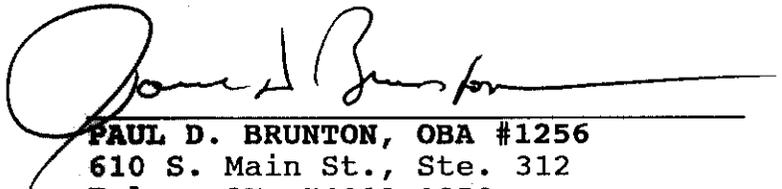
Respectfully submitted,

NICHOLS, NICHOLS & KENNEDY



DAVID M. NICHOLS, OBA #6660
2506-A East 21st St.
Tulsa, OK 74114
918/744-4407

**ATTORNEY FOR PLAINTIFF, SHELTER
INSURANCE COMPANIES**



PAUL D. BRUNTON, OBA #1256
610 S. Main St., Ste. 312
Tulsa, OK 74119-1258
918/583-3600

**ATTORNEY FOR DEFENDANTS, TED O.
LAMB AND ROXANNE LAMB**

ENTERED ON DOCKET

DATE 6-7-94

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN - 3 1994

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
JIM N. AUSTIN;)
DARLENE E. AUSTIN;)
CITY OF SAND SPRINGS, Oklahoma;)
COUNTY TREASURER, Tulsa County,)
Oklahoma;)
BOARD OF COUNTY COMMISSIONERS,)
Tulsa County, Oklahoma,)
)
Defendants.)

CIVIL ACTION NO. 93-C-359-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 3 day
of June, 1994. The Plaintiff appears by Stephen C.
Lewis, United States Attorney for the Northern District of
Oklahoma, through Neal B. Kirkpatrick, 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, State of
Oklahoma, ex rel Oklahoma Tax Commission, appears by Kim D.
Ashley, Assistant General Counsel; The Defendant, City of Sand
Springs, Oklahoma, appears by Ronald D. Cates, City Attorney; and
the Defendants, Jim N. Austin and Darlene E. Austin, appear not,
but make default.

The Court being fully advised and having examined the
court file finds that the Defendant, City of Sand Springs,
Oklahoma, acknowledged receipt of Summons and Complaint on
May 10, 1993; that the Defendant, State of Oklahoma, ex rel.

Oklahoma Tax Commission, acknowledged receipt of Summons and Complaint on March 14, 1994; that the Defendant, Jim N. Austin, was served a copy of Summons and Complaint on March 22, 1994; that the Defendant, Darlene E. Austin, was served a copy of Summons and Complaint on March 22, 1994; that Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on May 4, 1993; and that Defendant, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on April 23, 1993.

It appears that the Defendants, COUNTY TREASURER, Tulsa County, Oklahoma, filed his Answer on May 12, 1993; and BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, filed their Answer on May 12, 1993; that the Defendant, State of Oklahoma, ex rel. Oklahoma Tax Commission, filed its Answer on April 1, 1994; and that the Defendants, Jim N. Austin and Darlene E. Austin, have failed to answer and default has therefore been entered by the Clerk of this Court.

It appears that the Defendant, City of Sand Springs, Oklahoma, filed its Disclaimer of Interest on May 20, 1993.

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 part of the Northwest Quarter (NW/4) of Section Twenty-six (26), Township Nineteen (19) North, Range Ten (10) East of the Indian Base of Meridian, Tulsa County, State Oklahoma, according to the United States Government Survey thereof, more particularly described as follows, to-wit:

BEGINNING at a point on the West line of the NW/4 of said Section 26, said point being 605.55 Feet South of the Northwest Corner of said NW/4; Thence South along said West line a distance of 610.01 Feet; Thence Northeasterly a distance of 368.26 Feet to a point on the South Right of Way line of the County Road known as Coyote Trail; Thence in a Northwesterly direction along the Southerly Right of Way of Coyote Trail a distance of 403.40 Feet to a point of curve to the left with a radius of 253.48 Feet; Thence Northwesterly along said curve to the left a distance of 62.30 Feet to the Point of Beginning.

The Court further finds that on February 24, 1987, the Defendants, Jim N. Austin and Darlene E. Austin, executed and delivered to MidFirst Mortgage Co., their mortgage note in the amount of \$47,280.00, payable in monthly installments, with interest thereon at the rate of Eight and One-Half percent (8.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Jim N. Austin and Darlene E. Austin, executed and delivered to MidFirst Mortgage Co., a mortgage dated February 24, 1987, covering the above-described property. Said mortgage was recorded on March 2, 1987, in Book 5005, Page 542, in the records of Tulsa County, Oklahoma.

The Court further finds that on March 9, 1987, MidFirst Mortgage Co. assigned the above-described mortgage note and mortgage to Midland Mortgage Co. This Assignment of Mortgage was

recorded on May 6, 1987, in Book 5021, Page 1149, in the records of Tulsa County, Oklahoma.

The Court further finds that on February 26, 1990, Midland Mortgage Co. assigned the above-described mortgage note and mortgage to the Secretary of Housing and Urban Development of Washington, D.C., his successors and assigns. This Assignment of Mortgage was recorded on March 7, 1990, in Book 5239, Page 2558, in the records of Tulsa County, Oklahoma.

The Court further finds that on March 1, 1990, the Defendants, Jim N. Austin and Darlene E. Austin, entered into an agreement with the Plaintiff lowering the amount of the monthly installments due under the note in exchange for the Plaintiff's forbearance of its right to foreclose.

The Court further finds that the Defendants, Jim N. Austin and Darlene E. Austin, made default under the terms of the aforesaid note and mortgage, as well as the terms and conditions of the forbearance agreement, by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, Jim N. Austin and Darlene E. Austin, are indebted to the Plaintiff in the principal sum of \$62,402.38, plus interest at the rate of Eight and One-Half percent per annum from April 15, 1993 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action.

The Court further finds that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, has liens on the property which is the subject matter of this action by virtue of personal

property taxes in the amount of \$31.00 which became a lien on the property as of June 1992; and \$16.00 which became a lien on the property as of June 1993. Said liens are inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, State of Oklahoma, ex rel. Oklahoma Tax Commission, has a lien on the property which is the subject matter of this action by virtue of a Tax Warrant filed March 22, 1993. Said liens are inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, claims no right, title or interest in the subject real property, except insofar as it is the lawful holder of certain easements as shown in Book 1422, Page 27, in the Tulsa County Clerk's Office.

The Court further finds that the Defendant, City of Sand Springs, Oklahoma, claims no right, title or interest in the subject real property.

The Court further finds that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, the United States of America, acting on behalf of the Secretary of Housing and Urban Development, have and recover judgment against the Defendants, Jim N. Austin and Darlene E. Austin, in the principal sum of \$62,402.38, plus interest at the

rate of Eight and One-Half percent per annum from April 15, 1993 until judgment, plus interest thereafter at the current legal rate of _____ percent per annum until paid, plus the costs of this action, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, have and recover judgment in the amount of \$31.00 for personal property taxes for the year 1991, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, State of Oklahoma, ex rel. Oklahoma Tax Commission, have and recover in rem judgment in the amount of \$694.20, plus accrued and accruing interest, for Tax Warrant No. MVC9300005300 filed on March 22, 1993.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, have and recover judgment in the amount of \$16.00 for personal property taxes for the year 1992, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, has no right, title, or interest in the subject real property, except insofar as it is the lawfull holder of certain easements as shown in Book 1422, Page 27, in the Tulsa County Clerk's Office.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, City of Sand Springs, Oklahoma, has no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Jim N. Austin and Darlene E. Austin, 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;

Third:

In payment of Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, in the amount of \$31.00, personal property taxes which are currently due and owing.

Fourth:

In payment of Defendant, State of Oklahoma, ex rel. Oklahoma Tax Commission, in the amount of \$694.20,

taxes currently due and owing.

Fifth:

In payment of Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, in the amount of \$16.00, personal property taxes which are currently due and owing.

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

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

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

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED:

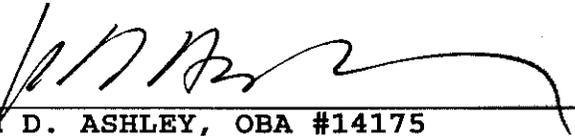
STEPHEN C. LEWIS
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Board of County Commissioners,
Tulsa County, Oklahoma



KIM D. ASHLEY, OBA #14175
Assistant General Counsel
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(405) 521-3141
Attorney for Defendant,
State of Oklahoma, ex rel.
Oklahoma Tax Commission

Judgment of Foreclosure
Civil Action No. 93-C-359-E

NBK:flv

ENTERED ON DOCKET

DATE 6-6-94

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

FILED

JUN 3 1994

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

ROBERT JAMISON,)
)
Plaintiff,)
)
vs.)
)
RIVERSIDE NURSING HOME, INC.,)
)
Defendant.)

CASE NO. 94-C-181-~~B~~E

JOINT STIPULATION OF DISMISSAL WITH PREJUDICE

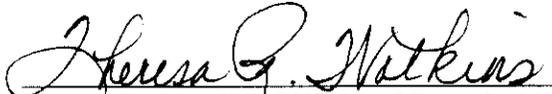
Plaintiff and Defendant, by and through their respective attorneys, have reached a settlement and, consequently, agree to dismiss the above-captioned matter. Therefore, pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties stipulate that this action should be dismissed with prejudice with each side to bear its own costs and attorney fees.

Dated this 30 day of June, 1994.

Respectfully submitted,



 ROBERT JAMISON, Plaintiff



 THERESA R. WATKINS, OBA #13125
 320 S. Boston, Suite 1130
 Tulsa, OK 74103
 (918) 599-8421

ATTORNEY FOR PLAINTIFF



MICHAEL J. GIBBENS, OBA #3339

- Of the Firm -

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ATTORNEYS FOR DEFENDANT

ENTERED ON DOCKET

DATE 6-6-94

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

FILED

JUN 3 1994

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

KOCH ENGINEERING COMPANY, INC.,)

Plaintiff,)

v.)

Civil Action No.

92-C-874-E

CALLIDUS TECHNOLOGIES, INC.;)

FIRST MISSISSIPPI CORPORATION;)

WILLIAM P. BARTLETT;)

RICHARD R. MARTIN;)

PAUL M. RODDEN;)

and G. RICHARD OGDEN,)

Defendants.)

STIPULATION OF DISMISSAL WITH PREJUDICE

Pursuant to a settlement by and among the parties and Rule 41(a)(ii), all parties hereby stipulate that the attached Order of Dismissal with Prejudice may be entered.

Respectfully submitted,

By:

Thomas A. Loftus III *TRW*
by permission

Thomas A. Loftus, III
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-and-

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Larry R. Watson
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ATTORNEYS FOR PLAINTIFF

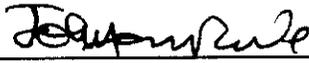
Of Counsel:

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-and-

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By:



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John Henry Rule, OBA #7824
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ATTORNEYS FOR DEFENDANTS AND
COUNTERCLAIMANT

ENTERED ON DOCKET

DATE 6-13-94

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

KOCH ENGINEERING COMPANY, INC.,)

Plaintiff,)

v.)

Civil Action No.

92-C-874-E

CALLIDUS TECHNOLOGIES, INC.;)

FIRST MISSISSIPPI CORPORATION;)

WILLIAM P. BARTLETT;)

RICHARD R. MARTIN;)

PAUL M. RODDEN;)

and G. RICHARD OGDEN,)

Defendants.)

FILED

JUN 10 1994

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

ORDER OF DISMISSAL WITH PREJUDICE

On joint stipulation of the parties pursuant to their settlement and Rule 41(a)(ii), all claims herein are dismissed with prejudice, with each party to bear his or its attorney's fees and costs. The Court retains jurisdiction to enforce the terms of the settlement, should that become necessary.

DATED this 10 day of June, 1994.

S/ JAMES O. ELLISON

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET
DATE JUN 3 1994

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

DIANA HOUK,

Plaintiff,

vs.

DONNA E. SHALALA, M.D.,
SECRETARY OF HEALTH AND
HUMAN SERVICES,

Defendant.

Case No. 92-C-885-C

FILED

JUN 1 1994

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

ORDER

Plaintiff Diana Houk has filed objections to the Report and Recommendation entered by the magistrate judge on December 8, 1993. The magistrate recommends affirming the decision of the Secretary of Health and Human Services that plaintiff is not disabled within the meaning of the Social Security Act.

Plaintiff raises two objections to the report of the magistrate.

Plaintiff objects to the affirmation of the magistrate of the administrative law judge's finding that the plaintiff's residual functional capacity including both exertional and nonexertional limitations rendered her capable of performing medium activity in the work place and therefore capable of returning to her former employment as a barber.

Plaintiff objects to the magistrate's affirmation of the administrative law judge's decision to disregard the medical opinion and diagnosis provided by plaintiff's treating chiropractor, Dr. John A. Karr, D.C.

The Court has conducted a de novo review of the case file to determine whether the decision of the Secretary, in regard to plaintiff's specific objections to the magistrate's

report, is supported by substantial evidence and that the correct law was applied. The decision of the administrative law judge (ALJ) was entered on October 23, 1991.

At the time of the ALJ's decision, plaintiff was 35 years old, 5 foot 9 inches tall and weighed 235 pounds. Plaintiff is a white-female who alleges she is disabled due to a chronic back condition, headaches, dizziness, a heart murmur, emotional problems and side effects from medication. Plaintiff has a tenth grade education and is a graduate of barber school. Plaintiff has not engaged in substantial gainful employment since August 1990. Plaintiff applied for supplemental social security benefits on December 26, 1989. Plaintiff alleges that when she was 8 years old she was involved in an auto-pedestrian accident and was thrown several feet from the impact of the automobile. Plaintiff alleges that she has had difficulty with her back since that occurrence and that her back injury has been exacerbated by subsequent other accidents, including an accident which occurred in August 1990. Plaintiff has taken pain medication for her back discomfort. (Record p. 55, testimony of Diana Houk).

In reviewing plaintiff's back condition, the ALJ evaluated her condition under the criteria of "other disabling vertebrogenic disorders." To qualify for supplemental benefits, vertebrogenic disorders must be accompanied with pain, muscle spasm, and significant limitation of motion in the spine, together with appropriate radicular distribution of significant motor loss with muscle weakness and sensory and reflex loss. All of these conditions must be present for the criteria to be met. These conditions must have persisted for 3 months despite therapy and be expected to last at least 12 months.

In 1990, plaintiff's physician was Ralph Richter, M.D., a neurologist, who was

treating plaintiff for chronic tension type headaches caused by low back pain. By letter dated March 23, 1990, Dr. Richter indicated that he could not recommend that plaintiff was disabled. Dr. Richter stated that he had not seen plaintiff in some months, and that as of her last visit, although plaintiff had some tightness in her cervical muscles and headache phenomenon, this would not preclude her from "useful activity".

In May 1990, plaintiff was examined by Dan Calhoun, M.D. From his objective evaluation of plaintiff's extremities, Dr. Calhoun found,

Muscle mass and tone is normal, as is gait and stance. Peripheral joint exam did not reveal any evidence of acute or chronic arthritic changes or joint deformities. Range of joint motion was decreased in the low back, as noted on the lumbosacral spine back sheet. She had decreased range of motion of the shoulders as well because of the trapezius spasm and pain, with adduction to only about 110 degrees, with extension 25-30 degrees, and flexion 90-100 degrees.

Record p. 170.

Dr. Calhoun concluded that plaintiff had chronic low back pain, chronic tension headaches and a history of depression. Her gait appeared normal in terms of speed, stability and safety. Dr. Calhoun recommended "a good psychiatric examination."

In July 1991, plaintiff was examined by Joseph Sutton, II, D.O. Plaintiff advised Dr. Sutton that she was able to drive and that she cared for five children. Plaintiff indicated that she could not unload the dishwasher or run the sweeper, but that she could do laundry, fix meals and shop. Plaintiff expressed pain from a light touch in the area of the mid-lumbar. Plaintiff also exhibited difficulty getting on and off the exam table, indicating that it caused her pain. In Dr. Sutton's office, plaintiff walked slower than normal and exhibited a mild left-sided limp.

Dr. Sutton's objective findings were somewhat in conflict with plaintiff's subjective indication of pain. Dr. Sutton found:

Patient's straight leg raising test in seated position was normal, but in the spine position, she had lumbar pain when the legs were raised to approximately 60 degrees. No scoliosis was apparent. The patient's range of motion was surprisingly fairly unremarkable. The patient was able to flex at the hips to 80 degrees and almost touch the floor.

Record p. 201-202.

Dr. Sutton's overall impression was that plaintiff has chronic lumbosacral strain, some degree of depression and a probable aortic murmur of no hemodynamic significance.

Dr. Sutton concluded that although plaintiff does experience pain, her objective medical findings are "very, very few." When plaintiff left Dr. Sutton's office, he observed her walking across the parking lot with her husband, getting into the driver's side of an automobile and driving off.

As part of his evaluation, Dr. Sutton concluded that plaintiff should be able to perform work-related activities in an 8-hour day, including sitting a total of at least 4-hours, standing 2 to 3 hours and walking 2 to 3 hours. Plaintiff has the ability to occasionally lift 26 to 50 pounds and to frequently lift 26 pounds or less.

In 1990, plaintiff was sporadically treated by James Allen Powell, M.D. and Leroy Akker, M.D. for physical therapy. Dr. Powell indicated that plaintiff appeared to be extremely sensitive to the touch in the paralumbar muscle area, so much so, that it "almost seems too tender to be real." Dr. Powell advised plaintiff that she needs to reduce her weight in order to improve her back condition. (Record p. 180).

Plaintiff's medical records substantiate that plaintiff is suffering from depression

and/or emotional impairment. However, the record supports the ALJ's conclusion that plaintiff's depression does not qualify her as suffering "full or partial manic or depressive syndrome." Plaintiff's emotional impairment should not prohibit or reduce plaintiff's ability to perform work at the full range of medium exertional activity.

From a de novo review of the record, the Court finds that there is substantial evidence to support the Secretary's decision 1) in finding that the plaintiff is capable of performing physically the full range of medium exertional activity and 2) in denying supplemental social security benefits. Plaintiff's past relevant work as a barber is rated as light and medium level occupation. Therefore based on the record the Court finds that the ALJ's finding that plaintiff is able to engage in her past relevant work, is supported by substantial evidence and that the correct law was applied.

As her second ground for objection, plaintiff asserts that the ALJ erred in failing to consider the medical records of her treating chiropractor, Dr. John A. Karr, and in his failure to place greater weight on the evaluation of Dr. Karr as her "treating physician." The Court has reviewed the reports supplied by Dr. John Karr and find that such reports are not necessarily inconsistent with the reports furnished by the other medical physicians. Dr. Karr prepared reports dated February 18, 1987, December 12, 1990, January 22, 1991 and February 11, 1991.

In a letter prepared on February 11, 1991, Dr. Karr stated:

Ms. Houk does show continuing evidence of steady improvement in overall ranges of motion, muscle strength, joint function as well as reduction of both the quantity and intensity of orthopedic and neurological positives.

As a result of these findings, Ms. Houk has been reduced to two times weekly visits for ten visits with appropriate conservative corrective

manipulative and mobilization techniques in conjunction with appropriate associated physical therapy modalities. At the end of the ten visits she will be re-evaluated.

Her current prognosis is listed as fair to good.

Record p. 131

Generally Dr. Karr concludes that plaintiff has subjective indications of pain which he supports from his objective evaluation. Dr. Karr indicates that plaintiff's physical condition reacts favorably to physical therapy and chiropractic treatments. Although contrary to the other medical reports, in February 1991, Dr. Karr indicated that in his opinion plaintiff was temporarily totally disabled. However Dr. Karre also concluded that plaintiff responded to treatment and that her prognosis was fair to good.

The record clearly indicates that the ALR took into consideration the reports of Dr. Karr in arriving at his final decision. The ALJ's decision indicates:

The Administrative Law Judge has carefully read the treatment notes of claimant's treating physicians. There is nothing contained therein to contraindicate these findings. Additionally, the Administrative Law Judge, in reviewing the file, has paid close attention to the residual functional capacity assessment made by the Disability Determination Unit Staff physicians. The Administrative Law Judge is directed by Social Security Ruling 82-30 to give probative weight to these residual functional capacity assessments. While they are not binding, they are medical judgment and constitute expert opinion evidence.

ALJ Hearing Decision p. 13.

The decision of the ALJ reflects that the standard for evaluating plaintiff's subjective complaints of pain was properly followed. The ALJ reviewed plaintiff's medical history, work history, testimony of plaintiff, and that of her husband, the physician statements and medical records. The conclusion reached by the ALJ is supported by substantial evidence.

The Report and Recommendation entered by the magistrate is affirmed. Accordingly, it is the Order of the Court that the decision rendered by the Secretary of Health and Human Services regarding plaintiff Diana Houk is affirmed as being supported by substantial evidence and applicable law.

IT IS SO ORDERED this 1st day of June, 1994.

A handwritten signature in black ink, appearing to read "H. Dale Cook", written in a cursive style.

H. DALE COOK
United States District Judge

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

IN RE:)
)
THOMAS L. & DIAN S. BRIGHT,)
)
Debtors.)
)
THOMAS L. & DIAN S. BRIGHT,)
)
Appellants,)
)
v.)
)
LONNIE D. ECK, TRUSTEE and)
UNITED STATES OF AMERICA on)
behalf of its agency, the)
Internal Revenue Service,)
)
Appellees.)

Bky. No. 92-00662-W

FILED

JUN 1 1994

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

Case No. 92-C-949-C ✓

ORDER

This order pertains to the appeal of Thomas L. Bright and Dian S. Bright ("Brights") from the October 6, 1992 order of the U. S. Bankruptcy Court for the Northern District of Oklahoma, dismissing their case. The order was issued subsequent to the Bankruptcy Court's order of August 19, 1992, denying confirmation of the Brights' amended plan and granting them twenty days in which to file another amended plan.

The Brights filed a petition under Chapter 13 of the Bankruptcy Code on February 28, 1992. On July 27, 1992, they filed an Amended Chapter 13 Plan. The Internal Revenue Service ("IRS") filed an objection to the amended plan, claiming it failed to provide for payment of the secured claim of the IRS in the amount of \$2,199.59. On August 19, 1992, the court denied confirmation of the amended plan, giving the Brights until September 9, 1992 to amend it or the case would be dismissed. The court dismissed

13

the case on October 6, 1992, sua sponte, as the Brights had failed to amend the plan. The Notice of Appeal was filed on October 16, 1992.

This court has jurisdiction to hear appeals from final decisions of the bankruptcy court under 28 U.S.C. § 158(a). Bankruptcy Rule 8013 sets forth a "clearly erroneous" standard for appellate view of bankruptcy rulings with respect to findings of fact. In re Morrissey, 717 F.2d 100, 104 (3rd Cir. 1983). However, this "clearly erroneous" standard does not apply to review of findings of law or mixed questions of law and fact, which are subject to the de novo standard of review. In re Ruti-Sweetwater, Inc., 836 F.2d 1263, 1266 (10th Cir. 1988). This appeal challenges the legal conclusion drawn from the facts presented at trial, so de novo review is proper.

The IRS points out that the sole issue raised on appeal is whether the Bankruptcy Court erred in denying confirmation of the first proposed Chapter 13 plan because it refused to consider future income from services of the Brights, as defined under 11 U.S.C. § 1306(a)(2). The IRS claims that, since the order being appealed was the sua sponte order of the Bankruptcy Court dismissing the action for failure to file an amended plan, there is no evidence the dismissal was improper and the Brights should not have appealed from the denial of confirmation on August 19, 1992.

However, the appeal is proper as it has been brought to this court. In In re Simons, 908 F.2d 643, 644 (10th Cir. 1990), the court noted that "[a] number of courts have indicated that where the bankruptcy court denies or withholds confirmation of a proposed Chapter 13 plan without also dismissing the underlying petition or proceeding, its decision is not final for purposes of appeal." The Simons court pointed out that this approach is consistent with two general principles regarding finality well-settled in the circuit: an

order is not final unless it ends the litigation on the merits, leaving nothing for the court to do but execute the judgment, and a district court order is not final if it contemplates significant further proceedings in the bankruptcy court. *Id.* at 644-45. As long as the bankruptcy proceeding itself has not been terminated, the debtor, unsuccessful with one reorganization plan, may always propose another plan for the bankruptcy court to review, which means there is no finality under both of the principles above. The court concluded: "the lower courts' denial of confirmation of debtors' proposed reorganization plan is not final for purposes of appeal under section 158(d). Nor is such a disposition appealable under the collateral order exception to the final judgment rule" *Id.* at 645. The rejection of a proposed plan may be considered on appeal from a final judgment either confirming an alternative plan or dismissing the underlying petition or proceeding.

The Brights argue that the Bankruptcy Court ignored their increasing income when it declined to confirm their proposed plan. However, the court did not ignore the increasing income. The Transcript of the Findings of Fact and Conclusions of Law dated August 19, 1992 ("Transcript") states on page 6: "Hopefully, Mr. Bright will be able, because of his expertise in his now chosen field, to receive substantial sums of money because of said expertise" But notably the court went on in the same sentence to say "under this plan the only thing the creditors will have is what this court has given them" and cites several cases, including In re Spencer, 137 B.R. 506 (Bankr. N.D. Okla. 1992), In re Jernigan, 130 B.R. 879 (Bankr. N.D. Okla. 1991), In re Reyes, 106 B.R. 155 (Bankr. N.D. Ill. 1989), and In re Rogers, 65 B.R. 1018 (Bankr. E.D. Mich. 1986), finding that good faith is not shown when a plan allows for a large amount of income for the debtor

and small payments to creditors.

These cases discussed various proposed bankruptcy plans evaluated under a "good faith" analysis by the courts. Under the Bankruptcy Code, 13 U.S.C. § 1325(a)(3), a proposed plan will only be accepted if "the plan has been proposed in good faith and not by any means forbidden by law." Section 1325(b)(1) provides in relevant part: "If the trustee or the holder of an allowed unsecured claim objects to the confirmation of the plan, then the court may not approve the plan unless, as of the effective date of the plan ... the plan provides that all of the debtor's projected disposable income to be received in the three-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan." Disposable income is defined in § 1325(b)(2) as "income which is received by the debtor and which is not reasonably necessary to be expended-- (A) for the maintenance or support of the debtor or a dependent of the debtor".

"Good faith" is determined under the totality of the circumstances. In re Smith, 848 F.2d 813 (7th Cir. 1988). "Good faith" in Chapter 13 means a debtor's attempt to restore normal financial relations with creditors, to the extent reasonably feasible under the circumstances. In re Spencer, 137 B.R. at 514. Debts, assets, creditors' interests, and debtor's interest must be taken into account and fairly accommodated. Id. What is "fair enough" may be a range of permissible alternatives rather than a single "right" way, and will vary according to circumstances, but there must be a reasonable balancing of interests and minimization of harm. Id.

The Court in In re Reyes, 106 B.R. at 157, also noted that the "disposable income"

requirement of § 1325(b)(1) turns on whether a debtor's budgeted expenses are reasonably necessary. A debtor's commitment to make the necessary sacrifices to carry through the plan is an element of both good faith and feasibility even where technical requirements have been met. Id. A debtor is expected to show commitment to creditors by only expending amounts that are "reasonable" for basic needs not related to the debtor's former status in society or lifestyle to which he is accustomed. In re Bien, 95 B.R. 281 (Bankr. D. Conn. 1989); In re Kitson, 65 B.R. 615 (Bankr. E.D. N.C. 1986); In re Hedges, 68 B.R. 18 (Bankr. E.D. Va. 1986). The court in In re Reyes concluded that a four-wheel Blazer was an "obvious indulgence", and inflated amounts for transportation, recreation, and food were unnecessary while unsecured creditors went unpaid. 106 B.R. at 157-58. While such determinations involve the bankruptcy courts in "difficult value judgments", an unpleasant job, "someone has to do it ... [and] the 'someone is the bankruptcy court.'" 65 B.R. at 1021.

Relying on these cases concerning "intent and purpose" (Transcript, pg. 6), the bankruptcy court concluded that the Brights proposed plan could not be affirmed. The court noted that the Brights' home, valued at \$135,000.00, was mortgaged in the amount of over \$112,000.00, and they had "substantial tax liabilities" and \$16,500.00 in unsecured debt (Transcript, pg. 2-3). Their five-year plan only provided for payment of the tax liabilities at the rate of \$50.00 a month for the first year, \$100.00 a month for the next two years, and \$300.00 a month for the last two years (Transcript, pg. 3). The remainder of their income went to their use. The bankruptcy court concluded that unsecured creditors received nothing, an excessive amount was allotted for housing expenses, and the

debtors got all the benefits and the creditors none (Transcript, pg. 4). The purpose and intent of Chapter 13 was not met (Transcript, pg. 6).

The decision of the Bankruptcy Court is a reasonable analysis of the law and facts. It is clear that the Brights were not committed to making sacrifices to pay their debts. They should not live extravagantly while their creditors go unpaid. The plan they proposed was not a fair one, regardless of whether or not their income increases in the future.

The decision of the Bankruptcy Court is affirmed.

Dated this 1st day of June, 1994.



H. DALE COOK
UNITED STATES DISTRICT JUDGE

S:BrightLord
ctck

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ENTERED ON DOCKET
DATE JUN 3 1994

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 THE UNKNOWN HEIRS, EXECUTORS,)
 ADMINISTRATORS, DEVISEES,)
 TRUSTEES, SUCCESSORS AND ASSIGNS)
 OF LARRY M. GLIDEWELL a/k/a LARRY)
 MACK GLIDEWELL, Deceased;)
 TAMMY CLIDEWELL a/k/a TAMMY J.)
 GLIDEWELL a/k/a TAMMY J. PUTNAM;)
 CARL GLIDEWELL a/k/a CARL M.)
 GLIDEWELL a/k/a CARL MACK)
 GLIDEWELL, individually,)
 and as Administrator of the)
 Estate of Larry M. Glidewell)
 a/k/a Larry Mack Glidewell,)
 Deceased; COUNTY TREASURER,)
 Ottawa County, Oklahoma; BOARD)
 OF COUNTY COMMISSIONERS, Ottawa)
 County, Oklahoma; JOSHUA)
 GLIDEWELL; BETTY L. GLIDEWELL;)
 STEVE GLIDEWELL; TERRI KESLER;)
 SHERRI MERRIWEATHER; STATE OF)
 OKLAHOMA ex rel. OKLAHOMA TAX)
 COMMISSION,)
 Defendants.)

FILED

JUN 1 1994

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

CIVIL ACTION NO. 91-C-312-C ✓

DEFICIENCY JUDGMENT

This matter comes on for consideration this 1st day
of June, 1994, upon the Motion of the Plaintiff, United
States of America, acting through Farmers Home Administration,
for leave to enter a Deficiency Judgment. The Plaintiff appears
by Stephen C. Lewis, United States Attorney for the Northern
District of Oklahoma, through Phil Pinnell, Assistant United
States Attorney, and the Defendant, Carl M. Glidewell a/k/a Carl
Glidewell a/k/a Carl Mack Glidewell, individually, appears
neither in person nor by counsel.

56

The Court being fully advised and having examined the court file finds that copies of Plaintiff's Motion and Declaration were mailed by first-class mail to Carl Glidewell a/k/a Carl M. Glidewell a/k/a Carl Mack Glidewell, Route 1, Box 130, Quapaw, Oklahoma 74363, and by first-class mail to all answering parties and/or counsel of record.

The Court further finds that the amount of the Judgment rendered on October 7, 1993, in favor of the Plaintiff United States of America, and against the Defendant, Carl M. Glidewell a/k/a Carl Glidewell a/k/a Carl Mack Glidewell, individually, with interest and costs to date of sale is \$36,199.95.

The Court further finds that the appraised value of the real property at the time of sale was \$74,379.57.

The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Judgment of this Court entered October 7, 1993, for the sum of \$49,800.00 which is less than the market value.

The Court further finds that the Marshal's sale was confirmed pursuant to the Order of this Court on 4th day of April, 1994.

The Court further finds that in calculating the deficiency judgment against Carl Glidewell a/k/a Carl M. Glidewell a/k/a Carl Mack Glidewell, individually, the following mathematically analysis is equitable and proper:

\$295,584.31	Judgment against the of the Estate of Larry M. Glidewell per Journal Entry
\$ 45,965.85	Judgment against Tammy Glidewell per Journal Entry
\$ 36,199.95	Judgment against Carl M. Glidewell per Journal Entry
\$370,750.11	Total Judgment per Journal Entry

The judgment against Carl Glidewell a/k/a Carl M. Glidewell a/k/a Carl Mack Glidewell, individually, represents approximately 10 percent of the total judgment (i.e. \$36,199.95 divided by \$370,750.11).

The Court further finds that the Plaintiff, United States of America acting through the Farmers Home Administration is accordingly entitled to a deficiency judgment against the Defendant, Carl M. Glidewell a/k/a Carl Glidewell a/k/a Carl Mack Glidewell, individually, as follows:

Principal Balance Plus Pre-Judgment Interest as of 10/07/93 and Post-Judgment Interest to Date of Sale	\$36,199.95
TOTAL	\$36,199.95
Less Credit of Appraised Value (10% of total amount \$74,379.57)	- <u>7,437.95</u>
DEFICIENCY	\$28,762.00

plus interest on said deficiency judgment at the legal rate of 5.28% percent per annum from date of deficiency judgment until paid; said deficiency being the difference between the amount of Judgment rendered herein and 10 percent of the appraised value of the property herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the United States of America acting through the Farmers Home Administration have and recover from Defendant, Carl M. Glidewell a/k/a Carl Glidewell a/k/a Carl Mack Glidewell, individually, a deficiency judgment in the amount of \$28,762.00, plus interest at the legal rate of 5.28 percent per annum on said deficiency judgment from date of judgment until paid.


UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

STEPHEN C. LEWIS
United States Attorney



PHIL PINNELL, OBA #7169
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

PP:css

ENTERED ON

DATE JUN 02 1994

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

FILED

JUN 02 1994

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
KENNETH BALMER,)
)
Defendant.)

No. 91-CR-134-001-B
(94-C-308-B)

ORDER

Before the court is defendant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255.

ACCORDINGLY, IT IS HEREBY ORDERED that:

- (1) The government shall **respond** to defendant's motion no later than twenty (20) days from the date of entry of this order. See Rule 4(b) Governing Section 2255 Proceedings.
- (2) The Clerk shall **serve** by mail a stamped-filed copy of defendant's motion on the United States Attorney for the Northern District of Oklahoma. See Local Rule 9.3.B.
- (3) The Clerk shall **close** Case No. 94-C-308-B as all future pleadings will be docketed in the criminal case.

SO ORDERED THIS 2nd day of June, 1994.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

DATE 6-2-94

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 1 1994

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

REXAIR, INC., a Delaware
corporation,

Plaintiff,

v.

MARY HIGHT,

Defendant.

No. 94 C 333 E

FINAL CONSENT JUDGMENT AND PERMANENT INJUNCTION

Plaintiff, Rexair, Inc., ("Rexair") filed its Complaint herein on April 5, 1994 against defendant Mary Hight ("Defendant"). The Complaint asserts claims against Defendant under the federal Lanham Act, for common law trademark infringement and dilution, for federal and common law unfair competition, and for deceptive trademark practices under the statutory law of the State of Oklahoma. Hight has been served with the summons and Complaint. Having consulted with and been represented by counsel and while neither admitting nor denying the allegations contained in the Complaint, Defendant now stipulates and agrees to this Final Consent Judgment and Permanent Injunction (the "Consent Judgment") and to each and every provision, order and decree therein.

NOW, THEREFORE, upon consent of the parties hereto, IT IS ORDERED, ADJUDGED AND DECREED that this Court has jurisdiction of the subject matter herein and the parties hereto, venue in this Court is proper, and Rexair's Complaint states a claim for relief against Defendant under the federal Lanham Act, as well as under the common and statutory law of the State of Oklahoma.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant and Defendant's agents, servants, representatives, employees, and successors, and all persons in active concert or participation with any of them, are hereby permanently enjoined and restrained after the date of this Order from:

(a) renewing the listing for Defendant's business, found on Page 163 of the business pages of the November 1993-94 Southwestern Bell White Pages Telephone Directory for Greater Tulsa, under the name of "Rainbow Sales and Service;"

(b) renewing the listing for Defendant's business, found on Page 1075 of the November 1993-94 Southwestern Bell Yellow Pages for Greater Tulsa, beneath the heading "Vacuum Cleaners-Household-Dealers," under the name of "Rainbow Sales and Service;"

(c) renewing the four inch by two inch block advertisement, found on Page 1074 of the November 1993-94 Southwestern Bell Yellow Pages for Greater Tulsa, unless such block advertisement, as renewed, does not include the clause "Rainbow Sales and Service" and otherwise fully complies with this Consent Judgment;

(d) placing any advertisement in any publication which includes the clause "Rainbow Sales and Service;"

(e) erecting any sign or display at her place of business which includes the clause "Rainbow Sales and Service" or otherwise fails to comply with this Consent Judgment;

(f) utilizing, or in any way doing business under, the fictitious name "Rainbow Sales and Service;"

(g) furnishing to customers, or in any way utilizing, a warranty form or other document which represents or intimates that Defendant is providing a "Key Factory Distributors Guaranty" or any other warranty or guaranty from Rexair or the "factory" or which

represents or intimates that any defective parts in a Rexair product sold by Defendant will be repaired, replaced, or serviced by anyone other than Defendant;

(h) placing any fictitious name under or through which Defendant does business, including but not limited to "All Brands Vacuums" anywhere on any Rainbow owner's manual or literature published or disseminated by Rexair;

(i) in any way representing or intimating to anyone that Defendant, or anyone employed by Defendant, has been "certified" or "trained" to service or repair Rainbow vacuum cleaners or other Rexair products;

(j) placing any advertisement or erecting any sign or display which uses the word Rainbow; except that Defendant may utilize the word Rainbow as part of a list of makes of vacuum cleaners which Defendant sells or services, provided that the word "Rainbow" (i) appears in type, lettering, print, font, color, mounting, spacing, illumination, and size no more prominent or noticeable than the name of any other make of vacuum cleaner included in the advertisement or display, (ii) is set forth in plain type, and not in a stylized or fanciful manner or in any logotype, and (iii) is markedly smaller in size and distinctly less noticeable than the name of Defendant's business, which must also appear in the advertisement or on the display (and, of course, the advertisement or display must be accurate and must otherwise comply with all of the provisions of this Consent Judgment);

(k) using the word Rainbow or the word Rexair, or any of Rexair's trademarks, in any advertisement or on any sign in which there also appears any of the following words: "Authorized," "Factory Authorized," "Trained," "Factory Trained," "Factory Service," "Certified" or any other similar word or words;

(l) using the word Rainbow or the word Rexair or any of Rexair's trademarks in any advertisement or on any sign in which there also appears the word "Dealer", "Distributor"

and/or any other word or words suggesting a dealership or distributorship relationship;

(m) stating, indicating, representing, or in any intimating to anyone that Defendant is a "Rainbow Dealer" or a "Rainbow Vacuum Center" or operates a "Rainbow Repair Center" or "Outlet;"

(n) listing in any white or yellow page telephone directory under the word "Rainbow" or the word "Rexair," or any heading including either of those words or any variant thereof (such as "Rainbo");

(o) offering for sale or selling to anyone any Rainbow vacuum cleaner or accessory (including but not limited to the Power Nozzle) which has been rebuilt or reconditioned in any fashion, unless a metallic sticker or other device has been prominently affixed to the outside of the unit, specifying that the rebuilding or reconditioning work was not performed by Rexair or by anyone authorized, associated with, or affiliated with Rexair, and that Rexair bears no responsibility whatsoever for such rebuilt or reconditioned unit (at Defendant's written request, Rexair shall provide Defendant with an ample supply of stickers roughly two inches by three inches in size, featuring a disclaimer deemed by Rexair to be adequate to satisfy this subparagraph);

(p) making in any manner, whatsoever any statement, indication, suggestion, or representation, or performing any act likely to lead anyone to believe Defendant is in any manner jointly or individually, directly or indirectly, associated with, connected with, licensed, authorized or approved by Rexair, by any Independent Registered Distributor ("RGD") of Rexair Products, or by any authorized subdistributor thereof;

(q) stating or indicating in any advertisement, in substance or effect, the Defendant offers Rainbows for sale, unless Defendant actually has and will have brand new Rainbows in stock and for sale during that entire period of time in which such advertisement will run;

(r) making any false, misleading, or incomplete statement about the quality, age, performance, condition, origin, warranty, or price of Rainbow vacuums, or Rexair products or services related thereto which Defendant offers for sale or sells;

(s) making any representation as to the warranty provided on a Rainbow vacuum cleaner by genuine and authorized Rainbow dealers, other than the following: "The manufacturer of the Rainbow vacuum cleaner, Rexair Inc., provides a three-year warranty on the Rainbow to the independent distributors to whom it sells Rainbows. That three-year warranty is set forth in the Rainbow Owner's Manual. Rexair expects its distributors to pass through that warranty to the ultimate consumer, and Rexair believes that is usually done;" and

(t) making any statement as to a regular or normal price for the Rainbow vacuum cleaner unless it is Defendant's own regular price or in any way suggesting that the price at which Defendant is offering Rainbows for sale is "fifty percent off" or any other "percent off" unless the comparison is with the Defendant's own regular price for Rainbows.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Rexair's remaining claims for injunctive relief (other than those merged into this Consent Judgment), and Rexair's claims for damages, costs, and attorneys' fees, are dismissed at this time without prejudice. This Court retains jurisdiction over this Consent Judgment and any applications with regard to enforcement of it shall be directed to this Court.

IT IS SO ORDERED.

Dated: *June 1*
JAY _____, 1994.

S/ JAMES O. ELLISON

United States District Court

Agreed as to the substance and form this 31 day of May, 1994.



Mary Hight

REXAIR, INC.

BY: 

Kenneth A. Hook
Vice-President and General Counsel
3221 Big Beaver Road, Suite 200
Troy, Michigan 48084

ENTERED ON DEED
DATE JUN 02 1994

FILED

JUN 01 1994

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

1 S. ERICKSON GRIMSHAW
2 PRAY, WALKER, JACKMAN,
3 WILLIAMSON & MARLAR
4 900 ONEOAK PLAZA
5 TULSA, OKLAHOMA 74103
6 TELEPHONE: (918) 581-5500

7 MICHAEL H. KALKSTEIN
8 SCOTT R. HOVER-SMOOT
9 ANDREW K. JACOBSON
10 BERLINER COHEN
11 TEN ALMADEN BOULEVARD
12 ELEVENTH FLOOR
13 SAN JOSE, CALIFORNIA 95113-2233
14 TELEPHONE: (408) 286-5800

15 ATTORNEYS FOR PLAINTIFF STAIRMASTER

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF OKLAHOMA

18 STAIRMASTER SPORTS/MEDICAL
19 PRODUCTS, INC.,

20 Plaintiff,

21 vs.

22 SPORTSTECH SERVICES, INC., and
23 BRAD SCHUPP,

24 Defendants.

No. 93 C-1065 B

DECREE OF VALIDITY AND
PERMANENT INJUNCTION

25 I. FACTS

26 Plaintiff, STAIRMASTER SPORTS/MEDICAL PRODUCTS, INC. (herein-
27 after "STAIRMASTER"), is the owner of U.S. Patent No. 5,256,117
28 (hereinafter "the '117 Patent"). On December 7, 1993, STAIRMASTER
filed suit for patent infringement against defendant SPORTSTECH
SERVICES, INC., and BRAD SCHUPP (hereinafter, jointly, "DEFENDANTS").
DEFENDANTS answered said complaint, denied infringement and asserted
that the '117 Patent was invalid.

//

1 The parties having reached a settlement without a trial, and
2 having agreed to the entry of the following order, and good cause
3 appearing therefor,

4 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

5 1. Plaintiff STAIRMASTER is the owner of U.S. Patent No.
6 5,256,117 ("the '117 Patent"), issued on October 26, 1993, and all
7 rights thereunder;

8 2. The '117 Patent is not invalid;

9 3. Each of the DEFENDANTS, their agents, officers, directors,
10 employees, privies, successors and assigns, and all those acting in
11 concert or participation with them, are hereby permanently enjoined
12 from making, using or selling, or inducing others to make, use, or
13 sell, the UB40 on any other device which directly or contributorily
14 infringes any claim of the '117 Patent;

15 4. This court hereafter reserves the right to hear any action
16 or motion to enforce the above-ordered injunction;

17 5. Each side is to bear its own costs and attorneys' fees; and

18 6. No accounting having been ordered, this judgment is made
19 final.

20 Dated: May 31, 1994.

21 **S/ THOMAS R. BRETT**

22 UNITED STATES DISTRICT JUDGE

ENTERED ON CLERK
DATE JUN 02 1994

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

FILED

TAMMY T. CRAVEN,)
)
Plaintiff,)
)
vs.)
)
BEAUTY BIZ, INC., a Texas)
Corporation and MIA FLORES,)
)
Defendants.)

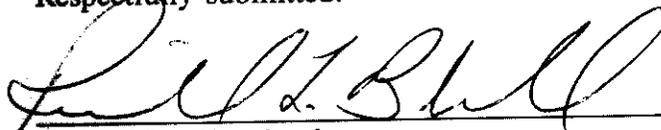
Case No. 94-C 176B

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

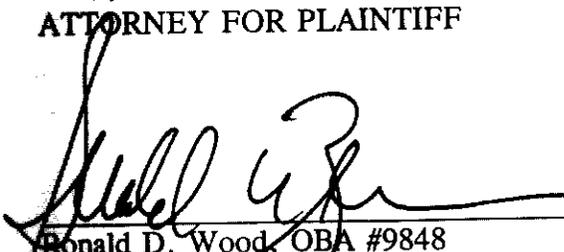
STIPULATION OF DISMISSAL WITH PREJUDICE

Pursuant to Fed.R.Civ.P. 41(a)(1), the Plaintiff, Tammy T. Craven, by and through her attorney of record, Richard L. Blanchard and Defendants Beauty Biz, Inc., a Texas Corporation, and Mia Flores, by and through counsel, Gerald M. Bender, notify the Court that this matter has been settled and the parties have agreed to a **DISMISSAL WITH PREJUDICE**.

Respectfully submitted:



Richard L. Blanchard
320 South Boston, Suite 1130
Tulsa, Oklahoma 74103
ATTORNEY FOR PLAINTIFF



Ronald D. Wood, OBA #9848
Gerald M. Bender, OBA #14471
2727 East 21st Street, Suite 204
Tulsa, Oklahoma 74114
(918) 744-1213
ATTORNEYS FOR DEFENDANTS, BEAUTY BIZ,
INC., A TEXAS CORPORATION AND MIA
FLORES.

1 S. ERICKSON GRIMSHAW
2 PRAY, WALKER, JACKMAN,
3 WILLIAMSON & MARLAR
4 900 ONEOAK PLAZA
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11 TEN ALMADEN BOULEVARD
12 ELEVENTH FLOOR
13 SAN JOSE, CALIFORNIA 95113-2233
14 TELEPHONE: (408) 286-5800

15 ATTORNEYS FOR PLAINTIFF STAIRMASTER

FILED

JUN 0 1 1994

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

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF OKLAHOMA

13 _____)
14 STAIRMASTER SPORTS/MEDICAL)
15 PRODUCTS, INC.,)
16 Plaintiff,)
17 vs.)
18 SPORTSTECH SERVICES, INC., and)
19 BRAD SCHUPP,)
20 Defendants.)
21 _____)

No. 93 C-1065 B
DECREE OF VALIDITY AND
PERMANENT INJUNCTION

20 I. FACTS

21 Plaintiff, STAIRMASTER SPORTS/MEDICAL PRODUCTS, INC. (herein-
22 after "STAIRMASTER"), is the owner of U.S. Patent No. 5,256,117
23 (hereinafter "the '117 Patent"). On December 7, 1993, STAIRMASTER
24 filed suit for patent infringement against defendant SPORTSTECH
25 SERVICES, INC., and BRAD SCHUPP (hereinafter, jointly, "DEFENDANTS").
26 DEFENDANTS answered said complaint, denied infringement and asserted
27 that the '117 Patent was invalid.

28 //

1 The parties having reached a settlement without a trial, and
2 having agreed to the entry of the following order, and good cause
3 appearing therefor,

4 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

5 1. Plaintiff STAIRMASTER is the owner of U.S. Patent No.
6 5,256,117 ("the '117 Patent"), issued on October 26, 1993, and all
7 rights thereunder;

8 2. The '117 Patent is not invalid;

9 3. Each of the DEFENDANTS, their agents, officers, directors,
10 employees, privies, successors and assigns, and all those acting in
11 concert or participation with them, are hereby permanently enjoined
12 from making, using or selling, or inducing others to make, use, or
13 sell, the UB40 on any other device which directly or contributorily
14 infringes any claim of the '117 Patent;

15 4. This court hereafter reserves the right to hear any action
16 or motion to enforce the above-ordered injunction;

17 5. Each side is to bear its own costs and attorneys' fees; and

18 6. No accounting having been ordered, this judgment is made
19 final.

20 Dated: May 31, 1994.

21 S/ THOMAS R. BRETT

22 _____
23 UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET
DATE JUN 01 1994

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION
FILED
May 10, 1994
PATRICIA D. HOWARD
CLERK OF THE PANEL

DOCKET NO. 926

#94 C165 B

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

**IN RE SILICONE GEL BREAST IMPLANTS PRODUCTS LIABILITY
LITIGATION**

(SEE ATTACHED SCHEDULE CTO-46)

CONDITIONAL TRANSFER ORDER

FILED

JUN 01 1994

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

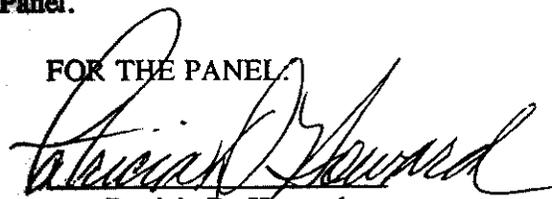
On June 25, 1992, the Panel transferred 78 civil actions to the United States District Court for the Northern District of Alabama for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. §1407. Since that time, more than 6900 additional actions have been transferred to the Northern District of Alabama. With the consent of that court, all such actions have been assigned to the Honorable Sam C. Pointer, Jr.

It appears that the actions listed on the attached schedule involve questions of fact which are common to the actions previously transferred to the Northern District of Alabama and assigned to Judge Pointer.

Pursuant to Rule 12 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 147 F.R.D. 589, 596, the actions on the attached schedule are hereby transferred under 28 U.S.C. §1407 to the Northern District of Alabama for the reasons stated in the opinion and order of June 25, 1992, 793 F.Supp. 1098 and, with the consent of that court, assigned to the Honorable Sam C. Pointer, Jr.

This order does not become effective until it is filed in the office of the Clerk of the United States District Court for the Northern District of Alabama. The transmittal of this order to said Clerk shall be stayed fifteen (15) days from the entry thereof and if any party files a notice of opposition with the Clerk of the Panel within this fifteen (15) day period, the stay will be continued until further order of the Panel.

FOR THE PANEL



Patricia D. Howard
Clerk of the Panel

Inasmuch as no objection is pending
at this time, the stay is lifted and
this order becomes effective

MAY 26 1994

Patricia D. Howard
Clerk of the Panel

JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

CHAIRMAN:

John F. Nangle
United States District Court
Southern District of Georgia

MEMBERS:

Judge Milton Pollack
United States District Court
Southern District of New York

Judge Robert R. Merhige, Jr.
United States District Court
Eastern District of Virginia

Judge William B. Enright
United States District Court
Southern District of California

Judge Clarence A. Brimmer
United States District Court
District of Wyoming

Judge John F. Grady
United States District Court
Northern District of Illinois

Judge Barefoot Sanders
United States District Court
Northern District of Texas

DIRECT REPLY TO:

Patricia D. Howard
Clerk of the Panel
One Columbus Circle, NE
Thurgood Marshall Federal
Judiciary Building
Room G-255, North Lobby
Washington, DC 20002-8004

Telephone: [202] 273-2800

May 26, 1994

Mr. Perry Mathis, Clerk
140 U.S. Courthouse
1729 5th Avenue, North
Birmingham, AL 35203

Re: MDL-926 -- In re Silicone Gel Breast Implants Products Liability Litigation

(See Attached Schedule CTO-46)

Dear Mr. Mathis:

I am enclosing certified copies and additional copies of May 26, 1994 orders filed by the Panel in the actions listed on the attached schedule on May 10, 1994. The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred." As stipulated in the Panel's Rule 12(c), execution of the orders has been stayed 15 days to give any party an opportunity to oppose the transfer if they wish to do so. The 15-day period has now elapsed, no opposition was received, and the orders are directed to you for filing.

A list of counsel is attached hereto.

Very truly,

Patricia D. Howard
Clerk of the Panel

By Patricia D. Howard
Deputy Clerk

Attachments

cc: Transferee Judge: Hon. Paul A. Magnuson
Transferor Judges: (See Attached List)
Transferor Clerks: (See Attached List)

JPML Form 38

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION
FILED

May 10, 1994

PATRICIA D. HOWARD
CLERK OF THE PANEL

**SCHEDULE CTO-46 -- TAG ALONG CASES
DOCKET NO. 926
IN RE SILICONE GEL BREAST IMPLANTS PRODUCTS LIABILITY LITIGATION**

| <u>DISTRICT DIV CIVIL ACTION#</u> |
|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|
| ALABAMA SOUTHERN | CONNECTICUT | GEORGIA NORTHERN | LOUISIANA MIDDLE |
| ALS 1 94-15 | CT 3 94-261 | GAN 1 94-381 | LAM 3 94-348 |
| | CT 3 94-262 | GAN 1 94-382 | LAM 3 94-358 |
| ARKANSAS EASTERN | CT 3 94-336 | GAN 1 94-440 | LAM 3 94-360 |
| ARE 4 94-202 | CT 3 94-337 | GAN 1 94-487 | LAM 3 94-361 |
| | CT 3 94-388 | GAN 1 94-491 | LAM 3 94-362 |
| ARIZONA | CT 3 94-410 | GAN 1 94-666 | LAM 3 94-367 |
| AZ 4 94-237 | | GAN 1 94-671 | LAM 3 94-370 |
| | DISTRICT OF COLUMBIA | GAN 1 94-707 | LAM 3 94-372 |
| CALIFORNIA CENTRAL | DC 1 94-750 | GAN 1 94-927 | LAM 3 94-374 |
| CAC 2 94-598 | | GAN 1 94-1091 | LAM 3 94-375 |
| CAC 2 94-647 | FLORIDA MIDDLE | | LAM 3 94-376 |
| CAC 2 94-817 | FLM 3 94-358 | IOWA SOUTHERN | LAM 3 94-377 |
| CAC 2 94-1224 | FLM 5 94-83 | IAS 4 94-80213 | LAM 3 94-379 |
| CAC 2 94-1716 | FLM 8 94-524 | | LAM 3 94-382 |
| CAC 2 94-1738 | FLM 8 94-550 | ILLINOIS CENTRAL | LAM 3 94-384 |
| CAC 2 94-1781 | FLM 8 94-575 | ILC 2 94-2092 | LAM 3 94-385 |
| C 2 94-1795 | FLM 8 94-576 | | LAM 3 94-391 |
| C 2 94-1907 | FLM 8 94-577 | ILLINOIS NORTHERN | LAM 3 94-392 |
| CAC 2 94-2068 | FLM 8 94-578 | ILN 1 93-7500 | LAM 3 94-393 |
| CAC 2 94-2113 | FLM 8 94-579 | ILN 1 93-7746 | LAM 3 94-394 |
| CAC 2 94-2121 | FLM 8 94-580 | ILN 1 94-1033 | LAM 3 94-395 |
| CAC 2 94-2204 | FLM 8 94-581 | ILN 3 94-50099 | LAM 3 94-396 |
| CAC 2 94-2288 | FLM 8 94-582 | | LAM 3 94-397 |
| CAC 2 94-2544 | FLM 8 94-583 | INDIANA NORTHERN | LAM 3 94-398 |
| CAC 8 94-120 | FLM 8 94-584 | INN 2 94-68 | LAM 3 94-400 |
| | FLM 8 94-585 | | LAM 3 94-401 |
| CALIFORNIA SOUTHERN | FLM 8 94-586 | KENTUCKY EASTERN | LAM 3 94-402 |
| CAS 3 93-1483 | FLM 8 94-587 | KYE 6 94-95 | LAM 3 94-403 |
| CAS 3 94-381 | FLM 8 94-588 | | LAM 3 94-404 |
| CAS 3 94-403 | FLM 8 94-589 | KENTUCKY WESTERN | LAM 3 94-405 |
| CAS 3 94-409 | FLM 8 94-590 | KYW 1 94-41 | |
| | FLM 8 94-591 | KYW 3 94-261 | MASSACHUSETTS |
| COLORADO | FLM 8 94-593 | | MA 1 93-12493 |
| CO 1 94-741 | FLM 8 94-665 | LOUISIANA EASTERN | MA 1 93-12584 |
| CO 1 94-762 | FLM 8 94-712 | LAE 2 94-536 | MA 1 94-10003 |
| CO 1 94-765 | | LAE 2 94-1001 | |
| CO 1 94-766 | FLORIDA SOUTHERN | LAE 2 94-1189 | MARYLAND |
| CO 1 94-769 | FLS 0 94-6273 | LAE 2 94-1249 | MD 1 94-512 |
| CO 1 94-835 | FLS 0 94-6321 | LAE 2 94-1250 | MD 1 94-513 |
| CO 1 94-836 | FLS 1 94-558 | LAE 2 94-1259 | MD 1 94-524 |
| CO 1 94-850 | FLS 1 94-640 | LAE 2 94-1284 | MD 1 94-545 |
| CO 1 94-851 | FLS 1 94-683 | LAE 2 94-1292 | MD 1 94-679 |
| CO 1 94-852 | FLS 2 94-14040 | LAE 2 94-1293 | |
| CO 1 94-854 | FLS 2 94-14056 | LAE 2 94-1319 | MICHIGAN EASTERN |
| CO 1 94-867 | FLS 9 94-8037 | LAE 2 94-1322 | MIE 2 94-70889 |
| CO 1 94-892 | FLS 9 94-8211 | LAE 2 94-1325 | MIE 2 94-71252 |
| C 1 94-893 | | LAE 2 94-1344 | |
| CL 1 94-894 | GEORGIA MIDDLE | LAE 2 94-1354 | |
| | GAM 4 94-26 | | |

DISTRICT DIV CIVIL ACTION#

DISTRICT DIV CIVIL ACTION#

DISTRICT DIV CIVIL ACTION#

DISTRICT DIV CIVIL ACTION#

MISSOURI EASTERN

MOE 1 94-12
 MOE 4 94-202
 MOE 4 94-281
 MOE 4 94-299
 MOE 4 94-485
 MOE 4 94-685
 MOE 4 94-691
 MOE 4 94-692

MISSOURI WESTERN

MOW 2 94-4116
 MOW 3 94-5033

MISSISSIPPI SOUTHERN

MSS 1 94-181
 MSS 1 94-185
 MSS 1 94-191
 MSS 2 94-139
 MSS 3 94-231

NORTH CAROLINA MIDDLE

NCM 2 94-190
 NCM 2 94-191

NORTH CAROLINA WESTERN

NC 1 94-63

NEW HAMPSHIRE

NH 1 94-197
 NH 1 94-210

NEW JERSEY

NJ 1 94-1864
 NJ 2 94-90
 NJ 2 94-1505
 NJ 2 94-1608

NEW MEXICO

NM 1 94-349
 NM 1 94-350
 NM 1 94-360

NEVADA

NV 2 94-352
 NV 3 93-833

NEW YORK EASTERN

NYE 1 94-1564
 NYE 1 94-1565
 NYE 1 94-1566
 NYE 1 94-1567
 NYE 1 94-1595
 NYE 1 94-1596
 NYE 1 94-1598
 NYE 1 94-1599
 NYE 1 94-1600
 NYE 1 94-1601
 NYE 1 94-1602
 NYE 1 94-1603
 NYE 1 94-1604
 NYE 1 94-1605
 NYE 1 94-1606

NYE 1 94-1607

NYE 1 94-1608

NYE 1 94-1609

NYE 1 94-1625

NYE 1 94-1626

NYE 1 94-1627

NYE 1 94-1628

NYE 1 94-1630

NYE 1 94-1631

NYE 1 94-1632

NYE 1 94-1633

NYE 1 94-1634

NYE 1 94-1635

NYE 1 94-1636

NYE 1 94-1681

NYE 1 94-1682

NYE 1 94-1683

NYE 1 94-1685

NYE 1 94-1686

NYE 1 94-1687

NYE 1 94-1688

NYE 1 94-1689

NYE 1 94-1690

NYE 1 94-1737

NYE 1 94-1738

NYE 1 94-1739

NYE 1 94-1740

NYE 1 94-1741

NYE 1 94-1744

NYE 1 94-1923

NYE 1 94-1924

NYE 1 94-1925

NYE 1 94-1928

NYE 1 94-1931

NYE 1 94-1932

NYE 1 94-1933

NYE 1 94-1936

NYE 1 94-1954

NYE 1 94-1955

NYE 1 94-1956

NYE 1 94-1957

NYE 1 94-1958

NYE 1 94-1959

NEW YORK SOUTHERN

NYS 1 94-2156

NYS 1 94-2278

NEW YORK WESTERN

NYW 1 94-272

OHIO NORTHERN

OHN 4 94-758

OHIO SOUTHERN

OHS 1 94-145

OKLAHOMA NORTHERN

OKN 4 94-165

OKLAHOMA WESTERN

OKW 5 94-5

OKW 5 94-15

OKW 5 94-179

OKW 5 94-233

OKW 5 94-554

OKW 5 94-557

OREGON

OR 3 94-314

PENNSYLVANIA WESTERN

PAW 2 93-2123

PAW 2 93-2176

PAW 2 94-352

PAW 2 94-477

PAW 2 94-502

TEXAS EASTERN

TXE 2 94-8

TXE 2 94-49

TXE 6 94-270

TEXAS NORTHERN

TXN 3 94-608

TEXAS SOUTHERN

TXS 2 94-2

TXS 4 94-902

TXS 4 94-903

TXS 4 94-1142

TXS 4 94-1143

TXS 4 94-1144

TXS 4 94-1145

TXS 4 94-1146

TXS 4 94-1215

TXS 4 94-1247

TEXAS WESTERN

TXW 5 94-309

TXW 5 94-310

TXW 5 94-315

TXW 5 94-316

UTAH

UT 1 94-51

UT 2 94-388

VIRGINIA WESTERN

VAW 7 94-215

WASHINGTON WESTERN

WAW 2 94-532

WAW 2 94-533

WAW 3 94-5194

WAW 3 94-5212

WAW 3 94-5213

WEST VIRGINIA SOUTHERN

WVS 5 93-939