

ENTERED ON DOCKET

DATE 11-26-97

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

JOHN HENRY PETERS, and
GERALD VAN OVEN,

Plaintiffs,

vs.

NORTHLAND INSURANCE COMPANY,

Defendant.

No. 97-C-128-K

FILED

NOV 25 1997

Phil Lombardi, Clerk
U.S. DISTRICT COURT

ORDER

Before the Court is the motion of plaintiff Gerald Van Oven to dismiss without prejudice. Plaintiffs commenced this proceeding in February, 1997, suing defendant for breach of contract and bad faith. (Plaintiff Peters was driving a tractor/trailer in which plaintiff Van Oven was a passenger. They both made claims under a policy that Peters' brother had with defendant). Plaintiff Van Oven now states that he wishes to proceed in state court against defendant and against his present co-plaintiff Peters. Defendant objects, on the ground that it will be subjected to the expense of a second lawsuit. Defendant also contends that the statute of limitation on Van Oven's actions expired on August 18, 1997; Van Oven responds that, as a precautionary measure, the state lawsuit was filed in Pawnee County on August 15, 1997.

When considering a motion to dismiss without prejudice, the important aspect is whether the opposing party will suffer prejudice in the light of the valid interests of the parties. Phillips USA, Inc. v. Allflex USA, Inc., 77 F.3d 354, 357 (10th

Cir.1996). The relevant factors which the court should consider in ascertaining the legal prejudice the opposing party might suffer are (1) the opposing party's effort and expense in preparing for trial; (2) excessive delay and lack of diligence on the part of the movant; and (3) insufficient explanation of the need for dismissal. Id. at 358. Applying these factors, the Court finds dismissal appropriate. "Prejudice does not automatically result to Defendant from the filing of a second lawsuit." Amer. Nat. Bank v. Bic Corp., 931 F.2d 1411, 1412 (10th Cir.1991). Any discovery materials generated in this action may be used in the second action. While this litigation has progressed for an additional period while the present motion was pending, this is through no doing of the movant.

It is the Order of the Court that the motion of the plaintiff Gerald Van Oven to dismiss without prejudice (#15) is hereby GRANTED. The motion of the plaintiff Van Oven for emergency status conference (#22) is hereby DENIED.

ORDERED this 25 day of November, 1997.


TERRY C. KERN, Chief
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

MARY BETH SCHLUPE,

Plaintiff,

v.

MARVIN RUNYON, Postmaster
General,

Defendant.

FILED

NOV 24 1997

Phil Lombardi, Clerk
U.S. DISTRICT COURT

) ENTERED ON DOCKET

) DATE NOV 25 1997

) CASE NO. 97-CV-424-B (J) ✓

ORDER

This matter comes on before the court upon the stipulation of all parties and the court, being fully advised in the premises, orders, adjudges and decrees that all claims asserted herein by plaintiff, Mary Beth Schlupe, against Marvin Runyon, Postmaster General, are hereby dismissed with prejudice.

Dated this 24th day of Nov., 1997.

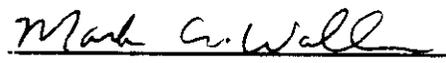


THOMAS R. BRETT
SENIOR UNITED STATES DISTRICT JUDGE

APPROVED AS TO CONTENT AND FORM:



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Attorney for Plaintiff

(27)

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

GLENDON GILBREATH,)
)
Plaintiff,)
)
v.)
)
MAPCO, INC., MAPCO RETIREMENT)
PLAN, MAPCO RETIREMENT PLAN)
COMMITTEE, MAPCO GROUP)
MEDICAL PLAN, MAPCO GROUP)
EMPLOYEE BENEFIT PLAN)
COMMITTEE, MAPCO GROUP)
PROFIT SHARING AND SAVINGS)
PLAN COMMITTEE, EMPLOYEE)
STOCK OWNERSHIP PLAN)
COMMITTEE, AND THE PENSION)
PLAN COMMITTEE,)
)
Defendants.)

Case No. 97-CV-0585 (E) ✓

EOD
NOV 25 1997

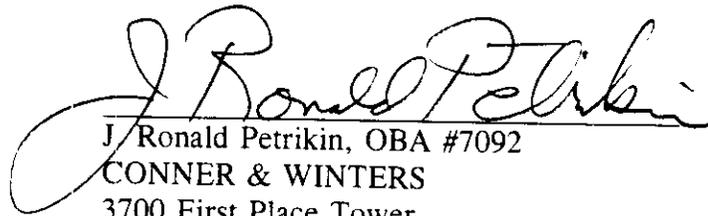
STIPULATION OF DISMISSAL WITH PREJUDICE

IT IS HEREBY STIPULATED AND AGREED by and between the parties hereto, through their undersigned counsel of record, that the above-entitled matter is dismissed with prejudice and without costs to any party herein.

DATED this ____ day of November, 1997.

Jean Walpole Coulter, OBA #9324
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ATTORNEYS FOR THE PLAINTIFF



J. Ronald Petrikin, OBA #7092

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ATTORNEYS FOR THE DEFENDANTS

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

FILED

NOV 21 1997

Phil Lombardi, Clerk
U.S. DISTRICT COURT

GEORGIA TREVIZO,)
518-42-3536)

Plaintiff,)

vs.)

No. 96-CV-610-BU(M)

KENNETH S. APFEL, Commissioner,)
Social Security Administration,)

Defendant.)

ENTERED ON DOCKET

DATE NOV 24 1997

JUDGMENT

In accordance with the Court's Order this same date, it is hereby ordered that judgment is entered in favor of Defendant, Kenneth S. Apfel, Commissioner of Social Security Administration; and against Plaintiff, Georgia Trevizo.

Dated at Tulsa, Oklahoma this 21st day of November, 1997.


MICHAEL BURRAGE
UNITED STATES DISTRICT JUDGE

(13)

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

FILED

NOV 21 1997

Phil Lombardi, Clerk
U.S. DISTRICT COURT

GEORGIA TREVIZO,
518-42-3536

Plaintiff,

vs.

No. 96-CV-610-BU(M)

KENNETH S. APFEL, Commissioner,
Social Security Administration,

Defendant.

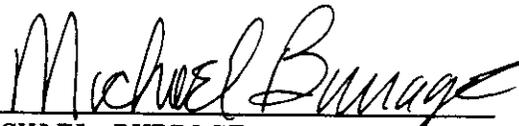
ENTERED
DATE NOV 24 1997

ORDER

On October 31, 1997, United States Magistrate Judge Frank H. McCarthy entered a Report and Recommendation wherein he recommended that Defendant, Kenneth S. Apfel, Commissioner of Social Security Administration's finding that Plaintiff is not disabled as defined in the Social Security Act be affirmed. In the Report and Recommendation, Magistrate Judge McCarthy advised the parties that any objections to the Report and Recommendation must be filed within ten (10) days of service of the Report and Recommendation. To date, neither party has objected to the Report and Recommendation. With no objection being filed, the Court finds the Report and Recommendation should be affirmed.

Accordingly, Magistrate Judge McCarthy's Report and Recommendation (Docket Entry #11) is AFFIRMED. Defendant's finding that Plaintiff is not disabled as defined in the Social Security Act is AFFIRMED. Judgment shall issue forthwith.

ENTERED THIS 21st day of November, 1997.



MICHAEL BURRAGE
UNITED STATES DISTRICT JUDGE

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

LILLIAN A. BISHOP)
)
Plaintiff,)
)
vs.)
)
METROPOLITAN PROPERTY)
and LIABILITY INSURANCE)
COMPANY and SUBSIDIARIES)
METROPOLITAN PROPERTY)
and CASUALTY INSURANCE)
COMPANY and AFFILIATES,)
WARWICK, RI and MET P&C)
)
Defendants.)

FILED

NOV 20 1997

Phil Lombardi, Clerk
U.S. DISTRICT COURT

ENTERED ON DOCKET

DATE 11-21-97

Case No. 96-CV-1036 H ✓

STIPULATION OF JOINT DISMISSAL WITH PREJUDICE

The parties hereto having reached a settlement, plaintiff Lillian A. Bishop, pursuant to Fed.R.Civ.P. 41, hereby dismisses her Complaint against defendants Metropolitan Property and Liability Insurance Company, Metropolitan Property and Casualty Insurance Company, Warwick, RI and Met P&C with prejudice to the refileing of the same. Metropolitan Property and Casualty Insurance Company hereby dismisses its counterclaim with prejudice to the refileing of the same. Each party is to bear its own costs and attorneys' fees.

Respectfully submitted,

DANIEL, BAKER & HOWARD

By:



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