

Per Curiam.

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that triable issues of fact exist. To examine this large record without any illumination by the court below would place an intolerable burden on this Court.

In these circumstances I believe that the proper course is to vacate the judgment below and remand the case to the District Court, with leave to the defendant to renew its motion for summary judgment before another district judge. The Court's action, which deprives the defendant of that opportunity, seems to me unwarranted. If summary judgment were again granted, the District Court would be expected to furnish a statement of its reasons, including such findings of fact and conclusions of law as might be appropriate. Cf. *United States v. El Paso Natural Gas Co.*, 376 U. S. 651, 662 (concurring-dissenting opinion of HARLAN, J.).

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BONTZ *v.* KANSAS.

APPEAL FROM THE SUPREME COURT OF KANSAS.

No. 758. Decided May 4, 1964.

Appeal dismissed for want of a substantial federal question.

Reported below: 192 Kan. 158, 163, 386 P. 2d 201, 205.

*Verne M. Laing* for appellant.

*William M. Ferguson*, Attorney General of Kansas, and *Keith Sanborn* for appellee.

PER CURIAM.

The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question.

MR. JUSTICE BLACK, MR. JUSTICE DOUGLAS and MR. JUSTICE HARLAN are of the opinion that probable jurisdiction should be noted.