

RECEIVED

JUL 26 2004

BANGS McCULLEN  
LAW FIRM

CHEYENNE RIVER SIOUX TRIBAL COURT  
CHEYENNE RIVER SIOUX TRIBE  
CHEYENNE RIVER INDIAN RESERVATION

IN CIVIL COURT  
IN GENERAL SESSION  
APPELLATE COURT

---

BANK OF HOVEN, NOW KNOWN AS  
PLAINS COMMERCE BANK  
APPELLANT,

vs.

APPELLANT'S RESPONSE TO  
AMICUS CURIAE BRIEF OF THE  
CHEYENNE RIVER SIOUX TRIBE

LONG FAMILY LAND AND CATTLE  
COMPANY, INC., - RONNIE AND  
LILA LONG  
RESPONDENTS.

03-002-A  
R-120-99

---

Comes now Appellant, Bank of Hoven, now known as Plains  
Commerce Bank (Bank), in response to the Amicus Curiae Brief of  
the Cheyenne River Sioux Tribe (Tribe) and states as follows:

1. The Bank disputes the Statement of Facts contained in  
the Tribe's brief. It contains facts not in evidence, i.e.  
*citations regarding alleged Bank dealings with tribal members*,  
and numerous inaccuracies. This Court is referred to the  
Statement of Facts contained in Appellant's brief, which is  
believed to be accurate.

2. The Bank realleges all of the arguments contained in  
Appellant's brief regarding jurisdiction. Contrary to what is  
alleged in Tribe's brief, however the Bank does not concede that  
the Tribal Court had jurisdiction over all of the claims in this  
action except for discrimination.

3. The Bank strongly disagrees that tribal law is an  
adequate source for Plaintiff's discrimination action.  
Absolutely no Federal or State authority is cited in the  
Tribe's brief to substantiate a claim that unwritten tribal laws  
and customs are sufficient to substantiate a claim of  
discrimination. The Bank is an off reservation non-member  
institution having no knowledge of tribal customs and unwritten  
laws. It is ludicrous to argue that the Bank could be subjected  
to a discrimination claim based upon unwritten tribal laws and  
customs. A Tribal Court is a court of limited jurisdiction and

SENT COPY

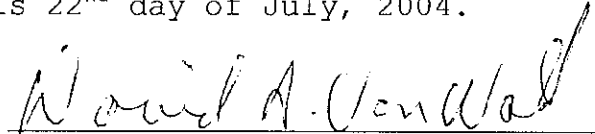
JUL 26 2004

TO CLIENT

it simply did not have jurisdiction over Plains Commerce Bank in a discrimination action.

4. The allowance of Plaintiff's discrimination claim tainted the entire trial. Evidence of alleged discrimination was allowed which would not have been relevant without the discrimination claim. This evidence was highly inflammatory. It was impossible for a jury composed solely of tribal members to act impartially after hearing the discrimination evidence and allegations. The discrimination claim resulted in the Bank not receiving a fair trial.

Respectfully submitted this 22<sup>nd</sup> day of July, 2004.



David A. Von Wald  
Attorney for Plains Commerce Bank  
P.O. Box 468  
Hoven, South Dakota 57450  
(605) 948-2550

#### CERTIFICATE OF SERVICE

Comes now, David A. Von Wald, Attorney for Appellant, Bank of Hoven, now known as Plains Commerce Bank, and hereby certifies that I served by first class mail, postage prepaid, a true and correct copy of the APPELLANT'S RESPONSE TO AMICUS CURIAE BRIEF OF THE CHEYENNE RIVER SIOUX TRIBE the 22<sup>nd</sup> day of July, 2004, addressed to the following:

James P. Hurley  
P.O. Box 2670  
Rapid City, SD 57709

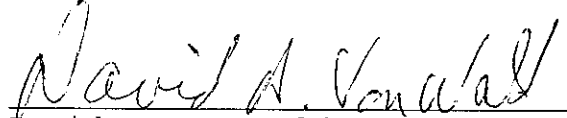
Kenneth E. Jasper  
P.O. Box 2093  
Rapid City, SD 57709

Thomas J. Van Norman  
Cheyenne River Sioux Tribe  
Legal Department  
P.O. Box 590  
Eagle Butte, SD 57625

Roger K. Heidenreich  
Kimberly A, Naegele  
Sonnenschein Nath & Rosenthal LLP  
One Metropolitan Square  
Suite 3000  
St. Louis, MO 63102

Steven J. Gunn  
Civil Justice Clinic  
Washington University School of Law  
One Brookings Drive  
Campus Box 1120  
St. Louis, MO 63130

Dated this 22<sup>nd</sup> day of July, 2004.



---

David A. Von Wald  
Attorney for Plains Commerce Bank  
P.O. Box 468  
Hoven, South Dakota 57450  
605-948-2550