

Received DEC 06 2002

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

IN CIVIL COURT

---

LONG FAMILY LAND AND CATTLE  
COMPANY, Inc. - RONNIE AND LILA LONG,  
Plaintiffs,

vs.

MOTION TO DISMISS

EDWARD AND MARY MACIEJEWSKI  
and RALPH H. AND NORMA J. PESICKA,  
and THE BANK OF HOVEN,  
Defendants.

R-120-99

---

Comes now Defendant, Plains Commerce Bank, formerly known as the Bank of Hoven, by and through its Attorney, David A. Von Wald, and moves to dismiss certain Causes of Action in Plaintiff's Amended Complaint as follows:

1. Count Three, Failure of Consideration, of Plaintiff's Amended Complaint should be dismissed in that consideration of \$478,000 was given by the Bank of Hoven for the transfer of the land by the Personal Representative and that fact is undisputed.
2. Count Four, Contract and Deed Are Void, of Plaintiff's Amended Complaint should be dismissed since this Court has previously ruled that setting aside the transfer of the land and voiding the Deed is a matter for the State Court and comity is given to the State Court Order.
3. Count Five, Self Help, of Plaintiff's Amended Complaint should be dismissed because the issue of self help is dealing with repossession of personal property and the allegations are that Defendant sold real property. Self help is inapplicable.
4. Count Six, Discrimination, of Plaintiff's Amended Complaint should be dismissed because this Court lacks jurisdiction. Causes of action for discrimination are reserved for Federal Courts and possibly State Courts, but not Tribal Courts.

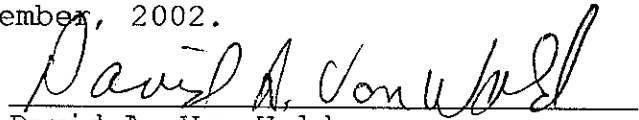
Sent Copy  
to Client

DEC 03 2002

5. Count Eight, Unconscionable Contract, of Plaintiff's Amended Complaint should be dismissed as again it is an attempt to set aside the transfer of the land and this Court has ordered that it will give comity to the State Court Order.

WHEREFORE, Defendant, Plains Commerce Bank, prays the Court dismiss those Causes of Action above mentioned.

Dated this 3<sup>rd</sup> day of December, 2002.



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

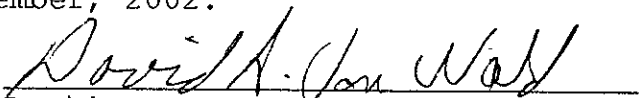
#### CERTIFICATE OF SERVICE

Comes now David A. Von Wald, Attorney for Defendant, Plains Commerce Bank, and hereby certifies that I served by first class mail, postage prepaid, a true and correct copy of the foregoing MOTION TO DISMISS on the 3<sup>rd</sup> day of December, 2002, addressed to the following:

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

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

Dated this 3<sup>rd</sup> day of December, 2002.



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