

APPELLANT'S BRIEF  
  
SUPREME COURT  
  
OF SOUTH DAKOTA

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No. 20140329

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ANGELA NAILS, *Plaintiff* Petitioner and Appellant,

v.

US BANK N.A., *Defendant* Respondent and Appellee.

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APPEAL FROM THE DISTRICT COURT  
  
EAST CENTRAL JUDICIAL DISTRICT  
  
COUNTY OF CASS NORTH DAKOTA

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THE HONORABLE JOHN C. IRBY

DISTRICT COURT JUDGE

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Defendant Attorney US Bank N.A.,  
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## INDEX OF AUTHORITIES

### CASES

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Borcea v. Carnival Corp., 238 F.R.D. 664, 671 (.D., Fla. 2006)

Kornberg v. Carnival Cruise Lines, Inc., 741 F. 2d1984

Products, Inc. v. Windsor, 521 U.S. 591, 620 (1997)

Sfurray V. Auslander, 244 F. 3d 807, 811 (11<sup>th</sup> Cir, 2001)

## TABLE OF AUTHORITIES

Amchem Products, Inc. v. Windsor, 521 U.S. 591, 620 (1997).  
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Kornberg v. Carnival Cruise Lines, Inc., 741 F.2d1984

## APPENDIX

Order Granting Dismiss

## PRELIMINARY STATEMENT

The civil actions other Appellants have taken the US Bank civil complaint filings with the courts give the idea of what the action taken of the other Appellants to seek out the Appellee US Bank is to give back to the peoples account the Appellee closed accounts. Appellant has listed in the Appellant Table of Authorities the other Appellee settlement Judgments winning the Appellants a win of their appeal filed on July 29, 2013.

## JURISDICTIONAL STATEMENT

This is an appeal of the Order of the Honorable John C. Irby denying and dismissing the Plaintiff Petition For Relief of the damages of closing account fees and other banking fees not allowed by the FDIC to close any person checking account without having told the account holder by presenting a booklet to the account holder expressing the closing of the account holders account 8000 Miscellaneous Statutes and Regulations Part 1020.22 the 1010. 100(d) Rule For Banks.

## STATEMENT OF THE CASE

The Appellant complaint was dismissed because reason the Jurisdictional Statement failure to open a checking account with the Appellee knowing there were overdrafts amounts of Appellant checking account. The responsibility lies of the Appellee who accepted the Appellant certified mail letter. The common laws would hold a deposit of a money order of the acceptor of the certified mail in mail is a money order. The Appellee who acceptance of the Appellant certified mail by signing for the Appellant mail sent to the US Bank the Appellee the certified mail the Appellee misplace certified mail

The Appellee over drafted the Appellant checking account causing fees to the Appellant checking account. The Appellee has stated on the credit report of the Appellant there is a legal document between the Appellant and Appellee for the Appellant to pay \$96.00 a month for the Appellant overdrafted checking account. The Appellant has not signed a document with the Appellee to pay \$96.00 until the overdraft is paid. The Appellant holds the Appellee as the liable person owning a balance and has made up a document and said the Appellant was aware of the document to pay the Appellee \$96.00 every month until the over draft amount of \$ 407.00 has been paid. The Appellee adds \$1,569.00 to the overdraft account with a bank statement with the amounts of \$407.00 the amount of \$1,569.00.

#### STATEMENT OF ISSUES

Has the court abused its discretion by granting US Bank a dismissal based on the writing of the Defendant Attorney language in the Defendant Attorney Motion to Dismiss.

#### LEGAL ISSUES

Whether the Supreme Courts decision Kornberg v. Carnival Cruise Lines, Inc., (741 F.2d1984) can be understood as what the Constitutional Law the trial court did the wrong thing not to determine another rule created to help the judgment to go to the Appellant and against the Defendant.

#### STATEMENT OF FACTS

The Appellant Angela is a citizen of the United States is the rights of the Appellant are to have the Appellant rights under each of the Constitutional Laws which Constitutional Law fits the Appellant problem with this appeal.

The Appellant has been seeking damages since January 2014 the relief will ultimately will become public and the award to the Appellant will represent the continuing of the matter with end results of damages in the Plaintiff. The Appellant sued the Appellee in the lower court because of the closing of the Appellant checking account. And the Federal Deposit Insurance Currency rule to close any bank account the booklet given to the new account holder must say how the bank will close a bank account. The Appellee did not give a booklet to the Appellant showing the information of closing a bank account. The responsibility of the US Bank who is the Appellee is to keep up with sign mail accepted by a bank employee for deposit into the account holder account.

## ARGUMENT

### I. Due process

The Constitution states only one command twice. The Fifth Amendment says to the federal government that no one shall be "deprived of life, liberty or property without due process of law." The Fourteenth Amendment, ratified in 1868, uses the same eleven words, called the Due Process Clause, to describe a legal obligation of all states. These words have as their central promise an assurance that all levels of American government must operate within the law ("legality") and provide fair procedures. Most of this essay concerns that promise. We should briefly note, however, three other uses these words have had in American constitutional law.

I. The trial court erred in ordering a hearing

A. The Order to Dismiss was in error because the Court has not read the Motion clearly at the lower court level before the dismissal of the Appellant complaint against the Appellee.

B. The lower trial court has improperly drawn an adverse inference action against Angela Nails the Appellant.

#### CONSTITUTIONAL LAW

To Constitutional laws are clear Due process introduction says that the Constitution states only one command twice is the Fifth Amendment says to the federal government that no one shall be "deprived of life, liberty or property without due process of law." The Fourteenth Amendment, ratified in 1868, uses the same eleven words, called the Due Process Clause, to describe a legal obligation of all states. These words have as their central promise an assurance that all levels of American government must operate within the law ("legality") and provide fair procedures. Most of this essay concerns that promise. We should briefly note, however, three other uses these words have had in American constitutional law.

II. The Supreme Court should follow the Appellant guides of the case laws of banking rules

III. The effectiveness of the Constitution laws should open doors for the Appellant to be complaint to be granted for the reasons of the closing and fees added onto the Plaintiff checking account when the U.S. Bank was provided a certified mailing document the U.S. Bank sign for the property inside the envelope belong to the U.S. Bank and the responsibility of the bank to follow thru to deposit the Appellant money order amount into the checking account of the Appellant to service the Appellant as the letter with the money order ask the Appellee to do is to deposit the money order into the Appellant checking account. The Appellant each month used the process to have money deposited into the Appellant checking account because the Appellant was not living around a U.S. Bank.

## SUMMARY OF THE ARGUMENT

The Summary Of ARGUMENT is based on the Due Process Laws also the Amendments in the Constitution of United States and the federal government laws and the deprive of life, liberty or property all of the argument is about if the Appellant has any rights to having an open checking Account and do the Banks in the United States have the right to close consumer's accounts with Giving notice and a good reason to close a consumer account at any United States bank if the closing of a bank account there is no good reason.

### I. Due Process

The Constitution of United States only one command twice. The Fifth Amendment says to the federal government that no one shall be "deprived of life, liberty or property without due process of law." The Fourteenth Amendment, ratified in 1868, uses the same eleven words, called the Due Process Clause, to describe a legal obligation of all states.

These words have as their central promise an assurance that all levels of American government must operate within the law ("legality") and provide fair procedures.

Most of this essay concerns that promise. We should briefly note, however, three other uses these words have had in American constitutional law.

## CONCLUSION

The trial court dismissing the Appellant's petition. Conceivable facts did exist to grant relief. The trial court did not advise themselves with the Constitution law five giving Due Process. The trial Court did not grant the Banking rule own guidelines and regulations of what the Banks are govern to do is to close accounts only of the booklet explains to the customer.

The Appellee did not follow their own Close Account policy, guidelines, and regulations.

The Appellant should be granted relief. The Appellee should remove all fees associated with the Plaintiff account, remove information from the Credit report of the Appellant.

CERTIFICATE OF COMPLIANCE

With Type-Volume Limitation, Typeface Requirements,

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1. This brief complies with the type-volume limitation of Fed. R. App. P.

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s: Nails, Angela

Angela Nails

Dated: ~~September 10, 2014~~

**CERTIFICATE OF SERVICE**

I hereby certify that on \_\_\_\_\_, seven and one true and correct copies of this Appellant

Brief was served upon:

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I further certify that on \_\_\_\_\_ one copy of the Appellant Brief was mail to the Appellee and

7 copies of the Appellant Brief was mail to the Supreme Court of North Dakota.

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ANGELA NAILS



