

Brief of case

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BRIEF OF CASE JEFF E. MESSING V. BANK OF AMERICA, N. A. 821 A. 2d

22(2003) CASE: Jeff E. Messing V. Bank of America, 821 A. 2d 22(2003)

PROCEDURE: Plaintiff customer Jeff E. Messing sued the defendant bank for refusal of an over the counter check withdrawal because of a Thumbprint signature request for non-customers. The Bank files a motion to Dismiss and the bank wins. The plaintiff opposed the motion and filed a “ cross” Motion for Summary Judgment. The Circuit court after hearing oral arguments on the pending motions denies the plaintiff requests for injunctive relief but the Circuit court entered summary judgment in favor of the bank, dismissing the complaint with prejudice. The petitioner appeals but the Court of Special Appeals concludes that the Circuit court’s decision in favor of the Bank is legally correct.

FACTS: The plaintiff Jeff E. Messing sued the Bank of America in court for refusal of a cash withdrawal over the counter through a check drawn on the bank because of the bank’s Thumbprint Signature Program for non-customers. Under the Thumbprint Signature Program, a bank requests non-customer presenters of checks over the counter to place an “ inkless” thumbprint or fingerprint on the face of the check as part of the identification process.

ISSUE: Whether the Bank’s refusal to accept the check as presented constituted dishonor under § 3-501 and § 3-502 as plaintiff contends.

DECISION: Yes, affirmed.

HOLDING: § 3-501b (2) and (3). (2)Upon demand of the person to whom presentment is made, the person making presentment must (1) exhibit the instrument, (2) give reasonable identification and, if presentment is made on behalf of another person reasonable evidence of authority to do so, and (3)

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sign a receipt on the instrument for any payment made or surrender the instrument if full payment is made.

(3) Without dishonoring the instrument, the party to whom presentment is made may (1) return the instrument for lack of a necessary indorsement, or (2) refuse payment or acceptance for failure of the presentment to comply with the terms of the instrument, an agreement of the parties or other applicable law or rule.

RATIONALE: The reduction of risk promotes the expansion of commercial practices, bringing to the conclusion the direction of § 1-102 (2) (b) that a bank's requirement of a thumbprint placed upon a check presented over the counter by a non-customer is reasonable.

Works Cited

Lewis, Wayne K, and Steven H. Resnicoff. *The New Law of Negotiable Instruments*. Charlottesville, Va: Michie, 1996. Print.