

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF) CASE NO. BK84-2287
)
RAYMOND E. NORRIS and) A85-208
BARBARA B. NORRIS,) A85-209
) A85-210
DEBTORS)
) CH. 11
FARMERS STATE BANK OF)
SUPERIOR, NEBRASKA,)
)
Plaintiff)
)
vs.)
)
RAYMOND E. NORRIS,)
BARBARA B. NORRIS, UNITED STATES)
OF AMERICA, STATE OF NEBRASKA,)
and STATE OF KANSAS,)
)
Defendant)

Published at
88 BR 213

MEMORANDUM

Before a United States Bankruptcy Judge for the District of Nebraska regarding the complaint filed by plaintiff, Farmers State Bank of Superior, Nebraska.

APPEARANCES

Frank Schepers, Attorney, 10306 Regency Parkway Dr., Omaha, NE 68114
Lance Johnson, Attorney, P.O. Box 87, Hebron, NE 68370
Yvonne Gates, Attorney, 2115 State Capitol, Lincoln, NE 68509
Melanie Caro, Legal Services Bureau, Docking State Office Building, Topeka, KS 66612-1588
Douglas Semisch, Assistant U.S. Attorney, P.O. Box 1228 DTS, Omaha, NE 68101-1228
Peter Taylor, Trial Attorney, Tax Division, U.S. Department of Justice, Washington, D.C. 20530
Copy to Law Clerk

In its memorandum of June 20, 1988, the Court ordered the State of Nebraska and plaintiff to provide legal arguments on the issue of Nebraska's immunity from plaintiff's complaint of

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Court M. Napier
Clerk, U.S. Bankruptcy Court
By: [Signature] Deputy

conversion. The Court has received and reviewed the arguments presented by Nebraska. Plaintiff provided no further legal arguments.

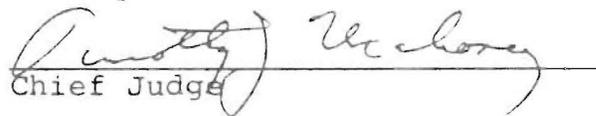
Plaintiff's action for conversion against the State of Nebraska is dismissed because the Court lacks subject matter jurisdiction. The Court raised the issue on its own motion. Fed. R. Civ. P. 12(h)(3).

Nebraska has not waived its sovereign immunity under either 11 U.S.C. § 505 or 11 U.S.C. § 106. See Farmers State Bank of Superior, Nebraska, v. Norris, No. A85-208, -209, -210, slip op. at 3-5 (Bankr. D. Neb. June 20, 1988). Further, neither the Constitution of the State of Nebraska nor the State Tort Claims Act waives Nebraska's sovereign immunity for actions brought in United States federal bankruptcy courts. See Neb. Const. art. V, § 22; Neb. Rev. Stat. §§ 81-8209 et seq. (Reissue 1987).

Clerk of the Bankruptcy Court shall procedurally consolidate A85-208, -209, -210 and issue to the remaining parties in this proceeding, Farmers State Bank of Superior, Nebraska, and debtors, Raymond and Barbara Norris, a pretrial order requiring a joint pretrial statement on or before September 15, 1988.

DATED: July 22, 1988.

BY THE COURT:


Chief Judge