

The court stated that if the transaction had occurred after September 27, 1964, the Uniform Commercial Code would have been applicable (Section 10-101), although the same result would have been dictated by Section 3-305.

J.F.O'L.

SECTION 3-413. Contract of Maker, Drawer and Acceptor

PAZOL V. CITIZENS NAT'L BANK

138 S.E.2d 442 (Ga. Ct. App. 1964)

Annotated under Section 3-301, supra.

ARTICLE 4: BANK DEPOSITS AND COLLECTIONS

**SECTION 4-201. Presumption and Duration of Agency
Status of Collecting Banks and
Provisional Status of Credits;
Applicability of Articles; Item
Indorsed "Pay Any Bank"**

PAZOL V. CITIZENS NAT'L BANK

138 S.E.2d 442 (Ga. Ct. App. 1964)

Annotated under Section 3-301, supra.

**SECTION 4-205. Supplying Missing Indorsement; No
Notice from Prior Indorsement**

PAZOL V. CITIZENS NAT'L BANK

138 S.E.2d 442 (Ga. Ct. App. 1964)

Annotated under Section 3-301, supra.

**SECTION 4-208. Security Interest of Collecting Bank
in Items, Accompanying Documents
and Proceeds**

PAZOL V. CITIZENS NAT'L BANK

138 S.E.2d 442 (Ga. Ct. App. 1964)

Annotated under Section 3-301, supra.

**SECTION 4-209. When Bank Gives Value for Purposes
of Holder in Due Course**

PAZOL V. CITIZENS NAT'L BANK

138 S.E.2d 442 (Ga. Ct. App. 1964)

Annotated under Section 3-301, supra.

**SECTION 4-211. Media of Remittance; Provisional
and Final Settlement in Remittance
Cases**

CITIZENS BANK V. NATIONAL BANK OF COMMERCE

334 F.2d 257 (10th Cir. 1964)

To be annotated in Volume 6, Issue 4.

**SECTION 4-303. When Items Subject to Notice,
Stop-Order, Legal Process or
Setoff; Order in Which Items
May Be Charged or Certified**

YANDELL V. WHITE CITY AMUSEMENT PARK, INC.
232 F. Supp. 582 (D. Mass. 1964)

White City and General Oglethorpe, two corporations, maintained several active and troublesome accounts in their individual names at the Commerce Bank. To insure that none of their checks would be dishonored, they authorized the bank to transfer funds among their accounts whenever the bank found it necessary. Frequently, there were overdrafts in the White City accounts which were satisfied by funds transferred from the Oglethorpe accounts.

On July 29, 1960, the bank, pursuant to its authorization, decided to transfer \$6,900 from a White City account to a General Oglethorpe account. A debit memo was executed on that day but, due to an end-of-the-month banking procedure, it was dated August 1. Also on July 29 the bank made a special inspection of White City's balance before determining to honor four checks drawn on White City in the total amount of \$7,998.75. These checks were withdrawn from the regular machine-posting process and a bank officer entered a pencilled notation on White City's ledger card, thereby indicating that there were sufficient funds in the account to cover the checks. The checks were then hand posted with a special symbol, a procedure which manifested the bank's present intention to pay the checks. Finally, the checks were machine posted on August 2.

On August 1, the plaintiff served a trustee writ on the bank in an attempt to tie up White City's funds. In the present action, he seeks to charge the bank, *inter alia*, for the \$6,900 transferred to General Oglethorpe and for the \$7,998.75 paid out to honor White City's four checks. The court held that the bank could not be charged with these disbursements. First, though the debit memo was dated August 1, it was actually executed on July 29, and that was the date on which the money was transferred to General Oglethorpe. This money was not in White City's account when the writ was served. And second, by virtue of the pencilled notation on White City's ledger card and the hand posting on July 29, the bank had evidenced, by examination and action, its intent to honor the four checks prior to the service of the trustee writ. Thus, under Section 4-303(1)(d), the trustee writ arrived too late to terminate the bank's right to honor the checks.

COMMENT

"Final payment of an item" is a term of art meaning that at a certain point in time the payor bank owes the amount of the item to the person seeking payment and no longer owes that amount to the depositor from whose account it was payable. Section 4-213. Logically, final payment also terminates the right of third parties dealing with the depositor to reach that amount in his account, as by garnishment or by setoff by the payor bank itself, and of

the depositor to countermand his order to pay from the account. In short, the funds represented by the item no longer belong to the depositor.

This case indicates the one point in time short of final payment when those rights are also terminated: a decision by the bank to pay the item accompanied by some action indicating that decision. This occurred two days before service of the trustee writ (garnishment), even though final payment itself did not occur until after service of the writ when the process of posting was in fact completed. As against the *owner* of the item, however, the bank could have changed its mind at any time before final payment without liability. Sections 4-303 and 3-418.

S.L.P.

ARTICLE 9: SECURED TRANSACTIONS

SECTION 9-204. When Security Interest Attaches; After-Acquired Property; Future Advances

CAIN V. COUNTRY CLUB DELICATESSEN
25 Conn. Sup. 327, 203 A.2d 441 (1964)
Annotated under Section 9-401, *infra*.

SECTION 9-301. Persons Who Take Priority Over Unperfected Security Interests: "Lien Creditor"

CAIN V. COUNTRY CLUB DELICATESSEN
25 Conn. Sup. 327, 203 A.2d 441 (1964)
Annotated under Section 9-401, *infra*.

SECTION 9-302. When Filing Is Required to Perfect Security Interest; Security Interests to Which Filing Provisions of This Article Do Not Apply

CAIN V. COUNTRY CLUB DELICATESSEN
25 Conn. Sup. 327, 203 A.2d 441 (1964)
Annotated under Section 9-401, *infra*.

SECTION 9-312. Priorities Among Conflicting Security Interests in the Same Collateral

CAIN V. COUNTRY CLUB DELICATESSEN
25 Conn. Sup. 327, 203 A.2d 441 (1964)
Annotated under Section 9-401, *infra*.

SECTION 9-313. Priority of Security Interests in Fixtures

CAIN V. COUNTRY CLUB DELICATESSEN
25 Conn. Sup. 327, 203 A.2d 441 (1964)
Annotated under Section 9-401, *infra*.