

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 09-MD-02036-JLK

IN RE: CHECKING ACCOUNT  
OVERDRAFT LITIGATION

MDL No. 2036

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**THIS DOCUMENT RELATES TO:**

*Shane Swift v. BancorpSouth, Inc.*,  
N.D. Fla. Case No. 1:10-cv-00090-SPM  
S.D. Fla. Case No. 1:10-cv-23872-JLK

*Casayuran, et. al v. PNC Bank, N.A.*  
S.D. Fla. Case No. 1:10-cv-21869-JLK

*Cowen, et. al v. PNC Bank, N.A.*  
S.D. Fla. Case No. 1:10-cv-21869-JLK

*Hernandez, et. al v. PNC Bank, N.A.*  
S.D. Fla. Case No. 1:10-cv-21868-JLK

*Matos v. National City Bank*  
S.D. Fla. Case No. 1:10-cv-21771-JLK

*Harris v. Associated Bank, N.A.*  
S.D. FL Case No. 1:10-cv-22948-JLK

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**ORDER DENYING DEFENDANTS' MOTIONS TO DISMISS**

**THIS CAUSE** comes before the Court upon three individual Motions to Dismiss filed by Defendants BancorpSouth, Inc., (DE # 1068)<sup>1</sup>, PNC Bank & National City Bank (DE # 1071)<sup>2</sup>,

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<sup>1</sup> Defendant Bancorp's Motion to Dismiss was filed in response to Plaintiff's Amended Complaint (DE #994), which was filed on December 6, 2010. Plaintiff filed its Opposition to the Motion to Dismiss (DE # 1192) on February 22, 2011, to which Defendant Bancorp filed a Reply (DE #1279) on March 14, 2011.

<sup>2</sup> Defendants PNC Bank and National City Bank's Motion to Dismiss was filed in response to Plaintiffs' Complaint (DE #991), which was filed December 6, 2010. Plaintiffs filed their Opposition to the Motion to Dismiss (DE #1194) on February 22, 2011, to which Defendants filed a Reply (DE #1278) on March 11, 2011.

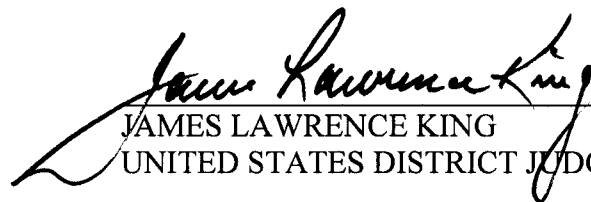
and Harris, N.A (DE # 1074).<sup>3</sup> Coordinated oral argument on all Motions to Dismiss was held on Wednesday, March 16, 2010.

After careful consideration of the parties' legal briefs and extensive oral argument on March 16, 2011 (DE #1296), the Court has determined that Defendants in the above-styled cases have failed to state any new grounds for this Court to vary from its earlier Order Ruling on Omnibus Motions (DE #305). At that time, the Court adjudicated fifteen previously-pending Motions to Dismiss, all of which addressed the same legal issues as those presented here. While Defendants have submitted additional argument regarding Plaintiffs' underlying causes of action, the Court's earlier ruling encompassed and disposed of those same defenses. As such, the Court finds that Defendants' Motions to Dismiss must be denied in their entirety.

Accordingly, being fully advised on the premises, it is **ORDERED, ADJUDGED, and DECREED** that:

1. Defendants' Motions to Dismiss (DE #1068, 1071, 1074) be, and the same are, hereby **DENIED**. Defendants shall **ANSWER** the respective Complaints **within twenty days** of the date of this Order

**DONE AND ORDERED** in Chambers at the James Lawrence King Federal Justice Building and United States Courthouse in Miami, Florida, this 21st day of March, 2011.

  
JAMES LAWRENCE KING  
UNITED STATES DISTRICT JUDGE

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<sup>3</sup> Defendant Harris, N.A.'s Motion to Dismiss was filed in response to Plaintiff Amended Complaint (DE #992), which was filed on December 6, 2010. Plaintiff filed its Opposition to the Motion to Dismiss (DE #1193) on February 22, 2011, to which Defendant filed a Reply (DE #1283) on March 14, 2011.

**Cc:**

**All Counsel of Record**