

Don't Be Next: Bank Hit for \$203 Million in Overdraft Suit

08.12.2010

Overdraft fees, including one pending action seeking \$300 million against Wells Fargo. That suit alleged that the bank's practice of "high-to-low resequencing" of debit card charges had the effect of unfairly and deceptively multiplying overdraft charges assessed against customers.

Just this week, the court ruled in the plaintiffs' favor in that case, awarding \$203 million in restitution. In a 90-page opinion, the court ruled that the practice of "high-to-low resequencing"-along with a variety of related disclosure deficiencies - unfairly "blind-sided" customers with multiple overdraft fees.

There is little doubt that, in light of this large verdict, numerous copycat suits will follow. Any financial institution that imposes overdraft charges should carefully audit its practices - checking not only for the specific practices at issue in the Wells Fargo case, but also for compliance with the related revisions to Regulation E recently promulgated by the Federal Reserve.

More details on the underlying class action allegations and the revisions to Regulation E: Overdraft Fees: Barbarians (and Regulations) at the Gate - June 29, 2010.

Attorneys

John T. Brooks