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WEEKLY

Bank of America settles customers' class action

Class alleged lost interest with online payments



John F. Edgar

A class action lawsuit filed in Jackson County Circuit Court alleging that Bank of America was, in effect, denying customers interest on their money settled for \$865,000.

The lawsuit was filed on behalf of anyone in Missouri that used Bank of America's online bill pay services between January 2006 and March 2009 whose account was debited for a bill payment made by a corporate check. The certified class included thousands of people throughout Missouri.

The plaintiffs alleged that Bank of America misrepresented to customers that money paid through online bill pay wouldn't be deducted from their accounts if sent by check

until the check was presented for payment.

However, the plaintiffs alleged that Bank of America debited accounts immediately regardless of whether payments were made by check or by electronic fund transfer. The suit, handled by attorneys John F. Edgar, Andrew Protzman and Tony Shapiro, claimed that cost customers interest they would have made during the "float time" between issuance of the checks and their being cashed.

In a motion to dismiss that the court never ruled on, the defendant argued the alleged misrepresentations lacked specificity, that the plaintiffs couldn't prove they relied on

such misrepresentations, and that they lacked standing to sue.

A defense attorney couldn't be reached for comment.

Edgar said the plaintiffs "analyzed the claim based on estimated damages and confirmatory discovery" and that "both parties were reasonable in their approach to settlement."

Edgar also said that while the settlement wasn't large for a class action suit, the class members represented only one state.

"The class received essentially 100 percent of their damages," Edgar said.

— Christine Lesicko

■ \$865,000 settlement

CONSUMER PROTECTION

■ **Venue:** Jackson County Circuit Court

■ **Case Number/Date:** 0916-cv-23069/July 18, 2011

■ **Caption:** Kelly Kendall and Bryon Johnmeyer v. Bank of America N.A.

■ **Plaintiffs' Attorneys:** John F. Edgar, Edgar Law Firm, Kansas City; Andrew Protzman, Protzman Law Firm, Kansas City; Tony Shapiro, Shapiro & McMullen, Leawood, Kan.

■ **Defendant's Attorneys:** Brian C. Fries, Lathrop & Gage, Kansas City; Jan T. Chilton, Severson & Werson, San Francisco