

California Court ruling on Overdraft Protection: Should Illinois banks be concerned?

A California trial court recently found Bank of America liable for accessing customer accounts containing government funds, such as social security or disability payments, for the purposes of collecting bank fees incurred by the customer. The class action suit awarded the plaintiff class damages in the amount of \$284 million plus interest and attorneys' fees for the Bank wrongfully debiting their accounts as well as injunctive relief barring the practice. Bank of America will presumably appeal and the final outcome is feasibly years away.

The California ruling will likely have no impact in Illinois. Illinois has no analogous case law or legislation to that which the bank's liability was based upon. There are protections in Illinois banking law for banks engaged in prudent business practices. However, a disclosure by Illinois banks to their customers stating that the bank will have access to any customer account, including those containing government funds, for collecting fees and overdraft charges, is recommended to provide protection should the issue ever arise in Illinois.

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