



## 170,000 to get bank refunds

Overdraft settlements of \$9 million by Bank of Hawaii and \$1.2 million by Central Pacific are OK'd

By [Dave Segal](#)

POSTED: 01:30 a.m. HST, Feb 15, 2012

About 170,000 customers of Bank of Hawaii and Central Pacific Bank are due to get partially reimbursed next month for overdraft charges they incurred from ATM and debit card transactions.

State Circuit Judge Karen Nakasone approved Tuesday a \$9 million settlement between Bank of Hawaii and 160,000 customers in a class-action lawsuit stemming from the method the bank used to maximize debit and ATM overdraft fees by reordering the transactions from the highest dollar amount to the lowest dollar amount over a five-year period.

Brandee Faria, whose Perkin & Faria LLLC law firm filed the suit last February along with three mainland firms, called the Bank of Hawaii case the largest class action in state history.

Approval of the settlement comes on the heels of a Jan. 31 order by state Circuit Judge Virginia Crandall approving a \$1.2 million lawsuit settlement between Central Pacific Bank and 10,000 class members for a four-year period that also involved the reordering of debit and ATM transactions from highest to lowest to maximize fees. Perkin & Faria were assisted on that March 2011 suit by Honolulu-based Bickerton Lee Dang & Sullivan.

Faria said customers of the two banks who were assessed a minimum of two overdraft fees for either ATM or debit card transactions on the same day will receive a portion of the settlement. She said she

couldn't provide a range for refunds.

The presiding judges determined that 25 percent of the recovery was "reasonable" to be awarded as attorney fees.

Excluding those fees, each Bank of Hawaii customer could expect to receive about \$42.19, while each Central Pacific customer could get roughly \$90. However, the amounts will vary since customers incurred different amounts of overdraft charges, and those customers who paid more fees will receive larger refunds.

The lawsuits cited a study by Moebs Services, an economic research firm, which found that overdraft fees disproportionately affect the poor, who are most likely to maintain low balances, and that an estimated 90 percent of overdraft fees are paid by the poorest 10 percent of banks' customer base.

"These fees have the tendency to create a domino effect, because the imposition of a service charge on an account with a negative balance will make it less likely that the account holder's balance will reach positive territory, resulting in more fees," Moebs said.

The lawsuits accused the banks of reordering debit transactions from highest dollar amount to lowest. The suits said this practice allowed the banks to deplete the customer's available funds as quickly as possible while maximizing the number of overdraft fees.

Bank of Hawaii was charging \$26 per overdraft and Central Pacific \$30 per overdraft at the end of the time period covered by the suit.

Eligible Bank of Hawaii account holders will get the refund deposited into their accounts, while those no longer with the bank will receive a check in the mail, Faria said. All Central Pacific account holders will receive checks in the mail, Faria said. Only eight members of the Bank of Hawaii class opted out of the class settlement, while only three members from the Central Pacific class excused themselves. Eligible customers who didn't opt out of the suits don't have to do anything to qualify for the refunds, Faria said.

The small number of customers opting out "shows to the court that the class as a whole is very happy with the results in both cases," she said. "In both these cases, we're looking at them getting payment out to class members in March so the money will be in their pockets in just a short while and make 170,000 people in Hawaii happy."

Bank of Hawaii customers who qualify for the refunds were assessed overdraft fees from Feb. 15, 2005, to Aug. 15, 2010, while the period for Central Pacific Bank customers ran from March 7, 2007, to March 7, 2011.

"We're pleased to have been able to resolve this expeditiously with a reasonable outcome for all parties," Bank of Hawaii spokesman Stafford Kiguchi said. "Although it had previously been a common industry practice to post transactions from high to low, we changed our policy in January

2011 so that transactions are now posted from low to high. To assist customers in making more informed decisions about withdrawing money from their accounts, we have also continued to provide them with reminders and advice on how to avoid overdrawing their checking accounts."

Central Pacific also changed its method last year for calculating overdraft fees for ATM and debit card transactions after previously having debited from high to low.

"The bank continues to believe that our transaction posting practices were in full compliance with state laws and regulatory guidelines; however, we decided that a settlement was in our best interest," Central Pacific spokesman Wayne Kirihara said. "In April 2011 we adjusted our transaction posting process" to a chronological order based on the type of transaction.

A similar lawsuit that Perkin & Faria filed against American Savings Bank last March has been appealed by the bank to Hawaii Appellate Court after a motion to dismiss the suit was denied last August by state Circuit Judge Edwin Nacino.

"American Savings is being completely recalcitrant," Faria said. "It refuses to accept responsibility or accountability to its customers. Rather than repaying their customer for the wrongful charges, they would rather drag out the litigation and pay legal fees."

American Savings said since July it has been posting ATM and debit card transactions in the order they occurred, and checks sequentially.

"This decision was based on American Savings Bank's monitoring of industry-best practices, ongoing dialogue with our customers, clearer guidance from regulators and a technology upgrade that allows us to sequence transactions in the order they occurred," American Savings spokeswoman Lisa Burgin said. "American Savings Bank will continue its practice of posting daily deposits and credits to customer accounts before any debits are processed to minimize the likelihood that overdraft situations will occur. Customers are not charged any overdraft fees for ATM or debit card transactions unless they have opted in for courtesy overdraft payment practices. "

American Savings, which charged \$28 for overdraft fees during the period covered in the suit, now charges \$30 for overdrafts.

Shortly after the suit was filed last year, the bank said it was assessing overdraft fees from high to low because historically larger payments have been the more important ones to its customers, such as mortgages and car payments.

[Click here](#) to download our mobile app for your iOS, Android, Blackberry or Windows device.

---

**MOST POPULAR**

---

[T.J. Maxx opening 3 Oahu stores in May](#)

---

[Air Canada pilot returns plane to Honolulu midflight](#)

---

[Local engineering firm Heide & Cook files bankruptcy](#)

---

[Full Site](#) | [Privacy Policy](#) | [Terms of Service](#)  
Copyright © 2012 StarAdvertiser.com  
500 Ala Moana Blvd. #7-210, Honolulu, HI 96813  
ALL RIGHTS RESERVED.