

10/7/14 REUTERS LEGAL 10:00:00

REUTERS LEGAL
Copyright © 2014 Thomson Reuters

October 7, 201420141007100000

Popular Community Bank sued in class action over ATM fees

Dena Aubin

(Reuters) - Popular Community Bank and Cardtronics, the country's largest provider of automated teller machines, have been hit with a proposed class action accusing them of violating federal law by charging fees for ATM transactions that were advertised as free.

Filed on Friday in a New York federal court, the lawsuit said defendants violated the U.S. Electronic Funds Transfer Act, which requires banks to notify customers if fees will be charged for using an ATM.

Nicholas Pappathopoulos, a spokesman for Cardtronics, declined to comment. Gabriela Maldonado, a spokeswoman for Popular Bank, said the bank does not comment on pending litigation. Erin Comite, a lawyer for the plaintiffs, declined comment.

Based in New York, Popular Community Bank is the U.S. banking unit of Puerto Rico-based Popular Inc. It operates mostly in New York and South Florida after selling its branches in California, Illinois and Central Florida in a recent reorganization.

According to the lawsuit, Popular sent its customers a letter in August 2010 saying it had joined Cardtronics' **Allpoint** Network of ATMs. The bank said customers would have free access to **Allpoint's** 33,000 ATMs nationwide, according to the lawsuit.

Allpoint, launched in 2003 by ATM National Inc, was acquired by Cardtronics in 2005.

Popular's customer agreements also said that a \$2 fee charged for the use of ATMs other than Popular's would not be charged at **Allpoint** locations, the lawsuit said.

Allpoint also advertised in a news release on its website that it was providing "surcharge-free" ATM access to Popular bank customers, the lawsuit said. A notice to consumers said that if a surcharge screen appeared during an ATM transaction, customers should accept the surcharge and they would not be charged for it.

The lawsuit comes as fees that banks charge customers for using outside ATMs hit record highs, according to a survey completed by financial publisher Bankrate in August. Banks are charging their own customers an average of \$1.58 for using an outside ATM, up more than 5 percent from 2013, Bankrate said.

The lawsuit was filed on behalf of New York City residents Josefina and Wilfredo Valle, who said they were charged \$2 fees for dozens of withdrawals and balance inquiries at **Allpoint** ATMs. The proposed class action also seeks to represent all Popular customers who were charged for using **Allpoint** or Cardtronics ATMs.

The lawsuit seeks damages for breach of contract, unjust enrichment and violation of the Electronic Funds Transfer Act. It also seeks damages for violation of the New York General Business Law, which bars false advertising.

The case is: Valle et al v. ATM National LLC et al, U.S. District Court, Southern District of New York, No 14-cv-7993.

For the plaintiffs: David Scott, Erin Comite and Joseph Guglielmo at Scott & Scott; and Joseph Tusa

For the defendants: Not immediately available

---- Index References ----

Company: ATM NATIONAL LLC; POPULAR INC; CARDTRONICS INC; ATM SA

News Subject: (Business Litigation (1BU04); Corporate Events (1CR05); Business Lawsuits & Settlements (1BU19); Consumer Protection (1CO43); Class Actions (1CL03); Legal (1LE33); Business Management (1BU42))

Industry: (Bank Marketing (1BA80); I.T. in Financial Services (1IT24); Bank Operations (1BA31); Banking (1BA20); Financial Services (1FI37); ATMs & Networks (1AT57); I.T. in Banking (1IT59))

Region: (North America (1NO39); U.S. Mid-Atlantic Region (1MI18); U.S. Southeast Region (1SO88); Florida (1FL79); Americas (1AM92); USA (1US73); New York (1NE72))

Language: EN

Other Indexing: (Popular Bank) (Nicholas Pappathopoulos; Mike Blake; Joseph Tusa; Erin Comite; Josefina Valle; David Scott; Wilfredo Valle; Joseph Guglielmo; Gabriela Maldonado)

Keywords: banking (MCC:OEC); (N2:US); (N2:USANY); (N2:AMERS); (N2:USA); (MCCL:OVR); (MCCL:OEC)

Word Count: 496

End of Document

© 2014 Thomson Reuters. No claim to original U.S. Government Works.