

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA

STEFANIE POWERS, on behalf of  
herself and all others similarly situated,  
2953 River Road  
Elkton, VA 22827

Plaintiff,

v.

BLUE RIDGE BANK, N.A.,  
1 East Market Street  
Martinsville, VA 24112

Defendant.

Civil Action No.: 5:21-cv-00047

**JURY TRIAL DEMAND**

**CLASS ACTION COMPLAINT**

Plaintiff Stefanie Powers on behalf of herself and all others similarly situated brings this class action complaint against Blue Ridge Bank, N.A., (“BRB”, “Bank”, or “Defendant”), and alleges the following:

**INTRODUCTION**

1. This is a civil action seeking monetary damages, restitution and declaratory relief from Defendant Blue Ridge Bank, N.A. (“BRB”, “Bank”, or “Defendant”) arising from the unfair and unconscionable assessment and collection of “overdraft fees” (“OD Fees”) on accounts that were never actually overdrawn.

2. This practice breaches contractual promises made in BRB’s adhesion contracts.

3. In plain, clear, and simple language, the checking account contract documents discussing OD Fees promise that BRB will only charge OD Fees on transactions where there are

insufficient funds to cover them.

4. While there is nothing unlawful about assessing OD Fees on accounts when such fees are assessed in compliance with contractual terms, OD Fees in general have a crushing impact on persons living paycheck to paycheck. This is why the financial services industry is increasingly moving away from such fees.

5. For example, one of the nation's largest consumer banks, Ally Bank recently stopped assessing overdraft fees altogether. Diane Morais, Ally Bank's president of consumer and commercial banking, said that one reason is because OD Fees disproportionately affect people who are living paycheck to paycheck and that OD Fees disproportionately affect Black and Latino households. *Overdraft Fees Are Getting the Boot at Ally Financial*, The Wall Street Journal (June 2, 2021), <https://www.wsj.com/articles/overdraft-fees-are-getting-the-boot-at-ally-financial-11622631600> (last accessed June 4, 2021).

6. Indeed, Black households and those with low-to-moderate incomes are almost twice as likely to incur OD Fees as white households or those with higher incomes, according to a report from the Financial Health Network, a research firm partly funded by financial institutions

7. BRB's customers have been injured by BRB's improper practices to the tune of millions of dollars taken from their accounts in violation of their agreements with BRB.

8. On behalf of herself and the Class, Plaintiff seeks damages, restitution, and injunctive relief for Defendant's violations as set forth more fully below.

### **PARTIES**

9. Plaintiff is a citizen and resident of Elkton, Virginia.

10. Defendant BRB is engaged in the business of providing retail banking services to consumers, including Plaintiff and members of the putative Class. BRB has its headquarters in Luray, Virginia and operates over 30 banking branches in Virginia and North Carolina.

### **JURISDICTION AND VENUE**

11. This Court has original jurisdiction of this action under the Class Action Fairness Act of 2005. Pursuant to 28 U.S.C. §§ 1332(d)(2) and (6), this Court has original jurisdiction because (1) the proposed Class is comprised of at least 100 members; (2) at least one member of the proposed class resides outside of Virginia; and (3) the aggregate claims of the putative class members exceed \$5 million, exclusive of interest and costs.

12. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because BRB is subject to personal jurisdiction here and regularly conducts business in this District, and because a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this district.

### **FACTUAL BACKGROUND AND GENERAL ALLEGATIONS**

#### **I. BRB CHARGES OD FEES ON TRANSACTIONS THAT DO NOT ACTUALLY OVERDRAW THE ACCOUNT**

##### **A. Overview of Claim**

13. BRB issues debit cards to its checking account customers, including Plaintiff, which allows its customers to have electronic access to their checking accounts for purchases, payments, withdrawals and other electronic debit transactions.

14. Pursuant to its disclosures, BRB charges fees for debit card transactions that purportedly result in an overdraft.

15. Plaintiff brings this cause of action challenging BRB's practice of charging OD Fees on what are referred to in this complaint as "Authorize Positive, Purportedly Settle Negative

Transactions” (“APPSN Transactions”).

16. Here’s how it works. At the moment debit card transactions are authorized on an account with positive funds to cover the transaction, BRB immediately reduces accountholders checking accounts for the amount of the purchase, sets aside funds in a checking account to cover that transaction, and as a result, the accountholder’s displayed “available balance” reflects that subtracted amount. As a result, customers’ accounts will always have sufficient available funds to cover these transactions because BRB has already sequestered these funds for payment.

17. However, BRB still assesses crippling OD Fees on many of these transactions and misrepresents its practices in its disclosures.

18. Despite putting aside sufficient available funds for debit card transactions at the time those transactions are authorized, BRB later assesses OD Fees on those same transactions when they purportedly settle days later into a negative balance. These types of transactions are APPSN Transactions.

19. BRB maintains a running account balance in real time, tracking funds accountholders have for immediate use. This running account balance is adjusted, in real-time, to account for debit card transactions at the precise instance they are made. When a customer makes a purchase with a debit card, BRB sequesters the funds needed to pay the transaction, subtracting the dollar amount of the transaction from the customer’s available balance. Such funds are not available for any other use by the accountholder, and such funds are specifically associated with a given debit card transaction.

20. Indeed, the entire purpose of the immediate debit and hold of positive funds is to ensure that there are enough funds in the account to pay the transaction when it settles, as discussed in the Federal Register notice announcing revisions to certain provisions of the Truth in Lending



Act regulations:

When a consumer uses a debit card to make a purchase, a hold may be placed on funds in the consumer's account to ensure that the consumer has sufficient funds in the account when the transaction is presented for settlement. This is commonly referred to as a "debit hold." During the time the debit hold remains in place, which may be up to three days after authorization, those funds may be unavailable for the consumer's use for other transactions.

Federal Reserve Board, Office of Thrift Supervision, and National Credit Union Administration, Unfair or Deceptive Acts or Practices, 74 FR 5498-01 (Jan. 22, 2009).

21. That means when any *subsequent*, intervening transactions are initiated on a checking account, they are compared against an account balance that has already been reduced to account for any earlier debit card transactions. This means that many subsequent transactions incur OD Fees due to the unavailability of the funds sequestered for those debit card transactions.

22. Still, despite keeping those held funds off-limits for other transactions, BRB improperly charges OD Fees on those APPSN Transactions, although the APPSN Transactions *always* have sufficient available funds to be covered.

23. Indeed, the Consumer Financial Protection Bureau ("CFPB") has expressed concern with this very issue, flatly calling the practice "unfair" and/or "deceptive" when:

A financial institution authorized an electronic transaction, which reduced a customer's available balance but did not result in an overdraft at the time of authorization; settlement of a subsequent unrelated transaction that further lowered the customer's available balance and pushed the account into overdraft status; and when the original electronic transaction was later presented for settlement, because of the intervening transaction and overdraft fee, the electronic transaction also posted as an overdraft and an additional overdraft fee was charged. Because such fees caused harm to consumers, one or more supervised entities were found to have acted unfairly when they charged fees in the manner described above. Consumers likely had no reason to anticipate this practice, which was not appropriately disclosed. They therefore could not reasonably avoid incurring the overdraft fees charged. Consistent with the deception findings summarized above, examiners found that the failure to properly disclose the practice of charging overdraft fees in these circumstances was deceptive. At one or more institutions, examiners found deceptive practices relating to the disclosure of overdraft processing logic for

electronic transactions. Examiners noted that these disclosures created a misimpression that the institutions would not charge an overdraft fee with respect to an electronic transaction if the authorization of the transaction did not push the customer's available balance into overdraft status. But the institutions assessed overdraft fees for electronic transactions in a manner inconsistent with the overall net impression created by the disclosures. Examiners therefore concluded that the disclosures were misleading or likely to mislead, and because such misimpressions could be material to a reasonable consumer's decision-making and actions, examiners found the practice to be deceptive. Furthermore, because consumers were substantially injured or likely to be so injured by overdraft fees assessed contrary to the overall net impression created by the disclosures (in a manner not outweighed by countervailing benefits to consumers or competition), and because consumers could not reasonably avoid the fees (given the misimpressions created by the disclosures), the practice of assessing fees under these circumstances was found to be unfair.

Consumer Financial Protection Bureau, Winter 2015 "Supervisory Highlights."

24. There is no justification for these practices, other than to maximize BRB's OD Fee revenue. APPSN Transactions only exist because intervening checking account transactions supposedly reduce an account balance. But BRB is free to protect its interests and either reject those intervening transactions or charge OD Fees on those intervening transactions—and it does the latter to the tune of millions of dollars each year. But BRB was not content with these millions in OD Fees. Instead, it sought millions *more* in OD Fees on these APPSN Transactions.

25. Besides being unfair and unjust, these practices breach contract promises made in BRB's adhesion contracts—contracts which fail to inform accountholders about, and in fact, misrepresent, the true nature of BRB's processes and practices. These practices also exploit contractual discretion to gouge accountholders.

26. In plain, clear, and simple language, the checking account contract documents covering OD Fees promise that BRB will only charge OD Fees on transactions that have insufficient funds to "cover" that debit card transaction.

27. In short, BRB is not authorized by contract to charge OD Fees on transactions that

have not overdrawn an account, but it has done so and continues to do so.

**A. Mechanics of a Debit Card Transaction**

28. A debit card transaction occurs in two parts. First, authorization for the purchase amount is instantaneously obtained by the merchant from BRB. When a merchant physically or virtually “swipes” a customer’s debit card, the credit card terminal connects, via an intermediary, to BRB, which verifies that the customer’s account is valid and that sufficient available funds exist to “cover” the transaction amount.

29. At this step, if the transaction is approved, BRB immediately decrements the funds in an accountholder’s account and sequesters funds in the amount of the transaction but does not yet transfer the funds to the merchant.

30. Indeed, the entire purpose of the immediate debit and hold of positive funds is to ensure that there are enough funds in the account to pay the transaction when it settles, as discussed in the Federal Register notice announcing revisions to certain provisions of the Truth in Lending Act regulations:

When a consumer uses a debit card to make a purchase, a hold may be placed on funds in the consumer’s account to ensure that the consumer has sufficient funds in the account when the transaction is presented for settlement. This is commonly referred to as a “debit hold.” During the time the debit hold remains in place, which may be up to three days after authorization, those funds may be unavailable for the consumer’s use for other transactions.

Federal Reserve Board, Office of Thrift Supervision, and National Credit Union Administration, Unfair or Deceptive Acts or Practices, 74 FR 5498-01 (Jan. 22, 2009).

31. Sometime thereafter, the funds are actually transferred from the customer’s account to the merchant’s account.

32. BRB (like all credit unions and banks) decides whether to “pay” debit card transactions at authorization. After that, BRB is obligated to pay the transaction no matter what.

For debit card transactions, that moment of decision can only occur at the point of sale, at the instant the transaction is authorized or declined. It is at that point—and only that point—when BRB may choose to either pay the transaction or decline it. When the time comes to actually settle the transaction, it is too late—the financial institution has no discretion and must pay the charge. This “must pay” rule applies industry wide and requires that, once a financial institution authorizes a debit card transaction, it “must pay” it when the merchant later makes a demand, regardless of other account activity. *See* Electronic Fund Transfers, 74 Fed. Reg. 59033-01, 59046 (Nov. 17, 2009).

33. There is no change—no impact whatsoever—to the available funds in an account when this step occurs.

**B. BRB’s Disclosures**

34. Amongst the account documents which govern Plaintiff’s relationship with BRB is a document entitled, *Disclosures* (“Disclosures”), attached hereto as Exhibit A.

35. The Disclosures state in pertinent part that BRB uses an available balance to determine overdrafts, and when an accountholder uses a debit card funds are deducted to cover those purchases:

At our discretion, we may pay and permit transactions for items, including checks, ATM withdrawals, debit card transactions, preauthorized automatic debits, telephone-initiated transfers or other electronic transfers, *when you do not have sufficient available funds*, although special arrangements or circumstances may change this amount. *A non-sufficient fund/overdraft fee of \$39.97 per item will be assessed for each item that is submitted in which you do not have sufficient available funds in the account to cover the item amount when it is processed.*

Exhibit A at 6 (emphasis added).

36. For APPSN Transactions, which are immediately deducted from a positive account balance and held aside for payment of that same transaction, there are always funds to cover those

transactions—yet BRB assesses OD Fees on them anyway.

37. The above promise means that transactions are only overdraft transactions when they are authorized into a negative account balance. Of course, that is not true for APPSN Transactions.

38. APPSN transactions are always initiated at the time the customer swipes the debit card when there are sufficient available funds in the account.

39. In fact, BRB actually authorizes transactions on positive funds, sets those funds aside on hold, then fails to use those same funds to settle those same transactions. Instead, it uses a secret posting process described below.

40. All the above representations and contractual promises are untrue. In fact, BRB charges OD Fees even when sufficient funds exist to cover transactions that are authorized into a positive balance. No express language in any document states that BRB may impose OD Fees on any APPSN Transactions.

41. The Disclosures misconstrue BRB's true debit card processing and overdraft practices.

42. First, and most fundamentally, BRB charges OD Fees on debit card transactions for which there are sufficient funds available to cover the transactions. That is despite contractual representations that BRB will only charge OD Fees on transactions with insufficient available funds to cover a given transaction.

43. BRB assesses OD Fees on APPSN Transactions that do have sufficient funds available to cover them throughout their lifecycle.

44. BRB's practice of charging OD Fees even when sufficient available funds exist to cover a transaction violates a contractual promise not to do so. This discrepancy between BRB's

actual practice and the contract causes accountholders like the Plaintiff to incur more OD Fees than they should.

45. Next, sufficient funds for APPSN Transactions are actually debited from the account immediately, consistent with standard industry practice.

46. Because these withdrawals take place upon initiation, they cannot be re-debited later. But that is what BRB does when it re-debits the account during a secret batching posting process.

47. In reality, BRB's actual practice is to assay the same debit card transaction twice to determine if the transaction overdraws an account—both at the time a transaction is authorized and later at the time of settlement.

48. At the time of settlement, however, an available balance *does not change at all* for these transactions previously authorized into good funds. As such, BRB cannot then charge an OD Fee on such transaction because the available balance has not been rendered insufficient due to the pseudo-event of settlement.

49. Upon information and belief, something more is going on: at the moment a debit card transaction is getting ready to settle, BRB does something new and unexpected, during the middle of the night, during its nightly batch posting process. Specifically, BRB releases the hold placed on funds for the transaction for a split second, putting money back into the account, then re-debits the same transaction a second time.

50. This secret step allows BRB to charge OD Fees on transactions that never should have caused an overdraft—transactions that were authorized into sufficient funds, and for which BRB specifically set aside money to pay them.

51. This discrepancy between BRB's actual practices and the contract causes



accountholders to incur more OD Fees than they should.

52. In sum, there is a huge gap between BRB's practices as described in the Disclosures and BRB's practices in reality.

**C. BRB Abuses Contractual Discretion**

53. BRB's treatment of debit card transactions to charge OD Fees is more than a breach of the express terms of the Disclosures. In addition, BRB exploits contractual discretion to the detriment of accountholders when it uses these policies.

54. Moreover, BRB uses its contractual discretion to cause APPSN Transactions to incur OD Fees by knowingly authorizing later transactions that it allows to consume available funds previously sequestered for APPSN Transactions.

55. BRB uses these contractual discretion points unfairly to extract OD Fees on transactions that no reasonable accountholder would believe could cause OD Fees.

**D. Plaintiff's Debit Card Transactions**

56. As examples, on June 3, 2020, June 5, 2020, June 15, 2020, and September 8, 2020, Plaintiff was assessed OD Fees for debit card transactions that settled on those days, despite the fact that positive funds were deducted immediately, prior to those days, for the transactions on which Plaintiff was assessed OD Fees.

**CLASS ACTION ALLEGATIONS**

57. Plaintiff brings this action on behalf of herself and all others similarly situated pursuant to Rule 23 of the Federal Rules of Civil Procedure. This action satisfies the numerosity, commonality, typicality, adequacy, predominance and superiority requirements of Rule 23. The proposed class is defined as:

All accountholders in the United States who, during the applicable statute of limitations, were charged OD Fees on APPSN Transactions on a BRB checking



account.

58. Excluded from the Class are Defendant, Defendant's subsidiaries and affiliates, their officers, directors and member of their immediate families and any entity in which Defendant has a controlling interest, the legal representatives, heirs, successors or assigns of any such excluded party, the judicial officer(s) to whom this action is assigned, and the members of their immediate families.

59. Plaintiff reserves the right to modify or amend the definition of the proposed Class and/or to add a subclass(es), if necessary, before this Court determines whether certification is appropriate.

60. The questions here are ones of common or general interest such that there is a well-defined community of interest among the members of the Class. These questions predominate over questions that may affect only individual class members because BRB has acted on grounds generally applicable to the class. Such common legal or factual questions include, but are not limited to:

- a) Whether BRB improperly charged OD Fees on APPSN Transactions;
- b) Whether the conduct enumerated above violates the contract;
- c) Whether the conduct enumerated above violates the covenant of good faith and fair dealing;
- d) The appropriate measure of damages.

61. The parties are numerous such that joinder is impracticable. Upon information and belief, and subject to class discovery, the Class consist of thousands of members or more, the identity of whom are within the exclusive knowledge of and can be ascertained only by resort to BRB's records. BRB has the administrative capability through its computer systems and other records to identify all members of the Class, and such specific information is not otherwise

available to Plaintiff.

62. It is impracticable to bring members of the Class's individual claims before the Court. Class treatment permits a large number of similarly situated persons or entities to prosecute their common claims in a single forum simultaneously, efficiently and without the unnecessary duplication of evidence, effort, expense, or the possibility of inconsistent or contradictory judgments that numerous individual actions would engender. The benefits of the class mechanism, including providing injured persons or entities with a method for obtaining redress on claims that might not be practicable to pursue individually, substantially outweigh any difficulties that may arise in the management of this class action.

63. Plaintiff's claims are typical of the claims of the other members of the Class in that they arise out of the same wrongful business practices by BRB, as described herein.

64. Plaintiff is a more than adequate representative of the Class in that Plaintiff is a BRB checking accountholder and has suffered damages as a result of BRB's contract violations.

In addition:

- a) Plaintiff is committed to the vigorous prosecution of this action on behalf of herself and all others similarly situated and has retained competent counsel experienced in the prosecution of class actions and, in particular, class actions on behalf of accountholders against financial institutions;
- b) There is no conflict of interest between Plaintiff and the unnamed members of the Class;
- c) Plaintiff anticipates no difficulty in the management of this litigation as a class action; and
- d) Plaintiff's legal counsel has the financial and legal resources to meet the substantial costs and legal issues associated with this type of litigation.

65. Plaintiff knows of no difficulty to be encountered in the maintenance of this action that would preclude its maintenance as a class action.

66. BRB has acted or refused to act on grounds generally applicable to the class,

thereby making appropriate corresponding declaratory relief with respect to the Class as a whole.

67. All conditions precedent to bringing this action have been satisfied and/or waived.

**BREACH OF CONTRACT  
(Individually and on Behalf of the Class)**

68. Plaintiff repeats and incorporates all of the preceding allegations as if fully set forth herein.

69. Plaintiff, and all members of the proposed Class, contracted with BRB for checking account services, including debit card services.

70. BRB breached promises made to Plaintiff and all members of the proposed class when as described herein, BRB charged OD Fees as a result of transactions that did not overdraw a checking account, on APPSN Transactions.

71. In addition, there exists an implied covenant of good faith and fair dealing in all contracts that neither party shall do anything which will have the effect of destroying or injuring the right of the other party to receive the fruits of the contract. Good faith and fair dealing, in connection with executing contracts and discharging performance and other duties according to their terms, means preserving the spirit – not merely the letter – of the bargain. Put differently, the parties to a contract are mutually obligated to comply with the substance of their contract in addition to its form. Evading the spirit of the bargain and abusing the power to specify terms constitute examples of bad faith in the performance of contracts.

72. Subterfuge and evasion violate the obligation of good faith in performance even when an actor believes their conduct to be justified. Bad faith may be overt or may consist of inaction, and fair dealing may require more than honesty. Examples of bad faith are evasion of the spirit of the bargain, willful rendering of imperfect performance, abuse of a power to specify terms, and interference with or failure to cooperate in the other party's performance.

73. The implied covenant of good faith and fair dealing applies to the performance and enforcement of contracts, limits the parties' conduct when their contract defers decision on a particular term, omits terms, or provides ambiguous terms.

74. BRB has breached the covenant of good faith and fair dealing and abused its discretion in its contract as described herein. Specifically, BRB should not have used its discretion to charge OD Fees on APPSN Transactions. The Disclosures do not have a contract term permitting OD Fees on such transactions, and the documents are otherwise ambiguous as to any right for BRB to charge OD Fees on APPSN Transactions.

75. Plaintiff and all members of the proposed Class have performed all, or substantially all, of the obligations imposed on them under the contract.

76. Plaintiff and all members of the proposed Class have sustained damages as a result of BRB's breaches of the contract.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually and on behalf of the Classes, demands a jury trial on all claims so triable and judgment as follows:

- A. Certification for this matter to proceed as a class action on behalf of the Class;
- B. Declaring BRB's OD Fee policies and practices to be in breach of its contract with accountholders;
- C. Restitution of all OD Fees and improperly assessed paid to BRB by Plaintiff and the members of the Class, as a result of the wrongs alleged herein in an amount to be determined at trial;
- D. Actual damages in an amount according to proof;
- E. Pre-judgment and post-judgment interest at the maximum rate permitted by applicable law;
- F. For costs and attorneys' fees under the common fund doctrine, and all other applicable law;

and

G. Such other relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff and all others similarly situated hereby demand trial by jury on all issues in this Class Action Complaint that are so triable.

Dated: June 24, 2021

Respectfully submitted,



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and the Putative Class  
(Pro Hac Vice Applications Forthcoming)

JS 44 (Rev. 04/21)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Stefanie Powers, on behalf of herself and all others similarly situated,

(b) County of Residence of First Listed Plaintiff Rockingham  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DiMuroGinsberg, PC, 1101 King Street, Suite 610,  
Alexandria, VA 22314; 703-684-4333

**DEFENDANTS**

Blue Ridge Bank, N.A.

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☒ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>INTELLECTUAL PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
Class Action Fairness Act of 2005, 28 U.S.C. Sections 1332(d)(2) & (6)

Brief description of cause:  
Unfair and unconscionable assessment and collection of overdraft fees

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

Jun 24, 2021

SIGNATURE OF ATTORNEY OF RECORD

*B. D. V.*

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

\$402

APPLYING IFP

no

JUDGE

CULLEN

MAG. JUDGE