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Protect Your Financial Institution from ATM Fee-Notice Lawsuits *Lawsuits Against FIs that do not Display Surcharge-Fee Sticker on ATMs Increasing*

PHOENIX, AZ — Reg. E lawsuits targeted at financial institution-owned ATMs that do not display or have had surcharge-fee sticker removed are on the rise.

Over the past two years, federal lawsuits have been filed in 16 states against banks, credit unions, retailers and independent ATM deployers related to this issue. According to CUNA Mutual, 44 lawsuits have been filed against credit unions and community banks alone in the last 18 months.

In a recent case, LA Financial Credit Union agreed to pay up \$33,889, at a maximum of \$10 per claim, according to *Credit Union Times*. In April, Independent Bank of Ionia, Mich., settled a lawsuit for \$350,000 involving more than 40 ATMs deployed throughout the state. Court records also show that JPMorgan Chase settled a similar lawsuit in 2009 in Wisconsin for \$2.1 million, according to *ATMarketplace*.

Filing federal lawsuits against financial institutions has given birth to a nationwide cottage industry, according to the *Detroit Free Press*. A retired Michigan couple, Nancy Kinder and Ray Harrison, has filed more than 40 lawsuits in federal courts, alleging that financial institutions are violating the Electronic Fund Transfer Act and Regulation E by not posting notices on ATMs, alerting customers about surcharge fees.

The Electronics Transfer Act, passed by Congress in 1978 to establish consumer rights and liabilities, and implemented by Regulation E through the Federal Reserve Board, requires ATM operators to provide a fee notice on the external facing of the ATM and the ATM screen.

Protect Your Financial Institution

Because stickers can deteriorate and fall off over time or be removed, many financial institutions are looking to all-in-one toppers with fee-notices built in as a way to protect themselves against costly lawsuits. All-in-one toppers don't deteriorate or fall off and can't easily be removed.



Affordable all-in-one toppers and branding of the ATM are also a great way to attract more customers and encourage use of the ATM; lowering your branch operation costs and increasing usage fees from non-customers. Studies by the ATM industry show that financial institution-branded ATMs are more trusted by consumers, attract more customers and can increase ATM usage by as much as 40 percent.

In the event that a fee-notice sticker is removed or falls off, it is important to be able to demonstrate that you are in compliance with Reg. E.

Below are some additional suggestions on how to protect your financial institution:

1. Address signage requirements in your policies and procedures. Make sure that your implementation, service call and cash drop checklists includes instructions for checking that the sticker is in place. Make sure that technicians have an ample supply of quality stickers with a strong bonding adhesive on hand in the event that stickers need to be replaced.
2. Conduct periodic reviews of your ATMs to ensure that fee-notice stickers are affixed to the ATM and take date-stamped photos of each terminal displaying required signage on a regular basis.
3. Document that stickers have been affixed at the time of installation. Take a date-stamped photo of the sticker being placed on the machine will help in the event that a lawsuit is filed against your financial institution. Also make sure to take photos if you move the ATM to a different location.
4. Demonstrate that the sticker has been removed and it was not an intentional omission by taking photos of the sticky residue left by the sticker if it falls off or is removed.



For more information on complying with the Electronics Transfer Act and Reg. E ATM requirements, contact [Josh Ettesvold](#), president of Express Teller Services, a full-services provider of EFT financial products and service for financial institutions throughout the Southwest United States, at 1-800-665-9416 or visit www.ExpressTellerServices.com.

This information is being provided as a guide only. Financial institutions should consult with their legal counsel on how to best comply with the Electronic Fund Transfer Act and Regulation E.



ABOUT THE AUTHOR — An entrepreneur and natural leader, [Josh Ettesvold](#) founded [Express Teller Services, Inc.](#) in 1999 and currently serves as the President and CEO. Josh and his team provide self-service financial products such as ATMs, ATM management services and transaction processing to a wide range of clients including banks, credit unions, retailers and small business throughout the Southwestern United States. For more information, call 1-800-665-9416 or visit www.ExpressTellerServices.com online.