

Banking and Finance Law Daily Wrap Up, ENFORCEMENT ACTIONS **—Bipartisan coalition of state AGs challenges ‘toothless’ Capital One settlement, (Sept. 25, 2025)**

Banking and Finance Law Daily Wrap Up

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By Shashi Kant, BALLB, LLM

Attorneys general from 18 states argue that the \$425M Capital One class settlement cheats savers, preserves deceptive account practices, and blocks enforcement.

New York Attorney General Letitia James led a coalition of 18 state attorneys general in filing an [amicus brief](#) opposing a proposed \$425 million class action settlement with Capital One, arguing the agreement “shortchanges Capital One customers who were cheated out of more than \$2 billion in unpaid interest” and would allow the bank to continue operating what they characterize as a deceptive two-tier savings account system (*In Re: Capital One 360 Savings Account Interest Rate Litigation*, No. 1:24-md-03111-DJN-WBP (E.D. Va. Sept. 23, 2025)).

Coalition’s opposition arguments. The bipartisan coalition, representing New York, Arizona, California, Colorado, Connecticut, Hawaii, Illinois, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, Ohio, Oregon, Rhode Island, and Washington, filed the brief challenging the adequacy of the proposed settlement.

According to the brief by the state attorneys general, the settlement “fails to hold Capital One accountable and would ultimately benefit Capital One at the expense of the customers it deceived and underpaid.” The coalition argues that the proposed agreement would allow Capital One to “continue underpaying and deceiving its 360 Savings customers” because even with additional interest payments included in the settlement, “the 360 Savings interest rate would still be significantly lower than the 360 Performance Savings rate.”

The attorneys general calculated that during the time Capital One pays out \$125 million in additional interest to 360 Savings customers under the settlement terms, “it would have paid over \$800 million at the 360 Performance rate.” They contend that “Capital One would keep more than \$2 billion in unpaid interest while the average consumer, who lost out on more than \$717 in interest payments, would receive less than \$54 in direct compensation under the settlement.”

In a [statement](#) accompanying the filing of the coalition’s brief, New York Attorney General Letitia James characterized Capital One as having “assured high returns with no catches, then pulled the rug out from under their customers and hoped nobody would notice,” adding that “Big banks are not allowed to cheat their customers with false advertising and misleading promises.” Additionally, California Attorney General Rob Bonta [characterized](#) Capital One as having “misled consumers through false marketing and a lack of transparency,” arguing that the bank was attempting to maintain deceptive practices rather than make customers whole. Bonta expressed support for James’s separate enforcement action and characterized the proposed settlement as “toothless.”

Settlement under challenge. The contested settlement provides for Capital One to pay \$300 million to a settlement fund for direct cash payments to class members, plus \$125 million in “additional interest” to customers who continue holding 360 Savings accounts (see [Banking and Finance Law Daily](#), May 19, 2025). The settlement class includes “persons or entities who maintained a Capital One 360 Savings account at any time from September 18, 2019, through and including the date on which the court enters its preliminary approval order.” Under the agreement’s terms, Capital One would “maintain an interest rate on the 360 Savings account of at least two times the national average rate for savings deposit accounts, as calculated by the FDIC” until

the additional \$125 million in interest payments are completed. The settlement requires no formal admission of wrongdoing by Capital One.

The attorneys general argue this structure perpetuates the alleged harm rather than remedying it. According to their brief, “the settlement would not require Capital One to change this scheme of paying 360 Savings customers lower interest than otherwise-identical 360 Performance Savings customers, the scheme that is at the heart of both the class action lawsuit.”

Underlying allegations and enforcement actions. The class action litigation centers on allegations that Capital One misled customers by marketing 360 Savings accounts as high-interest accounts while simultaneously offering nearly identical 360 Performance Savings accounts at substantially higher rates without adequately informing existing customers about the superior option. Separately, the State of New York filed its own enforcement action against Capital One alleging that Capital One deceptively replaced references to 360 Savings accounts with references to the similarly named Performance Savings offering, misleading customers about receiving competitive interest rates ([Banking and Finance Law Daily](#), May 15, 2025).

According to New York’s complaint, the interest rate differential between the accounts was 0.9 percent when 360 Performance Savings was introduced in 2019 but grew wider over time and reached “14 times higher” at one point. The complaint alleges Capital One instructed employees not to inform 360 Savings customers about the new 360 Performance Savings product unless explicitly asked. The New York enforcement action followed the Consumer Financial Protection Bureau’s decision to dismiss a similar enforcement action against Capital One in the Eastern District of Virginia during the final days of the Biden Administration. The dismissed CFPB complaint had claimed more than \$2 billion in damages to consumers.

Settlement interference concerns. The state attorneys general coalition also expressed concern that Capital One seeks to use the class action settlement to block government enforcement efforts. According to their brief, “Capital One has also argued that the class action settlement should prevent Attorney General James from securing restitution for Capital One customers through her lawsuit,” with the coalition urging the court to “reject the settlement and any attempt to use a private agreement to stymie OAG’s enforcement action.” The brief notes that Capital One faces “meritorious claims and enormous potential liabilities” and cites the pendency of the New York enforcement action as well as “at least two separate shareholder derivative actions” as evidence of the strength of claims being released under the proposed settlement.

Companies: Capital One, N.A.; Capital One Financial Corp.

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