

Banking and Finance Law Daily Wrap Up, BANKING OPERATIONS **—Settlement reached in Capital One 360 Savings interest rate class** **action, (May 19, 2025)**

Banking and Finance Law Daily Wrap Up

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By Steven D. Cole, J.D.

Capital One has agreed to pay \$425 million to settle a suit alleging the breach of its duty of good faith and fair dealing.

The parties to this suit filed a Joint Notice of Class Action Settlement ([Joint Notice](#)) with the United States District Court for the Eastern District of Virginia on May 16, 2025. Plaintiffs (Depositors) alleged that Capital One, N.A. and Capital One Financial Corp. (collectively, Capital One or bank) misled holders of the bank's 360 Savings accounts by assuring them that they were receiving a high interest rate. Meanwhile, in 2019, Capital One introduced a new 360 Performance Savings account that was identical to the 360 Savings account in every way except for the name and interest rate, which was significantly higher. Depositors alleged that Capital One kept its existing 360 Savings account holders in the dark about the new offering in order to avoid tendering them higher interest payments. The terms of the settlement provide that Capital One will pay \$300 million to 360 Savings account holders in order to partially reimburse them for the interest that they would have earned with 360 Performance Savings accounts, as well as \$125 million in interest to current holders of 360 Savings accounts (*The People of the State of New York v. Capital One, N.A.*, No. 1:25-cv-04037 (S.D.N.Y. May 14, 2025)).

Allegations of consumer fraud. Beginning in February 2019, Capital One offered its 360 Savings account to members of the general public, advertising it as a "high interest" savings account with a "great rate." In September 2019, Capital One removed all references to the 360 Savings account from its website and replaced them with references to a new product called the 360 Performance Savings account. But for the name, the two products were identical, except that the 360 Performance Savings product opened with an annual percentage yield (APY) of 1.90 percent, at which time the 360 Savings account paid 1.00 percent APY. Although Capital One ceased offering the 360 Savings account to new depositors, it continued to maintain that account for existing accountholders. Presumably, Capital One sought to dissuade existing 360 Savings account holders from transferring their funds to 360 Performance Savings accounts in order to avoid paying them a higher interest rate.

Interest rates fell across the board in 2020, due to the COVID-19 pandemic. In December 2020, Capital One was paying its 360 Savings account holders 0.30 percent APY and its 360 Performance Savings account holders 0.40 percent APY. As interest rates rose in 2022 and 2023, Capital One steadily increased the rate paid on the 360 Performance Savings account to 4.30 percent. Meanwhile, Capital One froze the interest rate on the 360 Savings account at 0.30 percent. This allegedly cost 360 Savings account holders, and benefited Capital One, upwards of \$2 billion from September 2019 through January 2025.

In July 2024, Depositors filed a [Consolidated Amended Complaint](#), asserting claims for breach of contract, unjust enrichment, and promissory estoppel, as well as violations of the consumer protections statutes of 18 states (California, Delaware, Florida, Georgia, Illinois, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Texas, and Virginia). The Complaint contained a Demand for Relief seeking monetary damages, injunctive and/or other equitable relief, declaratory relief, restitution, and/or disgorgement of profits.

Terms of the settlement. Pursuant to the court's April 22, 2025, order, Depositors and Capital One filed their Joint Notice with the court on May 16, 2025, in which they indicated that they would be continuing to negotiate and finalize a formal settlement agreement, which will be filed with Depositors' motion seeking preliminary approval by June 6, 2025.

The settlement class will consist of the 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. The total settlement amount of \$425 million will consist of two components. First, Capital One has agreed to pay \$300 million, which will be used to make pro rata payments to settlement class members relative to the approximate amount of interest that each member would have earned if their 360 Savings account had paid the interest rate then applicable to the 360 Performance Savings account. Second, Capital One will pay \$125 million as additional interest payments to settlement class members who continue to maintain 360 Savings accounts, which, at this time, represents about 75 percent of the settlement class. In order to effectuate these interest payments, the bank will 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. As part of the settlement, Capital One is not formally admitting to any wrongdoing.

CFPB action. On January 14, 2025, the Consumer Financial Protection Bureau brought an enforcement action with similar allegations against Capital One, asserting that the bank failed to notify its 360 Savings account holders about the new 360 Performance Savings product and actively worked to keep them unaware of the higher-paying option. The CFPB dismissed this case, along with a number of other enforcement actions, approximately one month later, consistent with the Trump Administration's "stand down" order regarding the Bureau's activities.

New York complaint. The State of New York picked up where the CFPB left off, [suing](#) Capital One for restitution and injunctive relief under the state's consumer fraud statute (see [Banking and Finance Law Daily](#), 15, 2025). The complaint, filed on May 14, 2025, cited Capital One's decision to remove all references to the 360 Savings product from its website and "furtively" replace them with references to the similarly named 360 Performance Savings offering in a way that misled existing customers into thinking that they were receiving a competitive, high-yield interest rate. According to the complaint, most 360 Savings account holders "did not notice this sleight of hand."

The case is No. 1:24-md-03111-DJN-WBP.

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Companies: Capital One Financial Corp.

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