

STATE LAWS REQUIRING INTEREST ON ESCROW ACCOUNTS COME UNDER ATTACK!

by Kathy Shakibi, Esq. of Wright, Finlay & Zak, LLP

Two recent appellate decisions from two sides of the country, reaching opposite conclusions, highlight whether the National Bank Act preempts state laws requiring interest to be paid on escrow accounts.

On October 13, 2023, the US Supreme Court granted a petition to review whether the National Bank Act preempts the application of New York state escrow account interest laws to national banks. 22-529, [Alex Cantero, et al., Individually and on Behalf of All others Similarly Situated, Petitioners v. Bank of America, N.A.](#) The appeal comes from a decision from the US Court of Appeals for the Second Circuit that the National Bank Act preempts New York's escrow interest law relative to a national bank.

Another petition involving the issue of the National Bank Act's preemption of state interest on escrow account laws has been submitted to US Supreme Court in 22-349, [Flagstar Bank, N.A., v. William Kivett, et al.](#) There the question before the US Supreme Court is whether the National Bank Act preempts state laws requiring interest on escrow accounts relative to a federally chartered bank. The Flagstar case arises from California where the US Court of Appeals for the Ninth Circuit held that such state law is not preempted by the National Bank Act, relative to a federally chartered bank. The US Supreme Court has not yet decided whether to review this Petition.

While these cases involve specific laws in New York and California, SCOTUS' decision on the issue will likely have a wide-ranging impact on state escrow account interest laws. According to Investopedia.com, the following other states have enacted interest on escrow account laws: Connecticut, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, Oregon, Rhode Island, Utah, Vermont, and Wisconsin.

If you have any questions about these decisions or if you want an update on the further appeals, please feel free to contact Kathy Shakibi at kshakibi@wrightlegal.net.



Kathy Shakibi, Esq.
kshakibi@wrightlegal.net

*Kathy Shakibi is a Senior Associate
Attorney at WFZ's California office.*

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