Courts have found that OCC regulations preempt state law claims against federally-chartered financial institutions challenging:

- Fees for cashing checks at the bank on which the check is written (“on us” checks);\(^\text{238}\)
- Fees for ATM usage by noncustomers;\(^\text{239}\)
- Fees for processing garnishment orders when the fee reduces the amount the creditor receives;\(^\text{240}\)
- Failure to disclose that the fee on a payroll card could be avoided by withdrawing cash at the teller window.\(^\text{241}\)

A court held that a state law prohibiting banks from charging account service fees against child-actors’ trust fund accounts was not preempted.\(^\text{242}\) Since the OCC had not issued any determination that this law was preempted, the only possible basis for preemption would be the court’s own application of the *Barnett Bank* conflict preemption standard.\(^\text{242}\) Because the statute did not prohibit the fees themselves, but only had the effect of requiring them to be debited from the non-trust portion of the account, the court held that it was not preempted.

### Footnotes

238 [227] Baptista v. JPMorgan Chase Bank, 640 F.3d 1194 (11th Cir. 2011); Wells Fargo Bank v. James, 321 F.3d 488, 490, n. 2 (5th Cir. 2003). *See also* Pereira v. Regions Bank, 752 F.3d 1354 (11th Cir. 2014) (since Florida law on fee for cashing check would be preempted as to a national bank, Florida branch of Alabama state-chartered bank need only comply with Alabama, not Florida, law pursuant to 12 U.S.C. § 1831a(j)).

239 [228] Bank of Am. v. City & Cty. of San Francisco, 309 F.3d 551 (9th Cir. 2002); Metrobank v. Foster, 193 F. Supp. 2d 1156 (S.D. Iowa 2002).

240 [229] Monroe Retail, Inc. v. RBS Citizens, 589 F.3d 274 (6th Cir. 2009) (rejecting a garnishment-creditor’s conversion claim, based on state garnishment law, that challenged the bank’s practice of recovering its own garnishment fee before turning the remainder of the account over to the creditor).


243 [232] *See § 1.5.2* [1], *supra*.

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