

Bank of America sued for outsourcing customer calls overseas

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Beins, Goldberg &
Hennessey's Joseph
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A class action filed Wednesday accuses Bank of America Corp. of putting the privacy of its customers' financial data at risk of U.S. government surveillance by transferring service calls to overseas call centers.

According to the complaint, which was filed on behalf of Bank of America customers in Washington and nationwide, service calls to the bank are often transferred abroad without any notice to customers. When that happens, the customers' digitized financial records are sent electronically to the call center. The suit was filed in U.S. District Court for the District of Columbia.

Outsourcing to foreign call centers is a common practice, but the problem, according to the lawsuit, is that the financial information being transferred electronically isn't protected against U.S. government collection or surveillance in the same vein as domestic electronic transfers of the same information.

"By routing Plaintiffs' [financial information] to foreign national personnel residing overseas, Bank of America affects a forfeiture of the Constitutional and statutory rights that constrain the surveillance by the United States Government," the class alleges.

The lawsuit claims violations of the federal Right to Financial Privacy Act and other local consumer protection laws.

The class is seeking \$100 per class member for each electronic transfer for data overseas, along with other damages, including treble damages.

The complaint also asks for Bank of America to stop transferring the data overseas without first getting authorization from customers.

The class is being represented by Joseph Hennessey of Beins, Goldberg & Hennessey in Chevy Chase, Md.

"When they make the decision, as a cost cutting measure, to outsource calls to foreign nationals overseas, they're doing it at the expense of their customers' rights under U.S. law and the Constitution," Hennessey said in a phone interview today. By law, he said, "consumers should be provided notice and some kind of choice about how their data is handled and how the telecommunications are serviced."

Bank of America spokesman Lawrence Grayson said the company had not received the lawsuit or had an opportunity to review it.

Hennessey's firm filed similar class actions against American Express Company in late May and early June Washington federal court and a California Superior Court. Hennessey has also written for years on what he sees as potential violations of the Fourth Amendment right against unreasonable search and seizure posed by the transmission of information to call centers overseas.

In a 2005 piece published in the Legal Times, Hennessey wrote that, "Since [the Fourth Amendment provides no protection](#) to foreigners living overseas, the National Security Agency has the authority to intercept any communication that has at least one foreign terminus."