

# Mutual Alert



## Federal Judge Dismisses Mutual M&A Lawsuit

On March 12, 2018, a U.S. District Court judge dismissed a lawsuit brought by two depositors of a mutual bank seeking a payout of their mutual bank's accumulated capital in connection with its merger into another mutual bank. In short, the plaintiffs' claimed that member-depositors in a mutual bank have rights comparable to those of a stockholder in a stock bank. The court found that depositors of a mutual savings association have "no specific individual equity interest in the association" and, thus, have no ownership right to the mutual bank's accumulated capital or retained earnings. The plaintiffs also claimed that the surviving mutual bank unjustly enriched itself as a result of the merger of mutual banks. The Court rejected this argument as well and went on to state that the plaintiffs' had suffered no damages.

We are pleased with the Court's reasoning and to see that the Court dismissed this case without even going to trial. To do otherwise could call into question the very survival of mutual banks. If depositors were permitted to demand the payout of a mutual bank's accumulated capital, the viability of mutual banks would be jeopardized. Pandora's box comes to mind. We hope that this attempted property grab is not a signal of where depositor mentality is heading.

A copy of the Court's Order granting the motion to dismiss is attached.