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Banco Popular Seeks Dismissal of Suit Alleging False Check-Fraud Report Led to McClafferty's Arrest

Matthew McClafferty claims Banco Popular falsely reported him to police for check fraud after its own bad-check detection process failed, leading to his arrest and prosecution. The bank says its report was protected by federal law and denies liability.

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Banco Popular has asked the District Court to dismiss a lawsuit filed by Matthew McClafferty and Social Hospitality Group, arguing that federal law protects the bank from liability for reporting suspected check fraud and that the complaint does not establish a factual basis for the claims against it.

In its 19-page response, the financial institution argues that the lawsuit has “failed to make a single factual allegation against…Banco Popular’s parent company.” The bank also maintains that it is protected by immunity under “the safe-harbor reporting provision of the Annunzio-Wylie Anti-Money Laundering Act.”

McClafferty and Social Hospitality Group, a business he co-owns, jointly filed the complaint. McClafferty alleges that Banco Popular filed a false police report against him because the bank’s internal processes for detecting bad checks were flawed.

Banco Popular disputes that allegation. The bank argues that McClafferty’s February arrest on suspicion of check fraud did not result from its report of suspected fraudulent banking activity, but instead from “the VIPD’s independent police work, the Virgin Islands Attorney General’s independent decision to charge McClafferty, and the Magistrate Judge’s independent findings of probable cause.”

The bank also challenges McClafferty’s additional claims, including abuse of process, false arrest and negligence. Banco Popular argues that those claims are either unsupported by the factual record or based on actions that are privileged under the law and shielded from liability.

“Accordingly, they are properly dismissed on that basis as well.”

Banco Popular’s filing points to the Annunzio-Wylie Anti-Money Laundering Act, which Congress passed in 1992. The law contains a provision protecting financial institutions from liability when they report “any possible violation of law or regulation to a government agency.”

According to the bank, that “safe harbor” provision does not require “a good faith analysis,” nor does it require the reporting institution “to make a finding of probable cause prior to filing a report of suspicious activity.”

Banco Popular therefore argues that Title 31 USC Section 5318(g)(3) provided it with immunity when it reported the suspected check fraud to local law-enforcement authorities.

The filing describes McClafferty’s case as “entirely without merit” and alleges that it was brought to “perpetuate a narrative that his arrest and prosecution…for financial crimes is solely attributable” to allegedly false statements by the bank to the Virgin Islands Police Department.

Banco Popular is asking the court to dismiss the complaint and award the bank attorneys’ fees and costs.