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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Robinhood Users Add Gross Negligence Claim To Outage Suit

By **Philip Rosenstein**

Law360 (April 7, 2020, 9:34 PM EDT) -- A proposed class action against trading app Robinhood added additional causes of action in an amended complaint filed Tuesday, adding gross negligence and negligent misrepresentation claims in a case brought after users were locked out of their accounts in early March.

Robinhood user Travis Taaffe, who has now been joined by California resident and fellow Robinhood user Jared Ward, filed an amended complaint in the U.S. District Court for the Middle District of Florida, **about one month after** Taaffe first brought suit against Robinhood on March 4 following system outages that saw users locked out of their trading accounts. Of note in the new complaint is Taaffe's claim that Robinhood was aware "of the imminent danger." The amended complaint adds that, prior to the outages, Robinhood knew its systems were unprepared for a sudden increase in customer usage and failed to provide alternatives to locked out users.

The new complaint adds more facts and causes of action, including details about correspondence that Robinhood sent users whereby account holders **were offered a "goodwill credit" worth \$75** conditioned on the signing of an electronic document that contained certain legal releases.

These correspondences served as the basis for a motion for a temporary restraining order and preliminary injunction, which U.S. District Judge Charlene Edwards Honeywell **denied on March 31**. They now undergird a new fraudulent misrepresentation count which has been added to the complaint.

Also added to the new complaint is a gross negligence claim.

"Defendants were aware of the imminent danger," the amended complaint says. "Specifically, defendants were aware that their trading platform and infrastructure [were] not properly equipped to support an increase in customer engagement on their platform if the stock market were to exhibit a high volume trading day. Moreover, defendants failed to provide an alternative means to place trades when their existing platform experienced multiple extended outages."

Taaffe first filed his complaint in early March after users and customers were unable to access their accounts from 9:33 a.m. through the end of the trading day at 4 p.m. on March 2. Robinhood's systems continued to experience limited issues on March 3. On March 2, the Dow Jones Industrial Average rose more than 1,294 points, the largest point gain in history at the time. In parallel, the S&P 500 gained 136 points and the Nasdaq was up 384 points.

Taaffe initially alleged breach of contract, breach of implied warranty of merchantability and negligence, and sought to recover damages suffered as a result of the outage and attorney fees. He also wants injunctive relief that would require the company to implement safeguards against another such crash of its systems.

The complaint now includes 11 counts, including violations of California and Florida law.

Robinhood admitted the downtime, with its founders saying in a statement shortly after the outages that "multiple factors contributed to the unprecedented load that ultimately led to the outages. The factors included, among others, highly volatile and historic market conditions; record volume; and record account sign-ups."

As of March 18, **five other cases** had been filed against Robinhood over the outages in California state and federal court.

Robinhood declined to comment on the new complaint. Counsel for Taaffe did not respond to a request for comment.

Robinhood is represented by Dennis Waggoner of Hill Ward & Henderson PA and Maeve O'Connor, Elliot Greenfield and Brandon Fetzer of Debevoise & Plimpton LLP.

Travis Taaffe and Jared Ward are represented by Michael S. Taaffe, Michael D. Bressan and Jarrod J. Malone of Shumaker Loop & Kendrick LLP.

The case is Taaffe et al. v. Robinhood Markets Inc. et al., case number 8:20-cv-00513, in the U.S. District Court for the Middle District of Florida.

--Editing by Jay Jackson Jr.

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