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## 11th Circuit hears case against Robinhood over 'meme stock' trading restrictions

*Users of the stock trading app who claim they lost billions are appealing a district court ruling that the company's customer contract gives it the right to restrict trading at any time.*

[MEGAN BUTLER](#) / March 23, 2023



*Pedestrians pass a GameStop store on 14th Street at Union Square, Thursday, Jan. 28, 2021, in the Manhattan borough of New York. Robinhood and other online trading platforms are moving to restrict trading in GameStop and other stocks that have soared recently due to rabid buying by smaller investors. GameStop stock has rocketed from below \$20 to more than \$400 this month as a volunteer army of investors on social media challenged big institutions who has placed market bets that the stock would fall. (AP Photo/John Minchillo)*

ATLANTA (CN) — The 11th Circuit heard arguments Thursday in a multidistrict fiduciary duty case against stock trading app Robinhood over its decision to restrict purchases of so-called "meme stocks" on its platform for one week in January 2021.

During the pandemic, viral popularity and heightened social sentiment toward struggling companies such as GameStop, AMC Entertainment, Blackberry and

Bed, Bath & Beyond drew in small, retail investors to purchase their beat-down stocks in huge numbers.

Large hedge funds and institutional investors had bet these stocks would decline in value, so this mass rush to purchase cheap "meme stocks" led to a dramatic increase in their share prices. GameStop's stock, for example, skyrocketed from 65 cents in April 2020, near the start of the pandemic, to more than \$120 by January 2021.

This "short squeeze" resulted in a highly volatile securities trading market, with the prices of certain stocks varying wildly by the hour.

Multiple retail brokers including Robinhood grew concerned about the rapidly changing circumstances and their ability to meet fluctuating collateral and daily deposit requirements. In a span of three days, Robinhood Securities, its affiliated clearing broker, incurred both a deposit surplus of \$11 million and a deposit deficit of over \$3 billion. The company made the decision to restrict purchases of the meme stocks on its platform for a week.

A class of investors who use the app sued Robinhood, claiming its decision erased "billions of dollars of value invested in their brokerage accounts" by forcing them to sell their meme stock shares at depressed prices as they declined in value.

While Robinhood boasts its platform as a way to "provide everyone with access to the financial markets, not just the wealthy," the retail investors argue it "targets the least-experienced and least-sophisticated investors" and does not properly safeguard their investments.

In January 2022, U.S. District Judge Cecilia Altonaga in the Southern District of Florida dismissed the case, finding Robinhood's actions were pursuant to its customer agreement, which permits the company to restrict customer trading "at any time, in [their] sole discretion and without prior notice."

But counsel for the investors argue that this stance opens the door for Robinhood to take virtually any action "to advance its own profits."

On Thursday, Florida-based attorney Jesse Panuccio of Boies Schiller Flexner LLP told the 11th Circuit panel that Robinhood's actions were made for its own self-interest, thus breaching its fiduciary duty to benefit its customers.

"I don't think you have any evidence that they intended to hurt their clients," said U.S. District Judge Corey Maze, sitting by designation from the Northern District of Alabama. "I think they were trying to protect themselves."

The Donald Trump appointee appeared to have a hard time getting around the provisions of the customer agreement to buy the investors' argument.

Panuccio said that a terrorist attack is an example of an unprecedented matter that would justify imposing such trade restrictions.

New York-based attorney Kevin Orsini of Cravath, Swaine & Moore LLP argued on Robinhood's behalf that its decision was made to prevent the brokerage platform from getting shut down for not meeting collateral obligations and other requirements, which would be much more damaging to its customers.

"What do you think, if any, are the limits that the provision allows?" asked U.S. Circuit Judge Britt Grant, another Trump appointee.

Orsini said he doesn't think there are any limits. He added that Robinhood is a non-discretionary brokerage service, and because it does not trade on its

customers' behalf or offer investment advice, it only owes a fiduciary duty to its customers "in the transaction sense."

U.S. Circuit Judge Jill Pryor, a Barack Obama appointee, rounded out the three-judge panel. The judges did not signal when they intend to issue their decision.

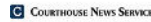
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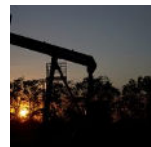
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