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[ANALYSIS](#)

## Meet the Plaintiffs Team Pursuing the Price-Fixing Lawsuit Against 16 Elite Universities

Lawyers at Berger Montague, FeganScott, Gilbert Litigators & Counselors, and Roche Freedman accuse the universities of participating in a price-fixing cartel that artificially inflated what students who receive financial aid paid for undergraduate studies.

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Education



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A couple of weeks back, we ran down [the expansive list](#) of large law firms showing up to defend a group of elite universities accused of participating in a price-fixing conspiracy to hold down the amount of need-based financial aid going to undergraduate students.

This morning we're going to take a closer look at the team on the plaintiffs-side of the docket.

The antitrust lawsuit [filed last month](#) in the Northern District of Illinois targets 16 major universities that have participated in [the 568 Presidents Group](#). The group's website says it "works together in an effort to maintain a need-based financial aid system that is understandable and fair and will bring greater clarity, simplicity, and equity to the process of assessing each family's ability to pay for college." Its name comes from Section 568 of the Higher Education Act, which allows schools that accept students on a "need blind" basis to collaborate on financial aid formulas.

But the lawsuit claims that defendant schools have failed to satisfy that exemption in a variety of ways. Plaintiffs allege some schools take the ability to pay into account when admitting students from their waitlists and others give priority to the children of wealthy donors. The lawsuit, which is pending before U.S. District Judge Matthew Kennelly in Chicago, claims the group's activities are "explicitly aimed to reduce or eliminate price competition among its members."

So who are the lawyers who brought this suit and how did they come together?

In [court papers](#) filed last week, lawyers at **Berger Montague**, **Gilbert Litigators & Counselors** and **Roche Freedman** asked to be appointed interim co-lead counsel and **FeganScott** asked to be appointed liaison counsel for the proposed class of more than 170,000 financial aid recipients the suit claims were overcharged for undergraduate studies.

Court filings say **Robert Gilbert** of **Gilbert Litigators & Counselors** worked for more than a year to develop the case and assemble the proposed leadership team. Gilbert was previously a litigation partner **Mayer Brown** and **Dentons**. His corporate clients have included Samsung, which he represented in a multi-billion dollar arbitration with SanDisk while at Mayer Brown, General Electric, Hyundai Heavy Industries, and GlaxoSmithKline. Gilbert also served as litigation

counsel at GE's corporate headquarters in the mid-90s, where he managed the company's defense in an antitrust case alleging collusion in the national market for circuit breakers. Since leaving Big Law, Gilbert has served as the chairman and CEO of litigation funder VGL Capital, which is not involved in the case against the universities.

Also from Gilbert's firm, is partner **Elpidio "PD" Villarreal**. Villarreal, a former partner at Denton's predecessor **Sonnenschein, Nath & Rosenthal**, went on to head litigation at several multinational companies, including as the global head of litigation for GlaxoSmithKline for about a decade, where he oversaw antitrust and drug cases with potential liabilities in the billions.

The team from **Berger Montague** includes firm chairman **Eric Cramer**. Cramer, who also serves as co-chair of the firm's antitrust department, has led class actions tallying more than \$3 billion in settlements. Also from Berger Montague is **Robert Litan**, who joined the firm as a shareholder last month. Litan, who holds a Ph.D. in Economics from Yale along with his J.D. from Yale Law School, was deputy assistant attorney general in the Justice Department's Antitrust Division when the federal government resolved a similar price-fixing case against MIT and Ivy League schools in the 1990s. The plaintiffs' filings say Litan "personally directed" the Department's settlement with MIT, which was partially incorporated into the text of the antitrust exemption at issue in the newly filed case.

As we previously mentioned, the plaintiffs' team also includes **Eric Rosen**, the former lead prosecutor in the "Varsity Blues" college-admissions scandal who joined **Roche Freedman** as a partner last year. Also from the firm, a spinoff of **Boies Schiller Flexner** formed a little over two years ago, are name partner **Kyle Roche** and founding partner **Edward Normand**. Aside from the firm's antitrust work, the filing highlights a \$100 million verdict Roche won as lead counsel late last year in Miami federal court in a cryptocurrency dispute.

**Elizabeth Fegan**, the proposed liaison counsel, founded her class action firm FeganScott in 2019 after spending a decade and a half as the managing partner of the Chicago office of **Hagens Berman Sobol Shapiro**. She is co-lead counsel in privacy class action against TikTok where Judge Kennelly's Northern District colleague, U.S. District Judge John Lee, signed off on a \$92 million settlement late last year.

As previously reported, the defense lineup in the case is heavy on Big Law: Brown and Emory have a team from **Morgan, Lewis & Bockius**. The University of Chicago is represented by **Arnold & Porter Kaye Scholer**. Columbia University hired **Skadden, Arps, Slate, Meagher & Flom**. Cornell and Rice brought on **King & Spalding**. Dartmouth has counsel from **Jenner & Block**. Georgetown University has a team from **Mayer Brown**. MIT hired **Freshfields Bruckhaus Deringer**. Northwestern brought on **Sidley Austin**. Notre Dame has a team from **Williams & Connolly** and local counsel at **Michael Best & Friedrich**. Yale has counsel from **Hogan Lovells**.

Since our last report, additional counsel entered appearances for the remaining defendants. **Cooley** litigators, including antitrust partner **Dee Bansal** in Washington, D.C. and partner **Matthew Kutcher**, a former federal prosecutor based in Chicago, represent California Institute of Technology.

Duke University has brought on **Derek Ludwin**, the leader of the antitrust litigation and sports practice groups at **Covington & Burling**, as well as local counsel at **Saul Ewing Arnstein & Lehr**.

Emory has added **Craig Waldman**, a **Jones Day** partner based in D.C. who co-chairs the firm's global antitrust & competition law practice, as well as **Tina Tabacchi**, the partner-in-charge of the firm's Chicago office.

The University of Pennsylvania has brought on a team from **Wilmer Cutler Pickering Hale and Dorr**, including partner **David Gringer** in New York, a veteran of DOJ's Antitrust Division, and **Seth Waxman**, who is helping spearhead the defense of Harvard's use of race as a factor in admissions at the U.S. Supreme Court. Penn also has local counsel from **Miller Shakman Levine & Feldman**.

As of press time, Vanderbilt University was the sole defendant without defense counsel listed on the docket.

Gilbert said in a statement to the Litigation Daily that the selection of this particular slate of defense counsel “demonstrates that the defendants know they are facing serious allegations.”

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