



Lawyers assess Yale's efforts to dismiss antitrust suit brought against it

Legal experts share that motions to dismiss are standard practice, and are unlikely to influence the case's outcome.

JORDAN FITZGERALD | 2:11 AM, APR 20, 2022

STAFF REPORTER

Listen to this article



ADAURIS *Great journalism deserves to be heard*

Tim Tai, Staff Photographer

Legal experts weighed in on Yale's two motions to dismiss the 568 Presidents Group antitrust lawsuit, which were filed on Friday,



arguing plaintiffs face a difficult path ahead to show Yale violated antitrust law.

The 568 Presidents Group is a collection of private universities who may share financial aid calculations in a manner that is permissible due to a 1994 legal exemption to the Sherman Antitrust Act. But in January, an antitrust lawsuit alleged that the group was illegal due to member schools' practice of considering financial status in admissions.

Experts and lawyers involved in the case agreed that the type of dismissal motions Yale filed are common in cases of the kind.

"It is common for defendants in antitrust cases to try to dismiss the case," Robert D. Gilbert LAW '82, one of the litigators for the plaintiffs, said. "We anticipated the defendants' arguments, and are prepared to respond forcefully as the law is in the Plaintiffs' favor. We look forward to the Court's resolution of Defendants' motions, and to moving this case forward."

Gregory Day, assistant professor of legal studies at the University of Georgia and visiting fellow at Yale Law School's Information Society Project, shared this sentiment. He wrote in an email to the News that filing a motion to dismiss is not only "extremely common," but "completely expected."

The defendants' joint motion alleges that the complaint lacks enough evidence to decide in the plaintiffs' favor, Day said, while Yale's individual motion argues that the statute of limitations invalidates the University-specific case.

Another expert elaborated on this explanation.

Professor of law at Penn State Law School John Lopatka said the joint motion rebuts the suit on both substantive and procedural grounds by arguing that no law was broken and that even if the universities had committed a violation, the statute of limitations has run out.

"There's nothing unusual about Yale participating in a joint motion to dismiss and filing a separate motion," Lopatka said. "The arguments supporting the two motions overlap, but they are not inconsistent, and Yale has arguments that at least some other defendants can't make."

He called the Yale-specific allegations "sketchy" and said it is "perfectly sensible" for the University to dispute the plaintiffs' claim. Because Yale left the 568 Presidents group in 2008, the University claims it has not engaged in financial-aid conspiracy in over a decade — despite rejoining the group in 2018. The plaintiffs, however, allege that Yale's decision to reconnect with the group implicates them by association. Lopatka said he believes that this argument fails to meet antitrust pleading standards.

Lopatka emphasized that both motions take issue with the statute of limitations.

“All claims are barred against universities, such as Yale, who withdrew from the Group before 2018, and claims against other universities can be maintained only for financial aid commitments made after 2018,” Lopatka wrote in an email to the News.

Because of this argument, according to Lopatka, the plaintiffs can respond in two ways. First, they can argue that the statute of limitations did not begin to run until the plaintiffs discovered the wrongdoing, which only occurred in the past two years. The alternative is for the plaintiffs to argue that all members of the 568 Presidents group can be sued if a single member violated antitrust law in the past four years.

The Sherman Antitrust Act was passed in 1890.

JORDAN FITZGERALD  

Jordan Fitzgerald serves as a University editor for the News. She previously edited for WKND and wrote about admissions, financial aid & alumni. She is a senior in Trumbull College majoring in American history.



YALE DAILY NEWS PUBLISHING CO.,
INC.

202 York Street, New Haven, CT 06511 |
(203) 432-2400

Editorial: (203) 432-2418 |
editor@yaledailynews.com

Business: (203) 432-2424 |
business@yaledailynews.com

[ABOUT US](#) | [SEND A TIP](#)
[SUBMIT A LETTER](#) | [LEGAL](#)

© YALE DAILY NEWS 2024

[JOIN](#) [DONATE](#) [ADVERTISE](#)