

## Roche Cyrulnik, Kirby, Robbins Geller Vie To Lead Bitcoin Suit

By **Philip Rosenstein**

Law360 (February 10, 2020, 9:15 PM EST) -- Three sets of law firms are seeking to be interim class counsel in a bitcoin market manipulation case against Bitfinex and Tether that, by one account, could be worth up to \$1.4 trillion in damages, with Roche Cyrulnik Freedman LLP, Kirby McInerney LLP and Robbins Geller Rudman & Dowd LLP reiterating why they are each best placed to litigate the claims.

The firms, representing plaintiffs in three of four recently consolidated cases, highlighted each of their complaints as more appropriate and touted their expertise in the field of cryptocurrencies and class action lawsuits, vying to get a leg up on their competing parties. The filings were docketed Friday.

Four **cases were consolidated** on Jan. 27 in the U.S. District Court for the Southern District of New York with overlapping allegations that Tether, the issuer of a "stablecoin" cryptocurrency of the same name, and cryptocurrency exchange Bitfinex engaged in a "part-fraud, part-pump-and-dump, and part-money laundering" scheme that eventually cost cryptocurrency investors hundreds of billions of dollars.

Cryptocurrency investor David Leibowitz, represented by Roche Cyrulnik, Schneider Wallace Cottrell Konecky LLP and Selendy & Gay PLLC, pointed to his party being the first to file a complaint against Bitfinex and Tether for alleged market manipulation and called the other complaints "copycat actions." **Leibowitz filed suit** in the Southern District of New York in early October.

Eric Young, **who filed a similar case** in Washington federal court in November, highlighted that his attorneys, Kirby and the Radice Law Firm, have already undergone a deeper analysis of the claims.

"Specifically, the Young complaint is distinctive because it has already moved beyond publicly available academic sources to examine the direct impact on proposed class members, including in the bitcoin and related bitcoin futures markets," the Young brief said.

The suits rely on the findings in a university professor's unpublished report, first made public in June 2018 and updated on Oct. 3, that concluded Tether and Bitfinex had coordinated to manipulate the price of bitcoin. Young argued in his motion to appoint Kirby and Radice class counsel on Jan. 27, that their "in-depth pre-filing investigation of market participants and in consultation with experienced experts" made their complaint "superior" to the others.

"We remain confident that the court will conduct an independent review of the merits of each application and appoint interim lead counsel based on our direct experience with the gamut of [over-the-counter] and exchange-based financial products, our original investigation, and standout expert econometric market analysis," Karen Lerner, a partner at Kirby, told Law360 in an email.

Joseph Ebanks is also seeking the appointment of his counsel, Robbins Geller, to represent the class. His case only represents bitcoin investors, as opposed to the other parties, which include investors in bitcoin futures as well as other cryptocurrencies.

"Bitcoin purchasers should not have their claims compromised because class counsel has split loyalty to tertiary victims who may or may not have suffered collateral damage from defendants' scheme for

their own market-specific reasons," Ebanks said.

Ebanks added in his initial motion on Jan. 27, however, that in the event the firm is not chosen, the court should allow Robbins Geller to represent a subclass of only bitcoin purchasers, not the expansive class of purchasers of bitcoin, bitcoin futures and other cryptocurrencies.

Leibowitz, however, painted its expansive potential class as a boon to the case.

"The Leibowitz complaint is also the only complaint with a class representative who has purchased several other cryptocurrencies whose manipulation may bear on the class recovery; the other complaints do not offer this optionality in class representativeness," Leibowitz said in his motion to appoint Roche Cyrulnik, Schneider Wallace and Selendy & Gay on Jan. 27.

The cases, which Bitfinex and Tether have called "**simply preposterous**," allege that billions of tether tokens issued by Tether between 2017 and 2018 were used to flood the Bitfinex exchange and buy up other cryptocurrencies. Because the market was led to believe tethers were fully backed by U.S. dollars, the demand and prices for cryptocurrencies spiked, creating a bubble that ultimately wiped out \$450 billion in value when it burst, the suit alleges.

Bitfinex, Tether and others named in the Leibowitz complaint could be liable for more than \$1.4 trillion if damages are tripled as required by the Racketeer Influenced and Corrupt Organizations Act and antitrust statutes, the investors say.

Counsel for Leibowitz and Ebanks did not immediately respond to requests for comment on Monday.

Tether and Bitfinex are represented by James Walden, Daniel A. Cohen, Stephanie T. Levick of Walden Macht & Haran LLP, Michael J. Lee of the Law Office of Michael J. Lee and Sunjina Ahuja and Christopher Beal of Dillon Miller Ahuja LLP.

The Leibowitz plaintiffs are represented by Kyle W. Roche, Devin "Velvel" Freedman, Jason C. Cyrulnik, Amos E. Friedland, Edward J. Normand and Joseph M. Delich of Roche Cyrulnik Freedman LLP and Todd M. Schneider, Jason H. Kim, Matthew S. Weiler and Kyle G. Bates of Schneider Wallace Cottrell Konecky Wotkyns LLP.

The Young plaintiffs are represented by David E. Kovel, Karen M. Lerner, Thomas W. Elrod and Anthony E. Maneiro of Kirby McInerney LLP and John Radice of the Radice Law Firm PC.

Ebanks is represented by Samuel Howard Rudman and Brian E. Cochran of Robbins Geller Rudman & Dowd LLP.

The consolidated case is Leibowitz et al. v. iFinex Inc. et al., case number 1:19-cv-09236-KPF, in the U.S. District Court for the Southern District of New York.

--Editing by Jay Jackson Jr.