

Cos. Face Growing Exposure To Unfair Trade Practice Suits

By **Richard McConnell, Michael Levatino and Lily Pavy** (October 9, 2026, 3:27 PM EDT)

On Aug. 26, Meta Platforms Inc. **entered** a \$17 billion dollar settlement in In re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation, a multidistrict litigation in the U.S. District Court for the Northern District of California.

The litigation alleged, among other claims, that Meta violated state unfair trade practice laws and misrepresented the extent of mental health related harm to children.[1]

This landmark multistate settlement underscores a significant shift in how states and individuals are addressing companies' alleged commercial harms and the significant liability attached to said claims.

Historically, state unfair and deceptive acts or practices, or UDAP, statutes were enacted to protect consumers from deceptive advertising and unfair commercial conduct.[2]

Increasingly, however, plaintiffs and state attorneys general are using these statutes as a means of pursuing claims that traditionally would have been governed by tort, products liability, nuisance or environmental law.

This trend has significant implications for defendants, because UDAP statutes often provide remedies and procedural advantages unavailable under traditional common-law causes of action.[3]

Unlike tort claims, UDAP statutes frequently dispense with requirements such as individualized reliance, proof of duty, physical injury or traditional causation standards. Many statutes authorize civil penalties, fee shifting, restitution, injunctive relief and broad governmental enforcement authority.[4]

As a result, plaintiffs and regulators have increasingly turned to consumer protection laws to pursue claims involving environmental impacts, public health concerns and alleged social harms.

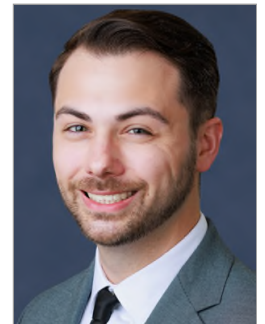
Environmental "greenwashing" litigation provides a clear example. Plaintiffs have used state consumer protection statutes to challenge representations concerning recyclability, sustainability, carbon neutrality and other environmental attributes of products.

Rather than proving environmental injury or satisfying the requirements of common-law fraud, plaintiffs often focus on whether a reasonable consumer could have been misled by environmental marketing claims.[5]

This approach allows disputes with substantial environmental overtones to proceed under consumer protection



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theories that may be easier to litigate and more difficult to defend. Recent enforcement actions involving social media platforms demonstrate how far this trend has progressed.

In recent years, multiple states, including Louisiana, Texas, Arkansas, Colorado, Florida, New Mexico and California, have filed suit against companies such as Meta, TikTok Inc., Snap Inc. and Google LLC, alleging claims under respective state unfair trade practices acts.[6]

In response, defendants have raised multiple defenses, including First Amendment protections and immunity under Section 230 of the Communications Decency Act for third-party user-generated content.

While many of these defenses have not been litigated to completion, some courts have determined that First Amendment protections and Section 230 do not bar these claims.[7]

For example, in *New Mexico v. Meta Platforms Inc.*, in the First Judicial District Court of Santa Fe County, New Mexico filed suit against Meta in 2023, alleging that Facebook and Instagram misrepresented the safety of their platforms for minors while exposing children to sexual exploitation and other harms.

The underlying allegations closely resembled negligence, failure-to-warn and child-safety tort claims. Nevertheless, New Mexico proceeded under its Unfair Practices Act, ultimately obtaining a **jury verdict** in March imposing \$375 million in civil penalties.

By proceeding under a consumer-protection framework, the state avoided many of the individualized proof requirements that would ordinarily accompany tort litigation, and instead focused on alleged misrepresentations and unfair business practices.[8]

Notably, New Mexico also avoided the broad immunity of Section 230 through its UDAP allegations.[9] The case illustrates the growing use of UDAP statutes as a regulatory substitute for traditional tort theories.

The broader implications of this enforcement trend became evident in August when Meta, in the *In re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation*, subsequently agreed to a \$17 billion multistate settlement, to resolve claims that it misrepresented mental health harms to children across multiple jurisdictions.

The settlement, which requires fundamental changes to Instagram and Facebook to better protect minors, demonstrates the significant financial and operational exposure companies now face when state attorneys general coordinate UDAP enforcement actions.[10]

The expanding use of UDAP statutes has also begun to reach commercial and employment disputes that historically would have been governed by contract or tort principles.

For example, following men's basketball coach Will Wade's departure from North Carolina State University to accept the head coaching position at Louisiana State University, NC State publicly announced that it is investigating whether LSU violated North Carolina's Unfair and Deceptive Trade Practices Act by allegedly inducing Wade to breach his employment agreement, and manipulated the timing of his resignation to reduce contractual buyout obligations.[11]

Although the underlying allegations resemble claims for tortious interference with contract or inducement to breach, NC State's reliance on the UDAP statute demonstrates the growing willingness of sophisticated institutional plaintiffs to invoke consumer protection laws outside their traditional consumer context in order to pursue enhanced remedies, including treble damages and attorney fees.

Whether such claims ultimately succeed remains to be seen. But the dispute further illustrates the continued expansion of UDAP statutes



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into areas traditionally occupied by common-law business torts

Similarly, the approximately \$800 million judgment against Phillips 66 **handed down** on July 31 in *Propel Fuels Inc. v. Phillips 66 Co.*, in Los Angeles County Superior Court, while arising under trade-secret law rather than a consumer protection statute, reflects a parallel development.

In that case, the court awarded roughly \$605 million in compensatory damages and \$195 million in punitive damages based on findings that Phillips 66 misappropriated trade secrets relating to renewable fuels technology during acquisition discussions with Propel Fuels.[12]

The verdict demonstrates the willingness of courts and juries to impose extraordinary penalties when business conduct is characterized as unfair, deceptive or contrary to public policy.

For defendants, the case serves as a reminder that disputes involving environmental technologies, sustainability initiatives and commercial innovation increasingly carry reputational and punitive dimensions that extend beyond traditional business tort concepts.

For the defense bar, these developments raise important concerns and signal more litigation to come.

Consumer protection statutes were not originally designed to serve as all-purpose vehicles for addressing environmental harms, public health controversies, online safety issues or other broad societal concerns.

Yet plaintiffs and regulators increasingly invoke UDAP laws precisely because they provide a flexible framework capable of sidestepping many of the doctrinal limitations that have traditionally constrained tort liability. Expect this trend to accelerate.

Large companies with deep pockets and significant public profiles will face a growing wave of UDAP complaints from plaintiffs seeking to bypass traditional causation requirements, class-certification hurdles and statute-of-limitations defenses.

The litigation landscape ahead will likely feature more sprawling, multistate actions targeting corporate sustainability claims, digital platform practices and consumer-facing environmental representations.

The result is the emergence of what some commentators describe as a "super tort" regime: a body of statutory claims that combines expansive liability theories with enhanced remedies, while reducing many of the procedural and substantive protections traditionally available to defendants.

This expansion carries real risks of unintended consequences. For practitioners and in-house counsel, it is important to monitor developments in UDAP jurisprudence closely, particularly in plaintiff-friendly jurisdictions.

It is also important to reassess marketing and public-facing communications through the lens of deception and unfairness standards, and prepare for the reality that disputes, once resolved through traditional tort or regulatory channels, may increasingly arrive dressed as consumer-protection claims.

Whether courts will impose meaningful limits on this expansion remains an open question that may take years to resolve. Defending against this new era of expansive UDAP liability will require creative lawyering and innovative defensive strategies to limit or bar these high-risk claims.

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