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LEGAL NEWS

U.S. judge concerned Google anti-trust lawsuit too vague - A judge on Thursday said she would require consumers suing Google over its Android smartphone operating system to submit more factual details in order for an antitrust lawsuit to proceed, at a time when the Internet search company faces increased regulatory pressure.

Continued on page A-16

Dow whistleblower can pursue unlawful firing claim, U.S. judge rules - Dow Chemical Co's ex-fraud investigator can pursue claims of being unlawfully fired after disclosing alleged financial misconduct related to the company, including heavy spending by Chief Executive Andrew Liveris, a U.S. judge has ruled.

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Federal judge rebuffs NCAA concussion settlement - A federal judge on Wednesday rebuffed a \$75-million NCAA settlement that aimed to end a massive class-action lawsuit over head injuries suffered by student athletes, court records show.

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Democratic lawmakers warn against investment rules in trade pacts - Some Democratic lawmakers have urged the U.S. administration to exclude foreign investment protections from major free trade agreements, warning they might undermine buffers against future financial crises and hurt public support for trade deals.

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American accused of counterfeiting \$2 million in Uganda - An American man has been arrested in Uganda and accused by U.S. prosecutors of counterfeiting more than \$2 million in fake dollars, some of which were to be mailed to the United States hidden in charity pamphlets, court papers showed.

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FBI, Los Angeles police recover 9 stolen paintings worth \$10 million - Federal agents and police in Los Angeles have recovered nine paintings worth millions of dollars that were stolen from the home of an elderly couple six years ago, including works by Marc Chagall and Diego Rivera, and FBI spokeswoman said on Wednesday.

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FALSE CLAIMS ACT / WHISTLEBLOWERS

Lincoln's Law protects U.S. government from fraud and abuse

"There's a lot of incentive for them to come forward."

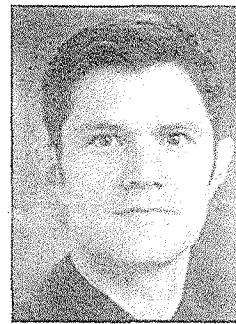
-Attorney Brandon Mark, Parsons Behle & Latimer

Antone Clark
SALT LAKE CITY (The Record/Times)

Given the current trend in federal courts, any business with ties to federal programs or funding has reason to be concerned about the consequences of the federal False Claims Act, lawyers attending a Utah State Bar class were told. Passed at the height of the Civil War, the False Claims Act-known as Lincoln's Law-is designed to protect the government from fraud and abuse. The False Claims Act remained largely dormant until 1986, when Congress passed a series of amendments to strengthen the law.

The American Bar Association reports that whistleblower claims under the False Claims

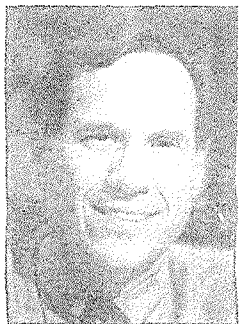
Act cases have grown faster than any other area of the law in the recent past. Brandon Mark, of Parsons Behle & Latimer, said the trend has especially impacted healthcare companies and financial institutions. He said the claims can be lucrative, with whistleblowers earning an estimated \$357 million in 2010. The latest figures, released last



Brandon Mark

week, showed that over \$6 billion was recovered through the False Claims Act in 2014, with about 20 percent of that going to the whistleblowers.

"There's a lot of incentive for them to come forward," Mark told a crowd recently at the Fall Forum, sponsored by the Utah State Bar. He said approximately



W. Mark Gavre

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U.S. DEPARTMENT OF JUSTICE / INCARCERATION REFORMS

U.S. to sue NYC over rights violations of teen Rikers inmates

"Today, we have taken a legal step we believe is necessary to ensure that critically important reforms are implemented at Rikers Island."

-U.S. Attorney Preet Bharara

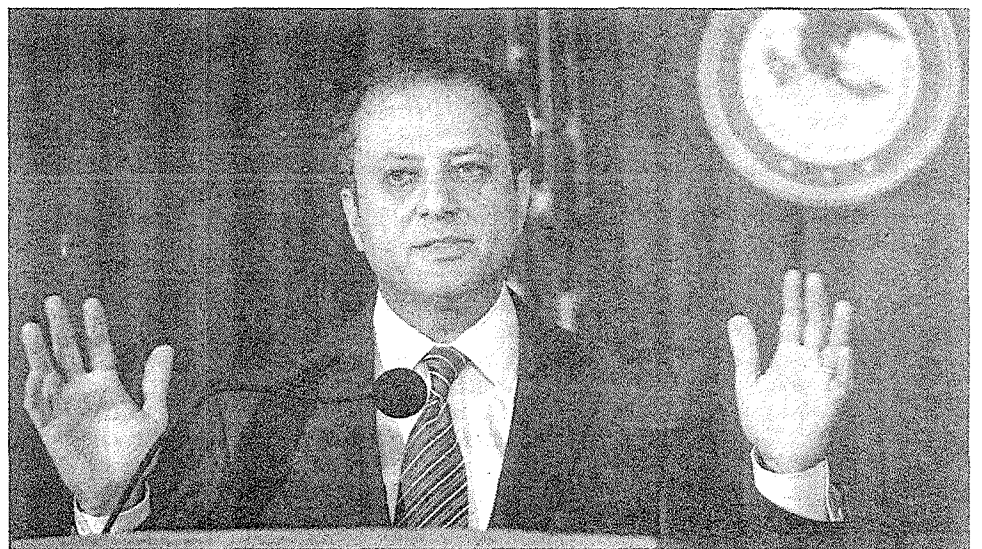
Nate Raymond and Andrew Chung
NEW YORK (Reuters)

The U.S. Department of Justice plans to sue New York City over widespread violations of the civil rights of teenage inmates at the Rikers Island jail complex, it said on Thursday, raising the prospect of years of federal oversight of the troubled jail.

The move by Preet Bharara, the U.S. attorney for New York's southern district, followed a report in August that found there was a pattern of violent abuse of 16- to 18-year-old male inmates by guards and by others held at Rikers.

"Today, we have taken a legal step we believe is necessary to ensure that critically important reforms are implemented at Rikers Island."

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U.S. Attorney Preet Bharara speaks during a news conference in New York December 18, 2014. The U.S. Department of Justice plans to sue New York City over widespread alleged violations of the civil rights of teenage inmates at the Rikers Island jail complex, it said Thursday, raising the prospect of federal oversight of the troubled jail. REUTERS/Brendan McDermid

Lincoln's Law protects U.S. government from fraud and abuse

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half of the largest companies in the United States have settled claims under the False Claims Act.

With Congress making adjustments to the False Claims Act, the trend is likely to increase, Mark predicted. Ten years ago, the fate of claims under the False Claims Act often depended on whether the government intervened in—or took over—the case from the whistleblower. Mark said that more recently, well-funded law firms have shown a willingness to take whistleblower cases forward, even without the government's intervention.

Under the False Claims Act, a defendant is liable for three times the amount of monetary damages suffered by the government, plus additional penalties, fees, and costs.

Asked why should attorneys care, Mark an-

swered: "Every industry is a target. If a company is involved in any program that has to do with government, there is potential liability."

W. Mark Gavre of Parsons Behle & Latimer said whistleblowers have garnered more than financial gain from the legal actions. He said the public increasingly believes whistleblowers are needed to bring truth into the public view, which would be hidden otherwise.

"We've reached the point where we don't believe we can get the truth from any institution. What has come of that is a turn to whistleblowers as a solution. So if we don't have whistleblowers, we'd never get the truth," Gavre said.

Congress passed the Whistleblower Protection Act in 1989 and strengthened it in 2012,

and it is intended to protect federal employees from retaliation for having "blown the whistle" on some wrongdoing. Gavre said under the legal standard, an employee is protected so long as he or she has "a reasonable belief" that some misdeed has been done. Whistleblowers don't have to be right, they just have to have reasonable belief some wrongdoing occurred and report it, after which they are legally protected, Gavre said. Other federal laws protect whistleblowers employed at businesses that contract or subcontract with the federal government. Numerous state laws across the country protect whistleblowers in both public and private employment.

Gavre said a Supreme Court case involving a former worker for the Transportation Security Agency (TSA) will be critical in how cases

are handled in the future. The employee leaked to a TV network sensitive internal government information that federal air marshals would no longer be on every overnight flight, resulting in his termination based on his violation of agency regulations that prohibited the release of such information. The question is whether statutory whistleblower protections trump the agency's seemingly contrary regulations.

"From the questions at oral argument, the Supreme Court Justices seemed very sympathetic to the federal marshal and highly skeptical of TSA," Gavre said. The Supreme Court is expected to rule on the matter in 2015.

U.S. to sue NYC over rights violations of teen Rikers inmates

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lieve is necessary to ensure that critically important reforms are implemented at Rikers Island," Bharara told reporters at a press conference. "In our view, at the end of the day, there must be a court-ordered agreement."

Bharara is seeking a legal agreement known as a consent decree, which typically also entails the court appointing monitors to oversee that the promised changes are being made, he said.

Only a handful of the country's thousands of jails, prisons and mental hospitals have problems serious enough to warrant the Justice Department's attention each year under the Civil Rights of Institutionalized Persons Act, or CRIPA, under which the lawsuit would be filed.

The statute gives the department the power to carry out a civil investigation into broader systemic problems of inmate abuse, as opposed to a more narrow criminal investigation into misconduct by individual guards and other employees.

The Justice Department, which opened an investigation into the conditions at Rikers in 2012, says the city has allowed guards to routinely batter inmates, sometimes even after the inmates had been cuffed. The department's report also criticized the heavy use of solitary confinement and lack of management oversight, among other complaints.

Bharara's office has been in settlement talks with the city for the last several months and

hoped to reach a deal, but court papers filed in federal court in Manhattan Thursday said that "thus far, insufficient progress has been made."

The proposed lawsuit said the problems at Rikers showed "deliberate indifference to the safety and health" of the inmates, many of whom are unconvicted defendants awaiting trial.

Mayor Bill de Blasio's office and the city's Department of Correction, which have not disputed the report's findings, as well as the city's powerful jail guard's union did not immediately respond to requests for comment.

The mayor, who took office in January and has repeatedly said conditions at Rikers are deplorable, announced an end to the practice

of solitary confinement during a visit to the jail on Wednesday.

If other large urban prisons investigated by the Justice Department are any guide, New York City may only be at the start of a protracted process.

The Los Angeles County Jail has been struggling to address the findings of a CRIPA investigation for 12 years, according to the Justice Department.

Officials overseeing the Cook County Jail in Chicago signed a consent decree with the Justice Department in 2010, and four court-appointed monitors have overseen the jail since then.

U.S. judge concerned Google antitrust lawsuit too vague

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The lawsuit filed earlier this year says Google Inc requires Android handset manufacturers such as Samsung Electronics Co Ltd to restrict competing apps like Microsoft Corp's Bing search, partly by making Google's own apps the default.

The consumers claim these deals raise smartphone prices, because Google's rivals are not allowed to compete for premium placement on phone screens.

At a hearing on Thursday in a San Jose, California, federal court, U.S. District Judge Beth Labson Freeman questioned whether that theory is too vague for the lawsuit to proceed.

"The speculative nature of the damages is really quite concerning to me," Freeman said.

The judge said she would most likely dismiss the lawsuit, but give the plaintiffs an opportunity to revise it with additional facts to try to proceed on some legal claims.

Last month, the European Parliament overwhelmingly passed a non-binding resolution urging antitrust authorities to break up Google. The lawmakers called on the European Commission to consider proposals to unbundle search engines from other commercial services.

Google argues in its court filings that the proposed class action should be dismissed be-

cause consumers still are free to use the other apps. The plaintiffs counter that most consumers either do not know how to switch default settings, or will not go to the trouble.

Should Freeman ultimately allow the proposed class action to proceed, plaintiffs' attorneys would be allowed to delve into internal Google emails and contracts with smartphone companies, and could interview Google executives under oath.

In court on Thursday, Google attorney John Schmidlein said the case should be dismissed because plaintiffs had not produced any evidence that handset makers actually wanted to

use a different search engine.

In response, plaintiff attorney Robert Lopez countered said consumers should be allowed to examine Google's documents to learn those details.

But Freeman said U.S. law mandates that plaintiffs present enough facts in their lawsuit "before I open the floodgates" to expensive discovery.

The case is Gary Feitelson and Daniel McKee, on behalf of themselves and all others similarly situated vs. Google Inc, in U.S. District Court, Northern District of California No. 14-2007. (Reporting by Dan Levine; Editing by Grant McCool)

American accused of counterfeiting \$2 million in Uganda

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Ryan Andrew Gustafson, 27, is charged with conspiracy to commit offenses against the United States, according to a criminal complaint filed on Wednesday in U.S. District Court for the Western District of Pennsylvania.

The U.S. Secret Service, whose agents investigate financial crime worldwide, said on Thursday it supported an operation by Ugandan police who arrested Gustafson earlier this week at his home in a suburb of the capital Kampala.

"The Secret Service will continue to dismantle criminal networks that seek to victimize American and international citizens or denigrate our national currency, regardless of geo-

graphic distance or border," Paul Morrissey, its assistant director of investigations, said in a statement.

Gustafson is also charged in Uganda with possession and dealing in counterfeit currency, as well as unlawful possession of ammunition. His local lawyer, named by media there as Isaac Walukagga, could not immediately be reached for comment.

According to the U.S. criminal complaint, detectives recovered computers, printers, paper and ink from the home, as well as tens of thousands of dollars in fake currencies, blank credit cards, and two Taser guns.

Some of the counterfeit bills were glued be-

tween pages of pamphlets entitled "Give a Child Hope Today," it said.

Prosecutors say Gustafson, also known as Jack Farrel and Willy Clock, offered the notes for sale via an online forum he ran called Community-X, and that he wore rubber gloves while preparing the packages so as not to leave fingerprints.

It was not immediately clear where in the United States Gustafson comes from. The criminal complaint said a Texas identification card and a Colorado driver's license in his name were found during Monday's raid.

The U.S. Secret Service said the investigation began in December last year over coun-

terfeit dollars found in Pittsburgh. It said about \$1.8 million in fake notes have been seized and passed in Uganda and neighboring countries to date. A further \$270,000 was seized or passed in the United States.

"The early infiltration and disruption of Gustafson's U.S. trafficking network limited the total amount of counterfeit funds passed within the United States," the Secret Service said.

It said the case continues pending further investigation and judicial action.

(Reporting by Daniel Wallis in Denver; Editing by Bill Trott)