

What goes down comes back up: Federal agency enforcement actions drop and private enforcement class actions rise

By Caroline L. Wolverton, Esq., Akin

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Traditional enforcement by federal regulatory agencies has dropped dramatically since the Trump administration took office in January. But this does not mean that businesses will necessarily avoid litigation aimed at enforcing federal laws. Plaintiff's attorneys as well as state attorneys general are filling the federal agency enforcement gap with enforcement actions of their own.

This article looks at class actions grounded in federal regulations — a type of private enforcement action that is increasing as federal agencies reduce their enforcement activity.

Reduced federal agency enforcement actions

In the first half of 2025, federal agency enforcement actions in the areas of consumer protection, competition, and financial practices were down 37% compared to the first half of 2024, according to an analysis by Wolters Kluwer as reported in CFO.com. Dan Niepow, "Federal regulatory activity dropped steeply in H1 2025," CFO.com (Aug. 7, 2025), <https://bit.ly/4o2spo5>. Enforcement actions targeting financial offenses specifically dropped 53% while consumer protection enforcement actions fell 22% during that same period. *Id.*

This sharp drop can be attributed to shifted enforcement priorities under the Trump administration. Priority realignments are described in multiple executive orders and memoranda. For example, Executive Order 14219 directs federal agencies to align enforcement activity with deregulation goals. E.O. 14219, <https://bit.ly/3L4by5u>.

And a June 2025 Department of Justice (DOJ) Civil Division memorandum prioritizes enforcement in immigration and other specific areas. Mem. to Civil Division Employees from Civil Division Assistant Attorney General (June 11, 2025), <https://bit.ly/3JfGmQj>.

The enforcement priority shift is particularly visible in consumer protection. In the first few months of the administration, Bloomberg Law reported, the Consumer Financial Protection Bureau (CFPB) voluntarily dismissed many of the

enforcement actions initiated during the Biden administration. Evan Weinberger, "CFPB 'Death Memos' Herald Closed Investigations, Steep Job Cuts," Bloomberg Law (June 2, 2025), <https://bit.ly/3L0X3jl>.

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And according to Reuters, White House Budget Director Russell Vought recently stated that he plans to close the CFPB permanently within the next few months. N. Bose, D. Chiacu and D. Gillison, "White House budget director plans to shut US consumer finance watchdog within months," Reuters (Oct. 15, 2025), <https://reut.rs/4qAPjVg>.

DOJ has dismantled its Consumer Protection Branch and created a new Enforcement & Affirmative Litigation Branch with responsibility for advancing DOJ's enforcement priorities. See U.S. Department of Justice Office of Public Affairs, The Department of Justice Creates New Civil Division Enforcement & Affirmative Litigation Branch (Sept. 25, 2025), <https://bit.ly/47nCKUx>; Sarah N. Lynch, "US Justice Department Unit for Drug and Food Safety Cases Being Disbanded," Reuters (Apr. 25, 2025), <https://reut.rs/4hv92l6>.

Also of note, as reported in Bloomberg Law, the Securities and Exchange Commission (SEC) has ended the aggressive

litigation against crypto exchanges it pursued under the Biden administration, and has dismissed enforcement actions against multiple crypto exchanges. Ben Miller, “SEC Pullback Leaves Crypto Enforcement to State, Private Suits,” Bloomberg Law (June 11, 2025), <https://bit.ly/4nWtUUF>.

Increased class actions alleging federal regulatory violations

Below are recent examples of the kinds of private enforcement class actions we’ll be seeing more of as federal agencies scale back their enforcement activity. Note that these cases are brought under state consumer protection statutes.

While some federal statutes include a private right of action, many do not. Plaintiff’s attorneys are looking to state consumer protection laws with causes of action that have been interpreted as broad enough to encompass claims grounded in federal law.

California and Illinois are among the states with consumer protection statutes that have been used to assert federal-law based claims. It is also noteworthy that some state consumer protection statutes include specific causes of action for non-profit or public interest organizations. California’s Unfair Competition Law is an example.

Consumer

Plaintiffs rely on the California Unfair Competition Law’s private cause of action to pursue false advertising claims based on Food and Drug Administration (FDA) regulations in *Berard v. Colewillaidan, LLC (dba Cole’s Seafood)*, No. 25-cv-6462 (C.D. Cal).

Filed in July 2025, the putative class action alleges the defendant canned salmon producer failed to follow FDA disclosure requirements for artificial color additives in labeling its products. Following agreed extensions, a response to the complaint is due in early November 2025.

Another deceptive marketing class action filed under the California law claims that Apple violated federal environmental advertising standards by “greenwashing” its Apple Watch products.

Dib et al. v. Apple Inc., Case No. 5:25-cv-02043 (N.D. Cal.), filed in late February 2025, alleges that Apple’s assurances about carbon neutrality fail to meet the standards for transparency and substantiation established by the Federal Trade Commission’s “Green Guides.” Apple has moved to dismiss, arguing that its representations track the Green Guides and the plaintiffs’ allegations fail to plausibly state claims for relief.

Consumer finance

In June 2025, Capital One agreed to a \$425 million settlement to resolve, subject to court approval, a class action alleging misrepresentations about the bank’s “360 Savings” account.

A final hearing on the proposed settlement agreement, with no admission of wrongdoing, is scheduled for early November 2025.

The plaintiffs based the suit, *In re Capital One 360 Savings Account Interest Rate Litigation*, No. 1:24-md-3111 (E.D. Va.), on multiple state consumer protection laws and relied in part on disclosure standards set by the U.S. Office of Comptroller of the Currency.

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Notably, in January 2025 and under the Biden administration, CFPB filed an enforcement action against Capitol One alleging similar misrepresentations. In February 2025, after the Trump administration took charge, CFPB dropped the suit.

Securities

A class action filed against Nike in April 2025 alleges that nonfungible tokens (NFTs) issued by the sporting goods manufacturer qualify as securities under federal law. Relying on New York, California, Florida, and Oregon consumer protection laws, the plaintiffs in *Jagdeep Cheema v. Nike*, 25-cv-02305 (EDNY), claim that Nike was required to register the NFTs with the SEC and provide purchasers with the information contained in registration materials.

Nike has moved to enforce a “clickwrap” arbitration agreement and for dismissal based on lack of personal jurisdiction, improper venue, lack of support in the consumer protection laws for what are essentially federal securities claims, failure to allege sufficient facts to state a claim, and lack of standing for injunctive relief.

What businesses should do

Businesses should understand the federal regulations applicable to their industry, keep abreast of regulatory changes, and consult with experienced counsel to mitigate risks. This is especially important when considering changes like entering new markets.

Businesses should also stay abreast of litigation in their industry that implicates federal regulation and take measures to mitigate the risk of becoming a target. And they should monitor plaintiff’s attorney recruitment websites for any

mention of their companies. In the event of a class action lawsuit alleging violation of federal law, hiring outside counsel

with expertise in both federal regulation and class action litigation is critical.

About the author



Caroline L. Wolverton is senior counsel at **Akin** and former senior trial counsel in the Federal Programs Branch of the Department of Justice, Civil Division. Her practice focuses on high-stakes litigation involving government regulation, including class actions based on federal regulatory schemes and administrative litigation under the Administrative Procedure Act. She is based in Washington, D.C., and can be reached at cwolverton@akingump.com.

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