

Airline Wi-Fi Co. Gogo To Pay \$17.3M To End Investor Suit

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Law360 (April 14, 2022, 9:13 PM EDT) -- Airline internet service provider [Gogo Inc.](#) has agreed to pay \$17.3 million to end putative class claims that its executives lied to investors about its Wi-Fi systems' technical issues, the investors said in an unopposed bid for preliminary approval of the deal in Illinois federal court Thursday.

The suit claims that Gogo executives concealed how its 2Ku in-flight antenna-and-satellite Wi-Fi program would sometimes malfunction if the planes it was installed on were sprayed with de-icing fluid and how the system would require costly changes to meet availability targets for winter seasons. Once the issue was revealed, stock prices plummeted, according to the suit.

The deal announced Thursday provides investors with a recovery of about 8% of the total maximum possible damages, according to the bid for preliminary approval. The payout would be distributed to anyone who was damaged as a result of investments related to Gogo between February 2017 and May 2018, according to the bid.

"Lead plaintiff's damages expert estimates that if lead plaintiff had fully prevailed at both summary judgment and after a jury trial, and if the court and jury accepted lead plaintiff's damages theory, including proof of loss causation — i.e., plaintiffs' best-case scenario — the total maximum damages would be approximately \$213.5 million for purchasers of Gogo common stock," the investors said Thursday.

But the deal at hand is the investors' best case scenario thanks to a slew of "credible arguments" presented by Gogo, the investors said Thursday.

"For example, defendants argued, among other things, that lead plaintiff's alleged class period — which spanned two winters — was far too long because the evidence would show that the de-icing issue was not a material problem during the first winter, and, even if it may have been a material issue at some time during the second winter, it was timely disclosed," investors said.

Gogo also claims that it took timely steps to address the de-icing issue, and that it believed throughout the class period it was handling the situation appropriately

"If defendants had prevailed on any or all of these issues, damages would have been significantly reduced, if not eliminated," the investors said.

The proposed class began its suit against Gogo in June 2018, alleging that its executives not only concealed the de-icing problem after discovering it in 2016 but waited until February 2018 to tell the partial truth about the situation. Then, according to the suit, the executives waited until May 2018 to fully reveal how troublesome the issue was. The disclosure resulted in the company's stock price dropping from \$9.59 per share to \$7.86 per share, the investors alleged.

Former employees alleged that the company found out about the issue during the winter of 2016–17 and tracked service outages, according to the suit.

U.S. District Judge Jorge L. Alonso [dismissed the suit](#) without prejudice in 2019 but, in [April 2021](#), found that the investors had provided important additional details to back their third amended complaint.

Under the deal, attorneys would seek no more than 33.3% of the payout.

The proposed class is represented by Casey E. Sadler of [Glancy Prongay & Murray LLP](#), James W. Johnson of [Labaton Sucharow LLP](#), Adam M. Apton of [Levi & Korsinsky LLP](#) and Peter Scott Lubin of [Lubin Austermuehle PC](#).

The Gogo defendants are represented by Jonathan S. Quinn and Andrew G. May of [Neal Gerber & Eisenberg LLP](#) and Jerome S. Fortinsky and Brian H. Polovoy of [Shearman & Sterling LLP](#).

The case is *Pierrelouis v. Gogo Inc. et al.*, case number [1:18-cv-04473](#), in the [U.S. District Court for the](#)