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## Judge In Merrill Analyst Suit Critical Of Some Investors

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OF DOW JONES NEWSWIRES

NEW YORK -- A federal judge appeared unsympathetic toward some investors who are suing Merrill Lynch & Co. (MER) over losses stemming from the dot-com meltdown, calling them "high-stakes speculators."

Dozens of investor lawsuits have been filed against Merrill, claiming Merrill's former star analyst Henry Blodget and others issued overly bullish research reports to win lucrative investment banking business and pump up their own salaries.

At a hearing Monday, U.S. District Judge Milton Pollack in Manhattan heard a request from Merrill to dismiss the litigation, filed in the wake of New York State Attorney General Eliot Spitzer's recent probe into analyst conflicts.

While Judge Pollack reserved decision on the matter, he noted that some investors who bought tech stocks such as Interliant Inc. (INITE) and 24/7 Real Media Inc. (TFSM) passed up opportunities to sell their holdings at a profit, and instead held onto stocks until after the tech-stock market collapsed in early 2000.

"They're indicative of who was dealing in what kind of market we were dealing with," the judge said.

He didn't indicate when he would rule, but in an earlier interview with Dow Jones Newswires he noted that his decision could shape the outcome of a slew of lawsuits in which investors blame Wall Street firms for their losses and seek damages of potentially hundreds of millions of dollars.

The same judge has already expressed a critical attitude toward plaintiffs' suits pointing the blame at analysts. In 2001, he threw out litigation against Morgan Stanley (MWD) analyst Mary Meeker, saying it was based on market gossip and was in "grossly bad taste."

The suits against Merrill, however, contain some of the findings of Spitzer's investigation, including internal e-mails in which Blodget and other Merrill analysts privately called stocks "junk" and "crap" while publicly recommending them. Blodget has been fined and barred from the industry.

At Monday's hearing, Merrill said it's not responsible for investor losses during the dot-com meltdown, saying people were simply caught up in Internet mania despite risk warnings the firm issued.

Merrill attorney Jay Kasner urged Judge Pollack to throw out claims, saying the firm and its analysts can't be faulted for failing to predict when the Internet bubble would burst.

Kasner recalled the heyday of dot-coms, saying the world in the late 1990s "was poised to experience what everyone thought was the next industrial revolution," he said. "Everyone was investing in the stock market because that's what everybody at the dinner table was talking about."

Blodget's attorney, Douglas Hagerman, said the former analyst "without benefit of hindsight" made predictions about new companies in volatile markets. Blodget failed to predict the market would crash in early 2000, but regularly warned investors that the market was in the midst of the bubble, he said.

Investors have sued Merrill over losses from the stock declines of nearly 30 companies. A lawyer for the plaintiffs, Herbert Milstein, told the judge that Merrill analysts, far from being objective market seers, were running a scheme to obtain substantial investment banking fees.

"They lied," he said. "They lied about their independence."

The internal e-mails and other Merrill documents that investors are using to build their case were made public last year, when Merrill agreed to pay \$100 million to settle Spitzer's conflict-of-interest allegations. The payment became part of a wider \$1.4 billion pact that Merrill and nine other top Wall Street firms reached with regulators in April.

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