

III. Judge Tosses 'Baseless' THC Potency Suit

By **Jonathan Capriel**

Law360 (March 26, 2026, 10:41 PM EDT) -- Illinois cannabis regulators are not so "incompetent on an elementary level" as to be duped into allowing Acreage Holdings Inc. and other companies to mislabel vape products in a way that lets them skirt state-imposed THC-potency limits, a federal court ruled, tossing as "baseless" a consumer-led proposed class action.

U.S. District Judge Thomas M. Durkin on Wednesday dismissed Chad Alsip's lawsuit accusing a number of companies of selling THC vape cartridges that were worth less because their labeling violated Illinois law. While the judge gave Alsip until April 9 to refile, the ruling echoes many of the same findings and skepticism that jurists across the district have expressed when dismissing similar cases.

Judge Durkin said Alsip's core legal theory seems downright implausible because it requires state regulators to be inept.

"Alsip's claims are based on the implicit allegation that Illinois cannabis regulators are incompetent on an elementary level that is simply not plausible," the judge said. "Perhaps Alsip meant to allege that defendants made misrepresentations to the regulators and successfully committed a fraud in the regulatory approval process. But he did not make any such allegations, which is an indication he doesn't have a basis to make such allegations. This failure to allege a misrepresentation to Illinois regulators fundamentally undermines the plausibility of all of Alsip's claims."

This is the latest loss for plaintiffs represented by Carroll Shamberg LLC and Luisi Holz Law, whose lawyers are lead counsel for several consumers in the state with similar claims. The law firms did not respond to requests for comment on Thursday.

Saul Ewing LLP, a law firm representing a number of cannabis companies hit with such suits, including Acreage, told Law360 that it appreciated the court's "thoughtful decision."

"We hope this marks a turning point so the industry can move past this wave of litigation," the firm said in a statement.

Alsip claimed that 1,000-milligram vapable-oil pens produced by the defendants are intentionally mislabeled. Specifically, he claimed the companies identified these products as "cannabis concentrates," a category often associated with smokable products, when they are "cannabis-infused products." Cannabis-infused products are strictly limited to 100 milligrams of THC per package, while cannabis concentrates do not have such a limit.

The suit said that meant the companies are selling a vapable-oil pen that is about 10 times as potent as the law allows.

This is at least the **sixth dismissal** of a **federal lawsuit** — with an Illinois **state court case** also tossed — contending that cannabis companies are intentionally mislabeling their vape oils, cartridges and other products as a means of getting around the Illinois Cannabis Regulation and Tax Act.

There are a number of problems with these accusations, Judge Durkin said, echoing concerns raised in the prior rulings in the Northern District of Illinois. When it comes to the fraud claims, he said the plaintiff was resting his pleadings on a mistake of law, not of fact.

Since the numbers are on the package in such a clear way that Alsip could catch the company's

misrepresentation, Judge Durkin also asked how "can it be that Illinois regulators dropped the ball in such a blatant way as Alsip's allegations imply?" The answer is that they didn't, the judge said. Rather, it seems more likely that Alsip is the one who misunderstood, he added.

"The likely answer to this question is that, contrary to Alsip's claims, Illinois cannabis regulators understand that 'vaping' is a form of 'smoking,' for the reasons articulated in defendants' brief," the judge said. "And if 'vaping' is a form of 'smoking,' then defendants' vapable oil products can be categorized and marketed as 'concentrates' without violating Illinois regulations, and Alsip's claims are entirely baseless."

Alsip is represented by Kyle Shamberg of Carroll Shamberg LLC and Laura Luisi and Jamie Holz of Luisi Holz Law.

Acreage Holdings, In Grown Farm LLC, Acreage Holdings America Inc., and Acreage Holdings WC Inc. are represented by Casey T. Grabenstein and Elizabeth A. Thompson of Saul Ewing LLP.

The case is Alsip v. Acreage Holdings Inc. et al., case number 1:25-cv-00867, in the U.S. District Court for the Northern District of Illinois.

--Editing by Nick Siwek.