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THE TAX LAWYER

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### Suit Claiming ‘UBS Made Me Cheat IRS’ Laughed Out of Court

You have to hand it to American ingenuity. You keep secret money in Switzerland knowing it’s an IRS no-no. When the IRS flexes its muscle you claim amnesty and pay your tax. But do you just lick your wounds? After all, UBS **said** your account was secret, so why not sue and make ‘em pay the penalties, interest, lawyers’ fees and more?



UBS sign featuring logo including three keys (Photo credit: Wikipedia)

Perhaps this characterization of [Thomas v. UBS](#) is harsh. It was dismissed and on appeal to the Seventh Circuit, Judge Posner affirmed and had some fun, too. Let’s review the background. The offshore banking industry was upended by the IRS investigation of UBS. UBS admitted it helped tens of thousands of Americans evade U.S. taxes.

UBS paid a \$780 million fine and named names. Then over thirty thousand Americans stepped forward to pay taxes, penalties and interest on previously undisclosed accounts. This was a sea change in how offshore banking worldwide was done for generations.

In [Thomas v. UBS](#), thousands of Americans with UBS accounts sued for the penalties, interest, and costs they incurred from their scrape with the IRS. They also sued for hundreds of millions in profits they claim UBS reaped by inducing them to maintain UBS accounts. See [Posner Lashes Out at ‘Tax Cheat’ Plaintiffs in UBS Case](#). Not mincing words, Judge Posner said the plaintiffs were tax cheats.

However, Posner noted that the plaintiffs did not argue they received tax advice from UBS. Instead, they argued UBS should have **prevented** them from violating the law. As Judge Posner put it:

“This is like suing one’s parents to recover tax penalties one has paid, on the ground that the parents had failed to bring one up to be an honest person who would not evade taxes and so would not subject himself to penalties.”

Judge Posner went on to describe other claims in the suit for negligence and malpractice as “frivolous squared.” The lawsuit, he wrote, was “a travesty.” In fact, he noted that the court was surprised that UBS didn’t request sanctions on the plaintiffs and class counsel. See [UBS Owes Nothing to ‘Tax Cheats’ Who Sued, Court Rules](#). Suing UBS also didn’t go well for Russian billionaire Igor Olenicoff, whose similar lawsuit failed last year.

UBS may have survived its criminal probe, but other banks remain in the crosshairs. See [With Indictments, IRS Will Get More Data From Swiss](#). One bank, Wegelin & Co., already plead guilty to helping Americans evade taxes and is closing. See [Swiss Bank’s Demise: Glass Half Empty Or Half Full?](#)

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