

Litigation Trends to Watch: New Suits Center on 'AI Washing,' Surplus Foreclosure Funds and NYU Data Breach

 [law.com/2025/04/04/litigation-trends-to-watch-new-suits-center-on-ai-washing-surplus-foreclosure-funds-and-nyu-data-breach](https://www.law.com/2025/04/04/litigation-trends-to-watch-new-suits-center-on-ai-washing-surplus-foreclosure-funds-and-nyu-data-breach)

Mike Neighbors

April 4, 2025

Welcome to the Trend Detection Weekly Scan from [Law.com Radar](#). This weekly article highlights shifts and patterns in case filings that are surfaced by Law.com Radar's award-winning Trend Detection system.

New to Trend Detection? This proprietary system employs specialized algorithms to identify early signs of litigation trends in federal litigation filings. [Click here](#) to learn more about Law.com Radar's new suit alerting and trend detection capabilities.

Here are some noteworthy litigation patterns surfaced by the platform this week:

- ▶ Apple was accused of misrepresenting the latest iPhone's AI features.
- ▶ Michigan homeowners sued to recover surplus funds after losing their homes at auction.
- ▶ Securities litigation nearly doubled in California.
- ▶ Volkswagen removed a swarm of DMV proceedings to federal court.
- ▶ New York University was swarmed with class actions following a cyberattack.

Litigation Surge - Class Actions | Apple

Apple was hit with a flurry of consumer class actions in March. At least three federal cases were filed, two of which accuse the tech giant of falsely advertising the iPhone 16's AI-powered Apple Intelligence features. According to the complaints, the company heavily marketed Apple Intelligence's ability to combine generative AI with user-specific information to enhance the functionality of the digital assistant Siri, but the new features were not incorporated into the phone as promised. The suits come on the heels of Apple's announcement that the features would not be available until 2026 at the earliest. The complaints were filed by Miller Shah, Chimicles Schwartz Kriner & Donaldson-Smith and the Clarkson Law Firm in California Northern District Court.

Other businesses have also been accused of 'AI washing.' In January, the SEC issued an order against Presto Automation for allegedly misrepresenting the AI capabilities of Presto's voice-recognition technology used by [fast food restaurants](#), and last June, Joonko Diversity

founder Ilit Raz was criminally charged with making fraudulent statements about the company's use of AI for matching employers with job candidates to meet DEI goals.

[View Surge Data](#)

Litigation Surge - Michigan | Lewis Reed & Allen

Kalamazoo-based law firm Lewis Reed & Allen launched a barrage of lawsuits in Michigan Eastern District Court on March 31, all targeting county treasury departments. At least 11 cases were filed by the firm on behalf of individuals whose property was sold in foreclosure for alleged nonpayment of property taxes; according to the complaints, the counties violated the Fifth and Fourteenth Amendments by retaining surplus auction proceeds from the foreclosure sales rather than returning the funds to the property owners. Attorney James Shek is also backing the lawsuits.

In 2023, the U.S. Supreme Court unanimously held in *Tyler v. Hennepin County* that surplus funds from a tax sale in Minnesota were protected by the Takings Clause. Since then, homeowners have launched similar lawsuits in New York, New Jersey and other states.

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Litigation Surge - California | Securities

Securities litigation spiked in California last month. At least 42 federal securities cases were initiated, nearly twice the typical monthly average. Many cases center on artificial intelligence and issues with either rolling out AI features or producing AI-related products; for instance, advertising platform The Trade Desk was accused of missing growth targets due to a slow rollout of its generative AI forecasting tool Kokai, and mobile advertising and analytics company AppLovin was sued for allegedly forcing installations and exploiting advertising data to misrepresent the success of its AI-powered ad tech software AXON 2.0. Many cases also center on supply chain backlogs and other macroeconomic issues, such as a line of lawsuits accusing cosmetics company e.l.f. of concealing inventory mismanagement.

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Litigation Surge - New York | Volkswagen

Volkswagen removed a swarm of administrative actions to New York Northern District Court in March. At least eight actions brought by automotive dealers before the New York Department of Motor Vehicles were removed by Volkswagen in March; the underlying actions, brought by ArentFox Schiff and Bass Sox Mercer, accuse Volkswagen of unlawfully attempting to bypass new laws governing reimbursement of dealers for automotive repairs. In its removal notices, Volkswagen, backed by Barack Ferrazzano Kirschbaum & Nagelberg, argued that precedent from the First, Fourth and Seventh Circuits supports the position that

an administrative DMV proceeding is removable under a 'functional test.' The dealers filed a consolidated motion to remand on April 2, arguing that administrative proceedings are not removable.

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Litigation Surge - New York | New York University

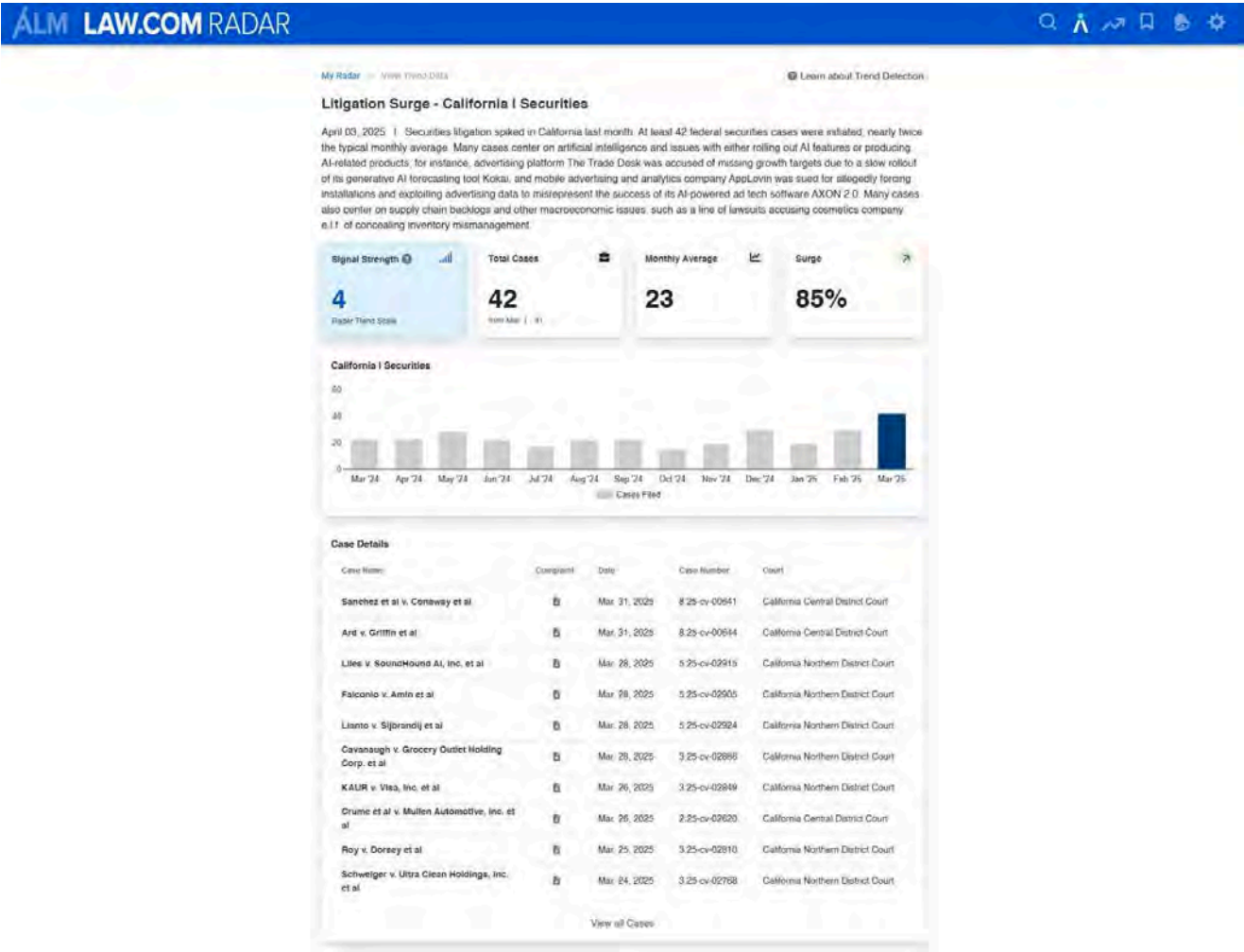
New York University was hit with a surge of lawsuits during the week of March 24 in New York Southern District Court. At least 10 cases were filed, all data breach class actions centering on a March 2025 cyberattack which allegedly exposed the private information, including demographic information and test scores, of more than 3 million NYU students and applicants dating back to 1989. Who's bringing the heat? Milberg Coleman Bryson Phillips Grossman is leading the charge with three cases filed; other plaintiffs firms include Cotchett Pitre & McCarthy, Lynch Carpenter and Tycko & Zavareei.

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April 7, 2025, 2:00 AM PDT

This Week in Chancery Court: Paramount, Skydance Merger Records

The Delaware Chancery Court will rule this week on a demand for Paramount Global's internal files about its merger with Skydance Media.

A look at what else is on the court's calendar:

Tuesday: Gabelli Value 25 Fund v. Paramount Glob., Del. Ch., 2024-1353, bench ruling 4/8/25.

At issue: Money manager Mario Gabelli sought Paramount's books and records about the Skydance merger so investors can determine how controlling stockholder Shari Redstone might benefit from the deal. Gabelli's funds own about 12% of Paramount voting shares. Senior Magistrate in Chancery Selena E. Molina presided over a one-day trial last week to determine whether Gabelli is entitled to inspect any of the film and TV company's documents, and, if so, the appropriate scope of an inspection.

Court action: Molina will deliver an oral ruling via teleconference.

Gabelli Pushes Paramount for Files in Fight Over Skydance Deal

Wednesday: Black Diamond Com. Fin. LLC v. Longstreet, Del. Ch., No. 2024-1026, hearing 4/9/25.

At issue: Del Monte Foods Inc. creditors went to trial in February in their pursuit of a court order declaring they have the right to take over its board. Black Diamond Commercial Finance LLC, on behalf of a group of lenders, claims the canned food company defaulted on a \$725 million financing agreement when it shifted assets securing the loan to newly-created subsidiaries. Vice Chancellor Lori W. Will now hears closing arguments in the case. The company says in a brief that Black Diamond lacks standing to pursue its claims.

Court action: Post-trial arguments will be heard in Wilmington, Del.

Del Monte Foods Creditors File Lawsuit in Board Takeover Bid

Wednesday: Local Bounti Corp. v. Fairchild US LLC, Del. Ch., No. 2024-1223, hearing 4/9/25.

At issue: Local Bounti Corp., an indoor agriculture company, seeks a ruling of default judgment in its lawsuit alleging lender Fairchild US LLC used another company as a shell to shield it from liability over loans it promised but couldn't pay. Local Bounti claims Fairchild US deliberately misrepresented that it could lend about \$230 million for greenhouses in Texas, Ohio, and Washington in order to convince Local Bounti to pay millions in deposits. Fairchild US says in a brief that it only recently became aware of the pending litigation and it needs more time to respond to Local Bounti's complaint.

Court action: Arguments on the motion for default judgment will be heard in Wilmington, Del.

Indoor Agriculture Company Sues Lender Fairchild US for Fraud

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Class Action

April 7, 2025, 8:00 AM PDT

Horizon Bank Beats Investor Suit Over Expansion Accounting Lapse

- Investor didn't adequately identify control misrepresentations
- Errors led the bank's holding company to revise financials

Horizon Bancorp Inc., the holding company for Horizon Bank, trounced allegations that it misled investors over its alleged deficient internal financial controls after rapidly expanding across the Midwest.

Lead plaintiff and investor Chad Key failed to sufficiently identify any materially misleading statements concerning accounting oversight, regardless of whether Horizon's internal controls were faulty, Judge Brian M. Cogan said April 4 for the US District Court for the Eastern District of New York.

Based on Key's allegations, top brass appeared unaware of failures, Cogan said, granting Horizon's motion to dismiss his amended proposed class action complaint. If that's taken as true, then directors and officers might've "failed to exercise proper business-risk oversight" or "even breached their duty of care," he said in his April 4 order. "Bad business judgment," however, doesn't give rise to a securities fraud claim, he said.

Cogan pointed to part of a 2023 US Court of Appeals for the Second Circuit decision in *New England Carpenters Guaranteed Annuity & Pension Funds v. DeCarlo*, finding allegations of executives certifying the accuracy of financial reporting relied on unactionable opinions—those plaintiffs didn't plausibly plead leaders "disbelieved its stated judgments or failed to audit the controls at all," he said.

Investors, including Key, sued in 2023 after Horizon revealed accounting errors affected financial reports going back years, resulting in the company saying it had misstated its net interest income in 2020 and 2021. "The revisions lowered interest income by \$5.9 million in 2021 and \$5.4 million in 2020," the most recent complaint said, claiming the fallout of a series of March 2023 disclosures sent the stock down 21% across three days.

Key alleged that after rapidly expanding for about two decades, Horizon's public filings assured investors that leadership was regularly assessing and finding internal controls effective while hiding faults that falsely inflated financial figures.

But alleged misrepresentations Key relied upon didn't "convey that Horizon's internal controls were indeed effective," Cogan said. "Instead, they conveyed that Horizon's management subjectively determined that the controls were effective." Allegations plausibly demonstrated that Horizon failed to keep communication open to relay and investigate deficiencies, he said.

And Key didn't sufficiently claim executives failed entirely to assess Horizon's internal controls, the judge said. The complaint left Cogan "with the impression that the investigators may have reached the wrong conclusion, but not that they skirted the investigation altogether," he said.

The amended complaint also “effectively concedes” leadership didn’t possess the level of intent or recklessness to deceive to bring securities fraud claims, Cogan said.

Key sought to lead a class of investors who got Horizon stock from Feb. 26, 2021, through March 15, 2023.

Firms representing Key and the defendants didn’t immediately respond to emails seeking comment.

Pomerantz LLP and Portnoy Law Firm represent Key. Mayer Brown LLP represents the holding company, an executive, and its board chairman who was previously CEO.

The case is Key v. Horizon Bancorp, Inc. , E.D.N.Y., No. 23-cv-2961, dismissed 4/4/25 .

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[Securities Law News](#)

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SelectQuote Beats Investor Suit Over Inflated Revenue Claims (1)

- Claims relied on inactionable projections, puffery, judge said
- Investors said insurance broker overhyped revenue pre-IPO

SelectQuote Inc. defeated investor allegations that the online insurance broker overstated its revenue and mischaracterized its sales strategy ahead of its initial public offering.

Judge Alvin Hellerstein in Manhattan said that as in the previous complaint he dismissed, the lead plaintiffs' allegations relied on inactionable forward-looking revenue projections and mere boasts about its salespeople's training. The judge, who sits in the US District Court for the Southern District of New York, ordered the case closed Thursday.

The proposed class action complaint failed to plead the level of intent or recklessness to deceive to bring securities fraud claims against SelectQuote and its leadership from the time of its 2020 IPO. The complaint, alleging they had access to contrary data on future renewal expectations without any specific reports or statements to back up that claim, wasn't sufficient, Hellerstein said.

The lead plaintiffs, a pair of pension funds, alleged the insurance broker's IPO documentation misled investors about its revenue and sales process. They said that SelectQuote engaged in aggressive selling tactics with undertrained salespeople, alleging that's something its then-managers should've anticipated would decrease renewal rate projections and impact revenue.

Share prices fell 83% from its \$20-a-share IPO to 2022, when the stock collapsed 47% in a day after the company reported disappointing second quarter of fiscal year 2022 results, the funds said in their suit against SelectQuote, its then-leaders, another stockholder, and the company's IPO underwriters under the Securities Exchange Act of 1934 and the Securities Act of 1933.

Hellerstein also said the pension funds couldn't claim that that stockholder, a SelectQuote minority owner, was liable under a portion of securities law, as its ownership didn't plausibly give it the power to control the company's policies.

Lead Plaintiffs are West Palm Beach Police Pension Fund and City of Fort Lauderdale Police & Fire Retirement System. Bernstein Litowitz Berger & Grossmann LLP is lead counsel for them and the proposed class, which would have included those who got SelectQuote stock traceable to the company's IPO, or from May 20, 2020, through Feb. 7, 2022,

Wachtell, Lipton, Rosen & Katz represents SelectQuote and current and former officers and directors. Patterson Belknap Webb & Tyler LLP represents Brookside Equity Partners LLC, SelectQuote's largest shareholder ahead of its IPO.

Orrick Herrington & Sutcliffe LLP, which declined to comment in an email, represents SelectQuote's IPO underwriters. None of the other firms immediately responded to emails seeking comment.

The case is In re SelectQuote, Inc. Sec. Litig. , S.D.N.Y., No. 1:21-cv-06903, dismissed 4/3/25 .

(Updates last paragraph of story to state that underwriters' attorneys declined to comment.)

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NorthShore University Health Retirement Fee Settlement Gets Nod

NorthShore University HealthSystem's \$850,000 class settlement with workers challenging their retirement plan fees and funds received initial court approval from a federal judge in Chicago.

The deal is slated to provide about 18,000 people covered by NorthShore's retirement plan since May 2016 with about 15% of their estimated losses in the case, according to court filings. Judge Steven C. Seeger granted preliminary approval to the deal in a docket entry issued Thursday in the US District Court for the Northern District of Illinois.

- NorthShore was accused of allowing its retirement plan to charge annual recordkeeping fees of about \$107 per person, when similar plans charged less than \$42 for these services
- Seeger previously allowed those claims to advance, but he dismissed claims of overly expensive investment options because the complaint identified only one other cheaper option for each challenged fund
- Hundreds of retirement plan fee lawsuits have been filed in federal courts in recent years, and several health systems have reached settlements, including Henry Ford Health System for \$5 million, Bronson Healthcare Group Inc. for \$3 million, and Munson Healthcare for \$600,000

Morgan Lewis & Bockius LLP represents NorthShore. Walcheske & Luzi LLC represents the workers.

The case is *Remied v. Northshore Univ. HealthSystem*, N.D. Ill., No. 1:22-cv-02578, docket entry 4/3/25.

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PPL Workers Get First OK for \$8.2 Million Retirement Fund Accord

- Northern Trust Focus Funds have driven multiple lawsuits
- Class action was scheduled to go to trial in January

PPL Corp. workers' \$8.2 million class settlement received initial court approval, paving the way for resolution of their lawsuit challenging the Northern Trust target date funds in the utility company's retirement plans.

The deal covers all participants in four PPL retirement plans between 2016 and 2020 who invested in a Northern Trust Focus Fund, along with their beneficiaries. The parties came to an agreement one week before the case was scheduled to go to trial in January, according to court filings announcing the deal.

Judge Mia R. Perez granted preliminary approval to the deal and scheduled an August 4 fairness hearing in an order issued Thursday in the US District Court for the Eastern District of Pennsylvania.

The lawsuit centers on a suite of collective investment trust target date funds from Northern Trust, which isn't named as a defendant. The Northern Trust Focus Funds "suffered from significant and ongoing quantitative deficiencies and managerial turnover," leading to "massive underperformance" and millions of dollars of losses to the plans, according to the complaint.

Perez ruled last year that the case was viable because the workers presented "substantial circumstantial evidence" of the company's alleged missteps. She later greenlighted the dispute for trial, saying the case involved factual disputes over the defendants' processes for monitoring investments and choosing fund share classes.

Northern Trust's Focus Funds have driven several recent Employee Retirement Income Security Act lawsuits by 401(k) plan investors, with mixed results in court. Walgreen Co., Takeda Pharmaceuticals USA Inc. and Northern Trust itself each signed multi-million dollar settlements in lawsuits challenging the funds.

PPL is represented by O'Melveny & Myers LLP and LeVan Law LLC. The workers are represented by Schlichter Bogard LLC and Promisloff Law PC.

The case is Binder v. PPL Corp. , E.D. Pa., No. 5:22-cv-00133, 4/3/25 .

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Arguing Class Actions: That's Not How Any of This Works!

 [law.com/nationallawjournal/2025/04/07/arguing-class-actions-thats-not-how-any-of-this-works/](https://www.law.com/nationallawjournal/2025/04/07/arguing-class-actions-thats-not-how-any-of-this-works/)

Adam J. Levitt

April 7, 2025

A troubling trend has emerged in recent years suggesting that some corporate defendants may prefer to pay the costs of discovery sanctions in lieu of producing relevant documents in discovery. Certain high-profile corporate litigants have implemented policies and litigation strategies seemingly designed to sidestep their obligations to turn over important information to plaintiffs. Whether they're training their employees to improperly privilege communications by including attorneys even when no legal advice is sought (Mike Scarcella, "In Landmark Google Ruling, A Warning to Companies About Preserving Evidence," Reuters (Aug. 6, 2024)), allowing officials within a corporation to delete thousands of emails that may be directly related to pending litigation (Tom Hals, "Meta ex-COO Sandberg Sanctioned in Investor Lawsuit for Deleting Emails," Reuters (Jan. 21, 2025)), or implausibly denying their knowledge of corporate documents that they openly discussed under oath in other litigation (Allison Dunn, "Appellate Division Upholds \$800k Asbestos Verdict Against Ford," N.J.L.J. (Mar. 24, 2022)), these corporations are pursuing improper discovery evasion as a litigation strategy. Their willingness to risk sanctions due to these policies and strategies is understandable because the sanctions that they might face are quite modest. If judges considered the recidivism of these corporate defendants when determining appropriate sanctions, and, consequently, imposed steeper costs on those that made a pattern of discovery evasion, then it is possible that the threat of sanctions would actually deter repeat offenders.

The "**sole purpose**" of discovery is to "assist[] in the preparation and trial, or the settlement, of litigated disputes," *Seattle Times v. Rhinehart*, 467 U.S. 20, 34 (1984) (emphasis added), which, in turn, necessitates "liberal" discovery so that the parties can be best prepared for trial. This purpose is frustrated when, as U.S. District Judge Vince Chhabria of the Northern District of California put it in a 2023 order for sanctions against Facebook Inc., a defendant "with the assistance of its lawyers ... resist[s] discovery as long as possible, make[s] things increasingly difficult and expensive and frustrating for the opposition, and hope[s] that would drive down the case's settlement value." *In re Facebook Inc. Consumer Privacy User Profile Litigation*, 655 F. Supp.3d 899, 935 (N.D. Cal. 2023). However, unless courts rethink sanctions for this type of misbehavior, there are no meaningful safeguards to prevent wealthy corporate defendants from continuing to make a mockery of the discovery process. As Chhabria explained in his order, the sanction he leveled, which amounted to \$925,078.51, was merely "loose change" for Facebook and its white-shoe counsel, Gibson, Dunn & Crutcher. He went on to express that "hopefully, this ruling will create some incentive for Facebook and Gibson Dunn (and perhaps even others) to behave more honorably moving

forward.” It’s very clear, however, that this has not come to pass. Indeed, not only do corporate defendants like Google and Apple continue to repeatedly flout discovery requirements and their discovery obligations, but even Facebook—notwithstanding Chhabria’s sanctions order—continues to play fast and loose with its discovery obligations, clearly considering it little more than a “cost of doing business.” For example, in the AI copyright case *Kadrey v. Meta Platforms*, 3:23-cv-03417-VC (N.D. Cal.), it recently emerged that Meta finally disclosed, two months after the close of discovery, that it had failed to review or produce 18,000 documents that it had collected in connection with the case. And the list doesn’t stop there.

It’s no surprise that deep-pocketed corporate defendants are unmoved by the sanctions imposed on them by courts when those sanctions are just “loose change.” For perspective, Facebook’s revenue in 2023, the year Chhabria issued his sanction, was \$134.9 billion. In other words, the amount that Facebook was expected to pay as a sanction in compliance with Chhabria’s order, was equivalent to an amount that it made every five minutes that year. The risk posed by the existing monetary sanctions, then, is really no risk at all for many of these corporate defendants, who can simply bake such amounts into their operational costs and litigation budgets.

Of course, there are also nonmonetary sanctions available to courts as well, such as requiring or permitting adverse inferences by the finder of fact and even entering default judgments on behalf of the moving party. Courts, however, have been reluctant to issue such sanctions, in part because they don’t feel that such sanctions are commensurate with the harm caused by the singular instance of violative behavior before their bench. Such sanctions, however, represent a potentially effective approach to ensure that corporate defendants—particularly serial offenders who have routinely and repeatedly delayed and frustrated the discovery process as a litigation strategy—are actually deterred from further discovery obstruction. This is particularly true where a defendant has repeated the same pattern of discovery obstruction across multiple litigations; it then becomes evident that such sanctions have not effectively deterred that defendant’s behavior, and therefore a more substantial sanction may be warranted in order to actually prevent further abuse. If judges, however, focus only on the proportionality of a sanction with respect to their case only, then the issue of the serial offending corporate defendant will persist indefinitely.

Of course, this approach will require judges to review sanction orders against the same defendant in other courts. For example, they will need to consider whether the defendant is accused of substantially the same type of discovery violation, or whether the violations are connected to the same corporate practice that may give rise to different types of violations. They will also need to consider nuances and differences of law between jurisdictions; many states have radically different discovery sanction regimes, with some imposing limits on certain types of sanctions for certain offenses. Judges will need to account for this when considering previously imposed sanctions and whether they expressed, for example, the

maximum penalty available, which would suggest the egregiousness of the defendant's (continued) bad conduct. Because courts, in other contexts, have readily shown a willingness to review a litigant's conduct in other courts when imposing sanctions against that litigant (see, e.g., *Durant v. Big Lots*, No. 5:23-cv-561-GAP-PRL (M.D. Fla.), where U.S. District Judge Gregory Presnell of the Middle District of Florida examined and considered counsel's similar conduct in other courts across the United States, in fashioning and imposing sanctions in that action), there's no reason for courts not to do the same thing when fashioning and imposing sanctions against recidivist corporate discovery abusers and their counsel.

This approach may also demand more from plaintiffs attorneys, particularly if they are to overcome inevitable challenges by the defense bar. It's likely that the defense bar will erroneously rely upon the Supreme Court case *Goodyear Tire & Rubber Co. v. Haeger*, 581 U.S. 101, 108 (2017), to suggest that such a sanction would be an improper punitive sanction. The *Goodyear* court stated that it "has made clear that a [discovery] sanction, when imposed pursuant to civil procedures, must be compensatory rather than punitive in nature," and that "it may not impose an additional amount as punishment for the sanctioned party's misbehavior." However, looking to the underlying case cited in *Goodyear* to support this proposition, *Mine Workers of America v. Bagwell*, 512 U.S. 821, 826 (1994), reveals how "compensatory" should be understood in this context; a sanction is still within the realm of permissibility in the civil context when it is "intended to coerce compliance." A progressive sanction would align with this principle by coercing current and future compliance with the rules of discovery. Courts that are empowered to consider a party's broader incentives and behavior when determining an appropriate discovery sanction will find themselves in a far better position to compel those parties into compliance in their courtrooms.

is a founding partner of DiCello Levitt, where he heads the firm's class action and public client practice groups. He can be reached at alevitt@dicellolevitt.com.

Thank you to DiCello Levitt associate Rebecca Trickey for contributing to this column.

Labaton Keller Sucharow Mourns Passing of 'Trailblazing' Chair Christopher Keller, at 54

 [law.com/newyorklawjournal/2025/04/04/labaton-keller-sucharow-mourns-passing-of-trailblazing-chair-christopher-keller-at-54](https://www.law.com/newyorklawjournal/2025/04/04/labaton-keller-sucharow-mourns-passing-of-trailblazing-chair-christopher-keller-at-54)

Alyssa Aquino

April 4, 2025

Christopher Keller, the chairman and a named partner of plaintiffs firm Labaton Keller Sucharow, has passed away at the age of 54, the firm announced.

“Chris was a titan in the plaintiffs’ bar and a central part of Labaton Keller Sucharow’s legacy,” said Eric Belfi, a senior partner and friend. “For nearly three decades, Chris was the heart and soul of this firm, shaping it into what it is today. He was more than an exceptional lawyer, mentor and friend—he was a champion of justice whose immeasurable contributions to the rule of law and the plaintiffs’ bar will leave a lasting legacy.”

Keller began working at the firm in 2000, joining its partnership in 2005. Keller has led the firm since 2019, when he was appointed to the chairmanship. His name was later added to the firm in 2024.

Under his leadership, Labaton Keller Sucharow co-led a class action against Dell Technologies Inc. over a multibillion-dollar share exchange transaction, ultimately securing a record-breaking \$1 billion settlement for stockholders. The firm also notched a \$650 million settlement against Meta in one of the largest consumer data privacy settlements to be reached.

“Chris was a leader in the legal profession and an exceptional advocate,” said Labaton Keller Sucharow managing partner, Jonathan Gardner. “He was principled, creative, and fearless—a trailblazing lawyer who cared deeply about his clients and colleagues. His contributions to the pursuit of justice will be felt for generations.”

Members of the public are welcome to donate to his scholarship fund at St. John’s University School of Law, his alma mater.

Christopher Keller is survived by his wife, Anike, his sons, Max, Brandon and Cole, and the firm to which he had dedicated much of his life.

Viatis to pay up to \$335 million to resolve opioid-related claims

 [reuters.com/sustainability/viatis-pay-up-335-million-resolve-opioid-related-claims-2025-04-07](https://www.reuters.com/sustainability/viatis-pay-up-335-million-resolve-opioid-related-claims-2025-04-07)

Reuters

April 7, 2025

Used blister packets that contained medicines, tablets and pills are seen, in this picture illustration taken June 30, 2018. REUTERS/Russell Boyce/Illustration Purchase Licensing Rights, opens new tab

(VTRS.O) , opens new tab said on Monday it would pay up to \$335 million over nine years as part of a nationwide settlement to resolve claims by U.S. state and local governments that it fueled an epidemic of opioid addiction.

The Pennsylvania-based company, formed by the merger of Mylan and Pfizer's (PFE.N) , opens new tab Upjohn business in 2020, did not admit wrongdoing as part of the agreement. Make sense of the latest ESG trends affecting companies and governments with the Reuters Sustainable Switch newsletter. Sign up here.

It said it would pay between \$27.5 million and \$40 million annually toward state and local opioid initiatives as part of the settlement.

"When drug companies put profits over people, innocent patients can get sucked into deadly cycles of addiction and overdoses," New York Attorney General Letitia James, one of the leaders in negotiating the settlement, said in a statement. "While no settlement can fully repair the damage caused by dangerous opioids, these funds will help New York and other states fight the opioid crisis."

The company sells opioid products in the form of its painkiller Ultiva and the Fentanyl Transdermal System, which is a generic version of Johnson & Johnson's (JNJ.N) , opens new tab branded fentanyl patch product, Duragesic.

Viatis is one of numerous drugmakers accused by state and local governments of downplaying opioid drugs' risks.

The long-running opioid litigation, which also includes claims that distributors and pharmacies ignored red flags that drugs were being distributed illegally, has already resulted in more than \$50 billion in settlements.

Most recently, Purdue Pharma and its Sackler family owners in January reached a \$7.4 billion settlement to resolve thousands of lawsuits over their pain medication OxyContin, which is widely blamed for helping spark the crisis.

Opioid-related overdoses claimed more than 80,000 lives in 2023 and has led to 700,000 deaths over the past two decades, according to the Centers for Disease Control and Prevention.

Bayer renews bid for US Supreme Court to curb glyphosate cases

 [reuters.com/sustainability/boards-policy-regulation/bayer-renews-bid-us-supreme-court-curb-glyphosate-cases-2025-04-04](https://www.reuters.com/sustainability/boards-policy-regulation/bayer-renews-bid-us-supreme-court-curb-glyphosate-cases-2025-04-04)

Ludwig Burger, Brendan Pierson

April 4, 2025

Logo and flags of Bayer AG are pictured outside a plant of the German pharmaceutical and chemical maker in Wuppertal, Germany August 9, 2019. REUTERS/Wolfgang Rattay/File Photo Purchase Licensing Rights, opens new tab

April 4 (Reuters) - Bayer (BAYGn.DE) , opens new tab said on Friday it was again petitioning the U.S. Supreme Court to sharply limit legal claims that its Roundup weedkiller causes cancer, seeking to avoid potentially billions of dollars in damages.

Bayer said in its petition , opens new tab that consumers should not be able to sue it under state law for failing to warn that Roundup increases cancer risk because the U.S. Environmental Protection Agency has found no such risk and requires no such warning. In fact, it argued, federal law does not allow it to add any warning to the product beyond the EPA-approved label.

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The company tried to make that case to the Supreme Court and was rebuffed in 2022, but a federal appeals court has since agreed with the company in a split from other appeals courts. The Supreme Court is generally more likely to take cases where federal appeals courts are divided.

A Supreme Court victory for Bayer would likely make it much more difficult for the lawsuits to continue, though it is not clear whether it would eliminate them entirely.

Friday's petition came in the case of John Durnell, who in 2023 won a \$1.25-million verdict in a St. Louis, Missouri state court. Bayer has been hit with much larger verdicts over Roundup, most recently a \$2.1-billion award last month to a plaintiff in Georgia.

The company has paid about \$10 billion to settle claims that Roundup, based on the herbicide glyphosate, causes cancer. About 67,000 further cases are pending, for which the group has set aside \$5.9 billion in legal provisions.

CEO Bill Anderson has struggled to revive a share price that has plunged by more than 70% since Bayer's \$63-billion acquisition of Monsanto in 2018 that saddled it with costly litigation and debt.

The company's problems include the glyphosate litigation, a 2023 development setback for its most promising experimental medicine, weak agriculture markets and pressure from

some investors to separate or sell businesses. Bayer plans to seek shareholder approval to raise equity capital worth close to 35% of its outstanding shares over the next three years to cover possible costs of U.S. litigation.



The company has warned U.S. lawmakers it could stop selling Roundup, which is widely used by U.S. farmers, unless they can strengthen legal protection against the litigation. It has already replaced glyphosate with other ingredients in the home consumer version of Roundup.

Reporting by Ludwig Burger and Brendan Pierson Editing by Rod Nickel

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- **Viatis to pay up to \$335 million to resolve opioid-related claims**

Sustainabilitycategory · April 7, 2025 · 6:45 AM PDT · 17 min ago

Viatis said on Monday it would pay up to \$335 million over nine years as part of a nationwide settlement to resolve opioid-related claims against the drugmaker.

- categoryIndia not to raise petrol, diesel retail prices despite tax hike5:58 AM PDT
- TechnologycategoryTinder parent Match rebuffs Anson Funds, names e-commerce veteran to board5:37 AM PDT

Health insurance giants, Zelis accused of price-fixing 'cartel'

Four of the nation's largest commercial health insurance providers, including Aetna Inc. and The Cigna Group, and a leading medical bill repricing company were accused of forming a "cartel" that suppressed the actual price insurance companies paid to "out of network" providers who treated the defendants' policy holders.

The putative antitrust class action, filed Thursday in federal court in San Francisco, centers on the repricing services the insurance companies procured in recent years from co-defendant Zelis Healthcare LLC, a Boston health tech company that also sells insurance. The four co-defendants are: Aetna, Cigna, Elevance Health Inc. and Humana Inc.

Under these service agreements, Zelis negotiates for the insurance companies to lower or "reprice" the final cost the companies owe for their clients' medical services. The lead plaintiff's attorneys at Cotchett, Pitre & McCarthy LLP accused the defendants in the complaint of using these agreements to illegally exchange insurance claim information with each other to strengthen Zelis' repricing software and services.

The media relations offices for all the defendants could not be reached for comment Friday. In an Oct. 31 blog post on Zelis' website, the company defended its repricing services, saying they increase transparency and trust between insurance companies and health care providers in and out of networks. *Danny Bachoua Chiropractic, APC v. Zelis Healthcare LLC et al.*, 3:25-cv-03031 (N.D. Cal. filed on April 2, 2025).

"Transparency and accuracy in contract implementation are vital for building trust and reducing friction between payers and providers," Zelis' blog post stated. "You'll achieve greater transparency and accuracy with the support of experts who ensure that contracts are not only compliant with regulations but are also implemented fairly and accurately."

Adam J. Zapala, a Burlingame partner for Cotchett, Pitre & McCarthy, called the defendants' alleged partnership "the Zelis Cartel" in the complaint.

"The tools, technologies, and methodologies used by Zelis and the [insurance company] commercial payer defendants specifically allow the Commercial Payers to supplant their competitive negotiations with providers for out of network payments with Zelis's algorithmic or A.I.-based pricing determinations as to percentages, specific amounts, or price ceilings of payments to providers," the complaint stated. "Defendants' use of collusively determined percentages, payment amounts, or price ceilings is per se price-fixing in violation of Section 1 of the Sherman Act."

Two of Zapala's colleagues from Cotchett, Pitre & McCarthy - Elizabeth T. Castillo and Christian S. Ruano - serve as co-counsel for the plaintiffs.

Thursday's filing marks the third putative class action filed against Zelis and commercial health insurance providers in the last week. All the complaints allege the presence of an anticompetitive conspiracy aimed at "illegally" lowering payments to out of network providers.

None of the defendants have identified counsel or responded to the complaints since the first lawsuit was filed on March 28 in Massachusetts District Court. *Pacific Inpatient Medical Group, Inc. v. Zelis Healthcare, LLC et al.*, 1:25-cv-10734 (D. Mass., filed March 28, 2025); *Dennis C. Ayer, DDS, LLC v. Zelis Healthcare, LLC et al.*, 2:25-cv-02166 (D. Kan., filed March 31, 2025).

#384780

Wisdom Howell

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Key Rulings for Claims Against Big Tobacco's Deceptive Marketing Practices May Be on the Horizon

LAW [law.com/2025/04/04/key-rulings-for-claims-against-big-tobaccos-deceptive-marketing-practices-may-be-on-the-horizon](https://www.law.com/2025/04/04/key-rulings-for-claims-against-big-tobaccos-deceptive-marketing-practices-may-be-on-the-horizon)

Riley Brennan

April 4, 2025



What You Need to Know

- A recently filed putative class action is alleging ZYN oral nicotine pouches are deceptively advertised to young adults.
- The action is one of many currently targeting the defendants.
- A similar putative class action is currently stayed until a decision is reached regarding class certification in a nearly identical suit.

Lawsuits targeting the marketing and sale of nicotine products continue to be litigated across the country, as Philip Morris International and Swedish Match North America were hit with another suit this week over their advertising of ZYN nicotine oral pouches.

On Wednesday, a putative class action was filed in the U.S. District Court for the Southern District of Florida, alleging the defendants deliberately target young people through the marketing of ZYN, which is described as "tobacco-free." The complaint, filed by Schlesinger Law Offices on behalf of Alannah Friedman, accused the defendants of targeting teens and young adults through messaging, package design and the use of social media influencers, dubbed "zynfluencers," to promote the product. Friedman claims she began using the product at age 17 after being enticed by its flavors.

The complaint maintains that the defendants target young people because they know consumers who begin using nicotine at a young age are likely to continue using it into adulthood. It claims the defendants purposefully emphasize themes popular with kids, like "freedom" and "finding your curiosity." Friedman further alleges that the defendants use "gum-like flavors" to attract kids, including peppermint, spearmint, citrus and cinnamon. Additionally, the complaint alleges that the defendants falsely described the product as "tobacco-free" to imply "that ZYNs are not harmful or there is a reduced risk of addiction."

"We are aware of a new filing by the same plaintiff's firm that has brought similar cases in the same court. We believe the plaintiff's claims are without merit, and we intend to vigorously defend against them," said Sam Dashiell, a spokesperson at Philip Morris.

Jeffrey L. Haberman of Schlesinger Law Offices, who is representing Friedman, did not immediately respond to a request for comment.

The boutique Fort Lauderdale firm also filed an identical suit on behalf of Zachary Kelly last year, which also claims the defendants used deceptive advertising practices when marketing ZYN products.

A motion for class certification is currently pending in the *Kelly* case, putting a pause on decisions in related litigation across the country.

In a class action filed in the U.S. District Court for the Eastern District of California just days after *Kelly*, the plaintiff, Tobin Bates-Ferreira, opposed the ZYN defendants' motion to dismiss. Bates-Ferreira maintained that the defendant was forum-shopping and that the proximity in timing between the filing of the Kelly action and the present action weighs in favor of not applying the "first-to-file" rule.

Last week, Chief U.S. District Judge Troy L. Nunley for the Eastern District of California declined to rule on the defendants' motion, pending a ruling by the federal court in Florida. Nunley rejected Bates-Ferreira's claims, finding there was no "temporal exception" and that the first-to-file rule is commonly applied to cases filed within 10 days of each other.

As litigation plays out against ZYN's marketing efforts, Schlesinger Law has also lodged deceptive marketing claims—particularly geared toward youth—against Galaxy Gas, a nitrous oxide tank used to inhale the "highest quality gas" with enticing flavors like vanilla cupcake or watermelon lemonade. On Wednesday, the product liability claims were filed in Orange County Superior Court in California. Attorneys for the Galaxy Gas defendants have yet to enter an appearance.

Meanwhile, e-cigarette manufacturers took a hit in a unanimous U.S. Supreme Court ruling this week. The court ruled that the Food and Drug Administration did not unfairly deny applications from e-cigarette companies that sought to market flavored vape products. The case was sent back to the U.S. Court of Appeals for the Fifth Circuit to answer whether the FDA committed harmless error in disregarding certain marketing plans for products.

Target can't get its footing after its DEI program demise and a 40-day boycott against the retailer. Foot traffic at stores is down for the eighth consecutive week

 fortune.com/2025/04/01/target-dei-demise-boycott-foot-traffic-down-eighth-consecutive-week

Andrew Adam Newman, Retail Brew

April 1, 2025

Target saw foot traffic fall for the eighth consecutive week, extending a losing streak that began just a few days after the company announced it would end its diversity, equity, and inclusion (DEI) program in late January.

For the week that began March 17, foot traffic fell 5.7% YoY for Target, according to data from Placer.ai. That's compared to the 7.1% it fell last week, and an average weekly decline over the last eight weeks of 6.2%.

In a March 4 earnings call, when it reported a 3.1% Q4 loss and a non-specified sales decline in February, Target executives were bullish about its Easter assortment boosting business. But if it has so far, it's not reflected in the foot-traffic data. What may have taken the spring out of the Easter Bunny's hop for Target is a 40-plus day boycott coinciding with Lent (so ending on Easter) spearheaded by Black clergy for which more than 150,000 have signed up, exceeding organizers' stated goal of 100,000.

Target did not respond to a request for comment from Retail Brew about the traffic slump.

At Costco, which unlike Target resisted demands from the Trump administration for private companies to dump their DEI programs, foot traffic has continued to grow. For the same week beginning March 17, traffic rose 5.2% YoY, and marked its 13th straight week of gains over last year.

Donald J. slump: While Target is just one of many companies to capitulate to Trump and get rid of DEI, it may be seeing more of a backlash because of how much it championed racial justice and social justice by name in recent years—before eschewing the terms.

In fact, like Target, Walmart had been on a seven-week traffic decline and McDonald's on an eight-week decline, but both broke the slump in the week beginning March 17, with Walmart inching into positive territory with a 0.3% YoY traffic gain and Mickey D's with a 2% gain.

Compared to Target's average YoY loss of 6.2% over the last eight weeks, Walmart's average weekly traffic was down 1.6% and McDonald's was down 3.6%.

Circle back: As consistent as Target's foot-traffic losses have become, we're in the midst of Target Circle Week, a mammoth sale and marketing push that began on March 23 and lasts through March 29. It does not coincide with a Circle Week last year, but rather a week which in 2024 was itself down 0.8% compared to 2023.

It's hard to fathom Target not improving over that when we revisit foot traffic in a week, but we'll try to suss out an apples-and-apples comparison of how this Circle Week compares to prior ones traffic-wise.

This report was written by Andrew Adam Newman and was originally published by Retail Brew.

Did your workplace make our list of the World's Most Admired Companies? Explore this year's list.

Amicus brief exposes legal community divide over response to Trump's orders

Law Practice,
Government

Apr. 4, 2025

A fierce legal battle unfolds as 504 law firms, led by ex-Solicitor General Donald Verrilli, challenge Trump's executive order targeting Perkins Coie, while top firms stay neutral or align with the administration.

Munger, Tolles & Olson LLP partner Donald B. Verrilli Jr.

An amicus brief supporting Perkins Coie LLP in its fight against President Donald Trump's executive order imposing what the firm called "severe sanctions," filed Friday, laid bare the divisions among the nation's major law firms.

The brief by Munger, Tolles & Olson LLP partner Donald B. Verrilli Jr., a former U.S. solicitor general during the Obama administration, and signed by 504 law firms, said the president's sanctions against Perkins Coie and four other firms "pose a grave threat to our system of constitutional governance and to the rule of law itself."

Verrilli wrote the amicus brief to support Perkins Coie's motion for a preliminary injunction blocking Trump's suspension of the firm's security clearances and limits on its employees' access to some federal government buildings.

"The looming threat posed by the Executive Order at issue in this case and the others like it is not lost on anyone practicing law in this country today: any controversial representation challenging actions of the current administration (or even causes it disfavor) now brings with it the risk of devastating retaliation," he wrote.

"Whatever short-term advantage an administration may gain from exercising power in this way, the rule of law cannot long endure in the climate of fear that such actions create," Verrilli added. *Perkins Coie LLP v. U.S. Department of Justice et al.*, 25-cv-00716 (D. D.C., filed March 11, 2025).

A March 6 White House statement said the suspension of Perkins Coie's security clearances, contracts, and access stemmed from the firm's 2016 hiring of Fusion GPS to create a dossier targeting Donald Trump while representing Democratic presidential candidate Hillary Clinton, and its role in promoting claims that Trump colluded with Russia during the presidential campaign. The statement also accused the firm of racial discrimination, citing internal quotas for hiring and promotion.

While many major law firms signed onto the brief for Perkins Coie, most the largest U.S. firms did not - attempting to steer clear of a fight with the Trump administration.

Several firms - including Paul, Weiss, Rifkind, Wharton & Garrison LLP, Skadden, Arps, Slate, Meagher & Flom LLP and Milbank LLP - have struck deals with Trump in which they have agreed to provide free legal services to the administration and changed their internal policies, effectively agreeing to act as Trump's pro bono counsel.

Kirkland & Ellis LLP is in talks with the Trump administration to strike a similar deal, according to a Thursday report in the Wall Street Journal.

The most profitable U.S.-based international firms are not listed as having signed the amicus brief - Kirkland, Latham & Watkins LLP, DLA Piper, Baker McKenzie, Dentons US LLP, Greenberg Traurig LLP, Sidley Austin LLP, Morgan, Lewis & Bockius LLP, White & Case LLP, Palo Alto-based Wilson Sonsini Goodrich & Rosati, and two Los Angeles-based firms - Gibson, Dunn & Crutcher LLP and Quinn Emanuel Urquhart & Sullivan LLP.

Palo Alto-based Cooley LLP, whose San Diego-based partner Michael A. Attanasio is representing one of the firms targeted by Trump, Jenner & Block LLP, also did not sign the amicus brief.

But many other firms did, including Jenner, Arnold & Porter Kaye Scholer LLP, Davis Wright Tremaine LLP, Mountain View-based Fenwick & West LLP, Freshfields US LLP, Hausfeld LLP, San Francisco-based Lieff Cabraser Heimann & Bernstein LLP, Los Angeles-based Manatt, Phelps & Phillips LLP, Los Angeles-based Munger and San Francisco's Rosen Bien Galvan & Grunfeld LLP.

Wilmer Cutler Pickering Hale and Dorr LLP, which also is fighting a Trump executive order, also signed the amicus brief.

San Francisco boutique Keker, Van Nest & Peters LLP, which has led the charge against Trump's executive orders in a New York Times opinion piece and public statements, also signed the amicus brief. Robert A. Van Nest, one of the firm's name partners, said the firm has received a lot of backing for its position.

"The reaction to our piece has been overwhelmingly positive and we have received thanks and support from lawyers across the country," he wrote in an email.

Senior U.S. District Judge Beryl A. Howell of the District of Columbia granted a temporary restraining order last month blocking Trump's order against Perkins Coie.

Deputy Associate Attorney General Richard Lawson filed a motion Wednesday to dismiss Perkins Coie's complaint, arguing that it is incorrect in arguing that Trump's executive order is a sanction.

"The Executive Order directs agencies to do what they should already be doing, declines to contract with entities who act inconsistently with valid social policies regarding discrimination, and calls for the lawful examination of security clearances and government access of employees of Plaintiff's firm," he wrote.

"Plaintiff's claim is at best too early and, as any guidance will be consistent with the law, will eventually fail on the merits," Lawson added.

The American Civil Liberties Union, Cato Institute, Electronic Frontier Foundation and the Foundation for Individual Rights and Expression also filed an amicus brief, as did 346 retired federal and state court judges in a proposed brief filed Friday by Oakland attorney Donald Falk.

#384769

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More Than 500 Law Firms Sign Amicus Brief in Support of Perkins Coie

 [law.com/2025/04/04/-more-than-500-law-firms-sign-amicus-brief-in-support-of-perkins-coie](https://www.law.com/2025/04/04/-more-than-500-law-firms-sign-amicus-brief-in-support-of-perkins-coie)

Abigail Adcox and Amanda O'Brien

April 4, 2025

More than 500 law firms have signed on to an amicus brief filed Friday in support of Perkins Coie's challenge to President Donald Trump's executive order targeting the firm.

While a majority of the signatories are small and midsized firms, about a dozen Am Law 200 firms, including eight Am Law 100 firms, have signed on to the brief as well. The big firm names include Arnold & Porter; Freshfields US; Covington & Burling; Crowell & Moring; Davis Wright Tremaine; Foley Hoag; Wilmer Cutler Pickering Hale and Dorr; Jenner & Block; Manatt, Phelps & Phillips; Munger, Tolles & Olson; Patterson Belknap Webb & Tyler; Susman Godfrey; Stoel Rives; Hanson Bridgett; and Fenwick & West, breaking the wall of silence dominating the Am Law 200.

"Although we do not take this step lightly, our abiding commitment to preserving the integrity of the American legal system leaves us no choice but to join together to oppose the March 6, 2025 Executive Order" against Perkins Coie, the brief reads.

The amicus brief was filed by Munger Tolles' Donald Verrilli, former U.S. solicitor general, as well as Nathan Eimer of Eimer Stahl.

The brief follows the same contours as the Perkins suit, claiming that Trump's executive order targeting the firm and its clients violates several constitutional amendments.

"But something even more fundamental is at stake. In recent weeks, the president has issued not one but five executive orders imposing punitive sanctions on leading law firms in undisguised retaliation for representations that the firm, or its former partners, have undertaken, and more may be in the offing," the brief reads. "Those [executive orders] pose a grave threat to our system of constitutional governance and to the rule of law itself. The judiciary should act with resolve—now—to ensure that this abuse of executive power ceases."

The amicus adds that, "like every lawyer, the members of the amicus law firms have sworn an oath to uphold the constitution and to discharge the obligations of the profession to the best of our ability."

"We therefore feel a special responsibility to stand up now to the unprecedented threat posed by the executive order at issue in this case and the others like it," the brief reads.

See the full list of signatures [here](#).

Wilmer and Jenner have both filed lawsuits challenging executive orders targeting their own firms as well. Both firms obtained temporary relief in late March, barring portions of the executive orders.

Covington also signed on to the amicus brief. Trump signed a memo targeting partner Peter Koski and other employees at the firm who have represented Jack Smith.

The law firm amicus brief asks the court to grant Perkins Coie's motion for a permanent injunction against the executive order.

The amicus brief has been circulating within the legal industry for weeks, with a group of large firms on the edge about signing, conditional to a certain number of other large firms signing on as well.

Cari Brunelle at legal consultancy Baretz + Brunelle said it's not "surprising" to see few Am Law 100 firms sign onto the brief. "It was a hard decision for many firms, just because there's so many different views on whether they should or shouldn't sign," Brunelle said.

Yet even with few signatures from the top 100 firms in the country, University of Connecticut legal ethics professor Leslie Levin said, the amicus is still a crucial gesture, and the silence of many Am Law 200 firms doesn't significantly impact the brief's message.

"It's a very important symbolic gesture meant for other lawyers, the public, and the administration. The large firms, in particular, are taking a risk and potentially exposing themselves to unwanted attention from the administration," Levin explained via email. "Those firms had to develop a consensus among the partners to sign on the amicus brief. So the amicus reflects that thousands of lawyers were willing to take a risk to speak up and say about the EO, 'this is so wrong.'"

The law firms' amicus brief is one of several filed in support of Perkins Coie's motion for summary judgment and permanent injunctive relief. In additions, briefs signed by 360 law professors; 11 legal advocacy organizations, including the ACLU; former presidents of the D.C. Bar; and almost 350 former federal and state judges were also filed this week to support Perkins Coie's case.

According to Levin, it's unclear whether the law firm amicus brief will have any significant impact on the litigation, although it will most likely boost morale in the industry.

"The legal community will be very supportive of the amicus brief and happy to see that so many firms signed on," Levin said. "I'm not sure whether the brief itself will have much impact on the judge hearing the case, except to validate the judge's previously stated views. The judge already seems to understand the important issues at stake."

While Big Law continues to be mostly silent, midsize and boutique law firms have been leading the charge. In addition to making up a majority of the signatories on the law firm brief, some midsize and boutique law firms have publicly spoken out against the Trump administration's actions.

Plaintiffs boutique Edelson said in a separate statement announcing their participation in the brief that they were "proud" to add their voice "to defend against the blacklisting of law firms for the clients they choose to represent."

"When the government poses an existential threat to the independence of our judicial system, silence from the legal profession can do real harm," the firm said in its statement.

And midsize northern California firm Farella Braun + Martel issued its own statement as well, with co-managing partner Holly Sutton calling for collective action from the industry.

"At this critical juncture, as our fellow attorneys are targeted with devastating retaliation by the federal government based solely on the President's personal 'enemies list', the legal profession needs to unite and speak with one voice to protect our system of law," she wrote.

For its part, Munger Tolles said the "executive orders recently issued against prominent law firms raise important issues for our courts to decide."

After the law firms' amicus brief was filed, Perkins Coie said it was "grateful for the support of over 500 law firms, as well as numerous other amici, in our challenge to the unconstitutional executive order and the threat it poses to the rule of law."

The amicus brief filing comes just two days after Perkins Coie asked U.S. District Judge Beryl Howell of the District of Columbia to permanently block Trump's executive order targeting the firm, noting "catastrophic and unrecoverable economic harm" should it stand.

The government, meanwhile, moved to dismiss Perkins Coie's complaint, and asked the court to reconsider "the scope" of the temporary restraining order issued on March 12.

Read the amicus brief [here](#).

[Securities Law News](#)

April 4, 2025, 11:28 AM PDT; Updated: April 4, 2025, 11:48 AM PDT

Big Law Mostly Sits Out Industry Response to Trump Orders (2)

- Some 500 firms back Munger Tolles effort on brief
- None of the country's largest 25 law firms join

Few large law firms joined an amicus brief backing Perkins Coie in its lawsuit against President Donald Trump over an executive order targeting the firm.

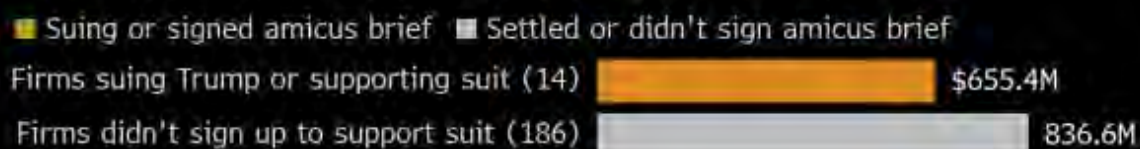
None of country's 25 largest firms signed the friend-of-the-court brief, filed in federal court Friday. A total of eight of the 100 largest players joined the more than 500 firms on the brief, which was organized by Munger Tolles & Olson.

The brief had been billed as a response to Trump's series of directives targeting firms for their ties to the president's perceived enemies and work on causes he opposes. Big Law firms have largely remained on the sideline, with a few striking deals with the White House to stay out of the bull's eye.

"No one wants to put a target on their backs to be the next firm subject to an executive order, and that's exactly what the office of the president is counting on," said David Neff, a retired Perkins Coie partner. "If you saw many firms, particularly in the major markets, rise up against these types of orders and give great pushback, I think that would go a long way toward stopping the madness."

Only 14 of Top 200 US Law Firms Supporting Fight Against Trump

Average gross 2023 revenue of practices by position on suits



Source: The American Lawyer's 2024 ranking of Top 200 US firms, Bloomberg

Bloomberg

Chart by Phil Kuntz/Bloomberg

Arnold & Porter, Freshfields, Fenwick & West, Susman Godfrey, Crowell & Moring, and Davis Wright Tremaine were among the large firms signing the brief.

"Davis Wright Tremaine believes in the constitutional right of clients to choose their counsel and the independence of the legal profession," the firm said on its LinkedIn page.

Most of the big firms wouldn't sign unless a critical mass of peers did so as well.

'Grave Threat'

The brief, authored by Munger Tolles partner and former solicitor general Donald Verrilli, was filed Friday in US District Court for the District of Columbia.

Trump's orders "pose a grave threat to our system of constitutional governance and to the rule of law itself," the firms said. The judiciary should "act with resolve" to stop the president's overreach of executive authority, they said.

Law firms that signed onto the brief include others that are suing over Trump orders against them—WilmerHale and Jenner & Block. Covington & Burling, whose partner Peter Koski was the subject of a Trump memorandum for his representation of former special counsel Jack Smith, also signed.

"Any controversial representation challenging actions of the current administration (or even causes it disfavors) now brings with it the risk of devastating retaliation," the firms' said. "Whatever short term advantage an administration may gain from exercising power in this way, the rule of law cannot long endure in the climate of fear that such actions create."

The executive order against Perkins Coie was the second in a string of five actions aimed at punishing law firms with ties to past cases against Trump that the president has referred to as "weaponization" of the legal system. The orders that restrict security clearances, limit access to federal buildings and cut federal contracts for firm clients have also hit firms including Paul Weiss, Jenner & Block and WilmerHale.

Perkins Coie sued in response to the Trump order on March 11, represented by a team at Williams & Connolly. Perkins won a temporary restraining order that halted parts of the order.

Some firms—Paul Weiss, Skadden, Willkie and Milbank—hatched deals with Trump to evade the impacts of his orders in exchange for \$340 million in pro bono legal services to Trump-supported causes.

California's Hanson Bridgett also signed the brief. Managing partner Kristina Lawson said signing the brief was the "right thing to do."

"It's really very simple," Lawson said in a statement. "Our oath as attorneys demands we defend the rule of law, protect judicial independence, and ensure all lawyers can fulfill their duties without interference or intimidation."

In a statement Friday, Munger Tolles said, "The executive orders recently issued against prominent law firms raise important issues for our courts to decide. We are honored to participate together with so many of our colleagues in the legal profession in the submission of this brief."

The case is: Perkins Coie v. U.S. Department of Justice, D.D.C., 1:25-cv-00716, 4/4/25

(Adds number of firms, other details starting in first paragraph.)

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Ex-Skadden lawyers express 'deep outrage' in letter over Trump deal

 [reuters.com/legal/legalindustry/ex-skadden-lawyers-express-deep-outrage-letter-over-trump-deal-2025-04-04](https://www.reuters.com/legal/legalindustry/ex-skadden-lawyers-express-deep-outrage-letter-over-trump-deal-2025-04-04)

Sara Merken

April 4, 2025

Signage is seen outside of the law firm Skadden, Arps, Slate, Meagher & Flom LLP in Washington, D.C., U.S., August 30, 2020. REUTERS/Andrew Kelly/File Photo Purchase Licensing Rights, opens new tab

April 4 (Reuters) - More than 80 alumni of law firm Skadden Arps sent a letter to the firm's leadership condemning an agreement it struck with President Donald Trump to avoid an executive order targeting the firm.

In a letter , opens new tab to Skadden executive partner Jeremy London, made public on Friday, the group of alumni, comprising mostly lawyers, said they felt "profound disappointment and deep outrage" over the firm's deal with Trump. Jumpstart your morning with the latest legal news delivered straight to your inbox from The Daily Docket newsletter. Sign up here.

"At a time when rule of law, freedom of speech, and the adversarial system collectively face existential threat, Skadden's agreement with President Trump emboldened him to further undermine our democracy," the letter said.

London and a Skadden spokesperson did not immediately respond to requests for comment on the letter, which was released by the nonprofit advocacy group Common Cause.

Trump last week said Skadden agreed to dedicate \$100 million in free legal services to mutually agreed projects benefiting veterans and other groups. The firm also committed to what Trump called merit-based hiring and retention of employees.

London had said in a statement then that the firm had engaged proactively with Trump in the interests of clients, employees and the firm.

The deal came after another firm, Paul Weiss, struck an agreement with the White House to rescind an executive order that restricted its access to government officials, buildings and federal contracting work.

Two other firms, Willkie Farr and Milbank, reached similar deals with Trump this week. Three firms that Trump has hit with executive orders — Perkins Coie, Jenner & Block and WilmerHale — sued to block the orders and have convinced judges to block key provisions of them on the grounds that they violated the U.S. Constitution.

The letter from Skadden alumni, some of whom did not include their names, said the deals with Willkie Farr and Milbank "evinced the deeply disturbing behavior that Skadden helped normalize."

Three of the individuals that signed were associates who recently resigned from the firm since the Trump administration began targeting the legal industry, including two who left Skadden after its agreement with Trump.

Bar associations, law professors and Democratic state attorneys general have also issued statements and letters opposing Trump's actions focused on the legal system, including calls for impeaching federal judges. A group of alumni of Paul Weiss also sent a letter to the firm's chairman Brad Karp criticizing its settlement.

A statement from alumni of the U.S. Department of Justice, opposing attacks on law firms and lawyers, has garnered more than 1,600 signatures.

Our Standards: The Thomson Reuters Trust Principles.  , opens new tab

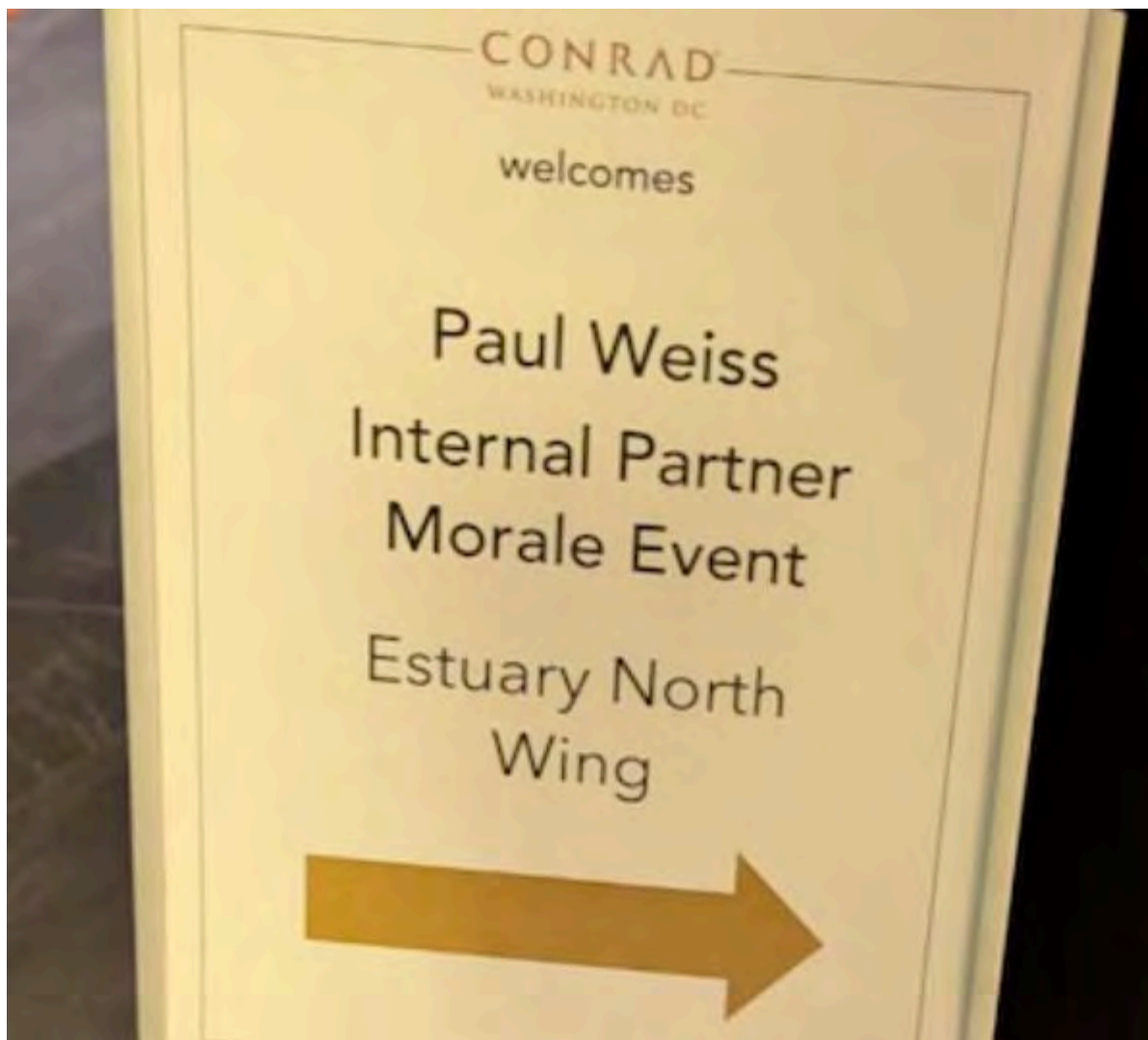
- Suggested Topics:
- Legal Industry

Paul Weiss Partners Throw Pity Party After Selling Integrity To Trump

A abovethelaw.com/2025/04/paul-weiss-partners-throw-pity-party-after-selling-integrity-to-trump

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April 7, 2025



While Paul Weiss isn't the only law firm scrambling to trade its credibility for Trump's approval, it was the first to give the administration a big, splashy capitulation to crow about — a head on a pike to post outside the White House walls to exact even higher pro bono payola concessions. It's possible that other firms would have still caved rather than join Perkins Coie, Jenner & Block, and WilmerHale in fighting back against the illegal, retaliatory executive orders the administration keeps pumping out... but all we know for sure is that no one surrendered until Paul Weiss set the bar and everyone who has since followed the broad outline set by Paul Weiss.

In the immediate aftermath, I wondered if there might be some hefty books of business within Paul Weiss who aren't happy about all this. It looks like that might be the case, as an eagle-eyed tipster spotted this on Friday at the Conrad in D.C.



"Hello, my name is Bob, and I'm an unwillingly complicit party in the erosion of rule of law...."

Whoever set up the meeting probably didn't want the hotel to provide such a detailed description — at least not on a clearly visible sign. No word yet on what went down inside. Did they light some candles and hug it out? Maybe a few trust falls and therapy puppies?

What's the client timekeeping code for emotional support meetings? Probably 90000 "Professional Development," matter 050 "Existential Dread."

But this does lend credence to the theory that the firm's partnership might include more than a few lawyers who aren't pleased about the firm's name becoming a punchline:

If there's a lowest circle of reputational hell for a white-shoe law firm, it's being invoked — casually and without irony — by Jim Cramer as *the* example of corporate cowardice. The stock market is in the middle of a Great Depression-level crash and CNBC is still finding a way to work Paul Weiss into the story!

There's losing a PR battle and then there's whatever legacy-defining public relations chest wound this is for Paul Weiss.



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Trump War on Big Law Exposes Wall Street Firms' Soft Underbelly

Big Law Spotlight

- Acquiescing firms depend on star dealmakers, agency connections
- Litigation firms well equipped to oppose the president in court

President Trump's war with Big Law shows firms that depend on rainmaker partners for lucrative corporate deals face greater pressure to settle than those that focus on litigation.

Paul Weiss, Skadden, Willkie, and Milbank built their premiere transactional practices by hiring star lawyers that rivals would likely to poach if the firms entered a protracted battle with the president, said John Morley, a Yale Law School professor. The four firms reached deals with Trump rather than fight him in court over executive orders that threaten client relationships.

"Firms that do a lot of transactional work are most heavily exposed to Trump's orders because their lawyers leave more easily," Morley said. "If the people whose practices are affected depart, other people might suffer because of an overall decline in profits."

The three firms that sued Trump—Perkins Coie, Jenner & Block, and WilmerHale—are best known for litigation practices that aren't as exposed to poaching, he said. "There's a team-based apparatus involved in litigating a case that makes it harder to move firms," Morley said.

The poaching threat is one of several factors that helps explain why firms with greater deal revenue are the most eager to avoid a legal battle with the president. All law firms face an existential threat if major clients' federal contracts are targeted, but those that do transactional work have added incentive to maintain smooth relationships with regulatory agencies such as the Federal Trade Commission and the DOJ's antitrust division.

Clients that do deals don't want a law firm that has fallen out of favor with the administration. "Law firms—for all their seeming solidity—are very fragile economically," said law firm strategist Bruce MacEwen, a former in-house lawyer at Morgan Stanley. "It's because there are no non-competes in the legal field and clients can follow the lawyer of their choice out of their firm at the drop of a hat."

Profit Centers

Paul Weiss Rifkind Wharton & Garrison, Skadden Arps Slate Meagher & Flom, Willkie Farr & Gallagher and Milbank agreed last month or in early April to collectively provide \$340 million in pro bono work to causes supported by Trump. Profits and revenue at these firms are on average twice the levels of the more litigation-heavy firms that have taken the Trump administration to court.

Milbank's executive committee told colleagues in an April 2 email that as a billion-dollar law firm that "does a majority of its work on transactional matters, we are dependent on our ability to navigate client issues in all parts of the executive branch." It was in the firm's and clients' best interests "to resolve the Trump administration's concerns in a way that would foster our working relationship and avoid what could have been unnecessary confrontation," the committee said.

Paul Weiss and Skadden, both with more than \$5 million in average equity partner profits, were among the top 20 mergers and acquisition legal advisers ranked by deal value in the first quarter of 2024, Bloomberg Law reported last week.

Paul Weiss, Skadden, Willkie, and Milbank didn't respond to requests for comment.

Revenue from Perkins Coie's top 15 clients is almost twice as high in the commercial litigation practices, \$145 million, than in the business practices, \$56.2 million, according to the firm's disclosure last week in court. Likewise, the "bulk" of Jenner & Block's revenue comes from litigation, white collar investigations and regulatory practices, firm chair Thomas Perrelli said in a March 28 court filing.

"Jenner was and still is a litigation powerhouse," said David Neff, a former Perkins Coie partner who also worked at Jenner & Block for 15 years. "Like many firms, they grew their corporate practice. That's the side of the practice that is loath to fight."

Right of Counsel

Rachel Nonaka, a partner at recruiting firm Macrae and former SEC litigator, said litigation firms are motivated to show clients they can effectively use the power of the courts to vindicate a certain cause—in this case, the right for clients to choose their own counsel without fear of retribution.

"There's a general belief among litigators that both sides should be adequately represented, and all clients deserve the right of counsel," Nonaka said. "These executive orders go against that general principle."

The same pattern applies to firms that are publicly speaking out against the Trump administration.

Munger Tolles & Olson organized an amicus brief in support of Perkins Coie and is primarily a litigation shop. Trump's executive orders against law firms "raise important issues for our courts to decide," Munger Tolles said in a statement April 4.

Litigation-only firm Williams & Connolly was a natural to represent Perkins Coie in the lawsuit against Trump, Morley said. The firm, known for fighting aggressively in court, “already set themselves up for an adversarial relationship with the government,” he said.

Perkins Coie, Jenner & Block, WilmerHale, Munger Tolles and Williams & Connolly did not respond to requests for comment.

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Ohio pay-to-play scandal featured in HBO documentary about dark money

 [cincinnati.com/story/news/politics/2025/04/07/ohio-pay-to-play-scandal-featured-in-hbo-documentary-about-dark-money/82862873007](https://www.cincinnati.com/story/news/politics/2025/04/07/ohio-pay-to-play-scandal-featured-in-hbo-documentary-about-dark-money/82862873007)

Jessie Balmert



POLITICS

New HBO documentary digs into Ohio bribery scandal as case study for dark money corruption



- A new two-part HBO documentary, "The Dark Money Game," examines the influence of dark money in politics, focusing on a bribery scandal in Ohio.

- The documentary features interviews with journalists, law enforcement officials, and former Ohio House Speaker Larry Householder, who was sentenced to prison for his role in the scandal.
- Filmmaker Alex Gibney explores how corporate money, funneled through dark money groups, was used to pass a \$1 billion nuclear bailout in Ohio.
- The documentary also delves into the influence of the Citizens United Supreme Court decision, which opened the floodgates for dark money in politics.

The words of the late, prolific Ohio lobbyist Neil Clark narrate a new HBO documentary from award-winning filmmaker Alex Gibney about dark money's nefarious and pervasive influence on politics from statehouses to the U.S. Supreme Court.

A pay-to-play scandal that unfolded at the Ohio Statehouse and sent a top politico to federal prison is the focus of the first in a two-part series, "The Dark Money Game." The documentaries detail how the Ohio scheme fits into a larger puzzle of political corruption across the nation.

Gibney, whose projects include "The Crime of the Century" and "Enron: The Smartest Guys in the Room," used Clark's recorded conversations with undercover FBI agents and excerpts of the book published after Clark's suicide to explain how the Sicilian superlobbyist justified his role in the state's largest corruption scandal.

The first part of the series, titled "Ohio Confidential," details how Akron-based FirstEnergy spent more than \$60 million to fuel former Ohio House Speaker Larry Householder's return to political power, pass a \$1 billion nuclear bailout and defend that bailout against a ballot initiative to block it.

The conspirators used corporate money funneled through a series of 501(c)(4) nonprofits, which are often called dark money groups because they aren't legally to disclose their donors.

The film features retired FBI agent Jeff Williams, Assistant U.S. Attorney Emily Glatfelter, former U.S. Attorney David DeVillers, former Ohio Supreme Court Chief Justice Maureen O'Connor, political strategist Tyler Fehrman and statehouse reporter Laura A. Bischoff, who offer insights into how the pay-to-play scheme unfolded. Bischoff covered the case for The Columbus Dispatch, Cincinnati Enquirer, Akron Beacon Journal, Canton Repository and other news outlets in Ohio.

There's a moment in the documentary that shows how Householder first pitched the nuclear bailout bill to reporters. Bischoff asks if FirstEnergy's prolific donations played any role in the bill.

"And he looks at her like, 'Are you crazy?'" Gibney recalled. "When you see somebody lie like that, just lie. Bald-faced lie. You think, wow. It kind of takes your breath away. Because at that moment, he was sitting on the slush fund and knew exactly where the money was coming from. It should tell us all, trust but verify."

 Jeff Williams retired in October 2022 after decades as an FBI agent focused on public corruption cases.

The second film, "Wealth of the Wicked," examines how corporate money, the anti-abortion movement, religious leaders and conservative lawyers united to open the floodgates of dark money in politics. The project was inspired by Jane Mayer's book "Dark Money: The Hidden History of the Billionaires Behind the Rise of the Radical Right."

When can you watch 'Ohio Confidential'?

"Ohio Confidential" debuts at 9 p.m. on Tuesday, April 15. "Wealth of the Wicked" debuts on Wednesday, April 16 at the same time. Both films, which are about two hours long each, will be available to stream on HBO Max on Tuesday, April 15.

Gibney talked about his inspiration for the documentaries and what caught his eye about the Ohio scandal. The conversation was edited for length and clarity.

Q: Why did you want to dig into dark money and its influence?

A: I think it was an emotional reaction to the overturning of Roe v. Wade, the Dobbs decision, and my understanding that there was a lot of money behind it. Suddenly, it seemed like the Supreme Court had done something that was supremely undemocratic because they had kind of rigged the system.

That got me animated and thinking about it. Citizens United, I felt was also one of the most disastrous decisions ever, and for a long time I had been studying money in politics. And I'd always wanted to work on something with my pal, Jane Mayer, who had written that great book, "Dark Money."

(The Court) overturned Dobbs but they were also extremely hardcore in terms of favoring corporate interests over what I would call citizens' interests. And those two things really animated me in wanting to dig into this.

Q: Why did you choose to highlight the Ohio pay-to-play scandal?

A: We were looking for a story in which corruption played a big role, but also one of the things that was interesting to us about that case was that on a lot of the audio tapes, a lot of the conspirators were all chuckling about how Citizens United, it's a get out of jail free card.

Now we can do whatever we want. It just seemed like not only was it a massive corruption scandal based on dark money but also there was this cynicism about Citizens United that it somehow made corruption legal.

There were other issues related to Ohio that had to do with gerrymandering and also supermajorities in the House that were limiting the democratic possibilities of pushing back against corruption, so for all those reasons, it seemed like a good story.

Ohio just seemed like an incredible story. It's also a story that most people in this country have never heard of.

 Neil Clark

Q: Why use lobbyist Neil Clark as a lens for the story?

A: He's kind of a tragic figure. I don't know that we knew that we were going to necessarily lean so heavily into Neil at the beginning but having read his memoir, posthumously published, and also hearing him so much on the tapes, it began to organically make sense.

It felt also like he was a character, too, who felt that he had become seduced in a way by the idea that Citizens United was giving him permission to do what he ordinarily might not do or would have been nervous to do.

So, for all those reasons, he seemed like a fascinating, important, interesting and tragic figure, also somebody who lost his life over the issue.

Q: What people, institutions or factors helped to uncover the Ohio scandal that didn't exist in other cases of corruption?

A: (The FBI) They stumbled on the case because they were looking into this (Cincinnati City Council corruption) case. They started to hear whisperings of this case as they were pursuing another case. So, they literally tripped into it.

That, to me, also was intriguing because it shows that the burden in this kind of world where everything is a wink and a nod, the burden on law enforcement is extreme because the law has been so narrowed in terms of how you can prosecute quid pro quo. That only because they were extremely reckless and because the FBI just stumbled into it was there really an investigation that could take off.

Q: The FBI committed substantial resources to this case in Ohio. Do you think that level of resources will be available going forward under a new administration?

A: That's a question for (FBI Director) Kash Patel, but if you're asking my hunch, my hunch would be no. This administration seems to be OK with a certain level of corruption particularly involving money in politics. It was interesting that this administration basically said they were no longer going to prosecute, for example, the Foreign Corrupt Practices Act.

I think that they are likely to look at it more as business as usual, and that's really a terrible thing for all of us. The idea that corruption's OK so long as it's in the service of making a profit. But the people who are losing are us, the citizens.

Q: When you were looking at the Ohio case, were you surprised that Householder was reelected and Republicans won more seats?

A: I was shocked. It's kind of shocking that when somebody gets caught with their hands in the cookie jar that they're just reelected, that it just becomes 'Oh well, that's just politics.'

It's also, to some extent, a comment on the kind of tribal nature of our politics, which have become so associated with identity. The people vote because 'oh, I'm a Republican so I'm going to vote for the Republican' without any more reckoning about who that individual represents or what he or she has done.

At some basic level, I think most of us, whether you're a Democrat or a Republican, are offended by the idea of bribery and inside deals and corruption. The idea that somebody can pay somebody off to get a result that the rest of us can't get. It's not playing fair.

But there still is a tendency to coalesce around tribal motives, particularly when districts are so gerrymandered that the people in the middle don't really have a voice anymore.

Q: The documentaries look at the line between bribes and legal campaign contributions. Where is that line, or is it wherever the U.S. Supreme Court decides to set it?

A: I think the line becomes fuzzier and fuzzier and fuzzier every day, and that's the problem.

I think there has been an attempt, particularly by the Supreme Court, to essentially legalize bribery as if to say bribery isn't bribery, it's just speech. I just think that's nonsense, but that's where we're going.

Q: Particularly in "Wealth of the Wicked," you dive into the influence of religion on politics and politics on religion. Why do you think these have become so intertwined?

A: I was trying to get at the idea that religion obviously has a strong emotional hold on people, and the film isn't anti-religion in the sense that I believe people should believe whatever it is they want to believe.

But when you get to the point where the state begins to favor a certain kind of religion over another or favors religion over people who may not believe, then you've got a problem, and that's not what was intended by the Constitution. You're supposed to have freedom of religion, but the state's not supposed to endorse one.

Because religion, people feel very strongly about it. They fight wars about it. They kill each other over it as we see day in and day out. So if you can harness that politically and people aren't principled about keeping it out of government, then you've got a real problem.

Q: Is the cat out of the bag on Citizens United, the landmark U.S. Supreme Court decision that allowed unlimited corporate and union spending in politics, or is there a way to clean up (dark money) 501(c)4 nonprofits, this murky stream of corporate funding of politics?

A: Obviously, you have a Supreme Court that's not sympathetic to undoing that.

Even while you have all these massive super PACs, at least we knew Elon Musk dropped \$288 million for Donald Trump. But not to know? That really is the fundamental issue at stake for FirstEnergy. If the citizens had known that Larry Householder had gotten \$60 million from FirstEnergy to pass a bill that was going to benefit FirstEnergy to the tune of \$1.3 billion, I think the result might have been different. I would hope so.

Q: I finished the second documentary and didn't feel too hopeful about the future of politics. What are you hoping viewers take away from this two-part documentary?

A: Take it back. If there's one single biggest problem in American politics, it's that we've allowed money to take over.

The big moneyed interests have taken over American politics, and that has to be a referendum for people from now on. In other words, I'm not voting for you unless you're going to pledge to take money out of politics because otherwise, you're just going to be another crooked pol who does what your funders want you to do rather than what your voters want you to do.

While I'm pessimistic, I'm also hopeful. There seems to be a sentiment that moneyed interests have taken over our politics in ways that aren't good for most of us. Well, we've got to change that. And that's not a left-right issue, that's a middle class versus the oligarchs issue.

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Ferguson Joins, Restarts FTC Case Targeting PBMs Over Insulin Pricing

 [law.com/nationallawjournal/2025/04/04/ferguson-joins-restarts-ftc-case-targeting-pbms-over-insulin-pricing](https://www.law.com/nationallawjournal/2025/04/04/ferguson-joins-restarts-ftc-case-targeting-pbms-over-insulin-pricing)

Dan Novak

April 5, 2025

Federal Trade Commission Chair Andrew Ferguson said Thursday he would no longer recuse himself from an FTC administrative proceeding against the three largest pharmacy benefit managers for allegedly inflating insulin prices, allowing the paused case to continue.

The FTC's general counsel had stayed the proceeding Tuesday because the two FTC commissioners—Ferguson and Melissa Holyoak—were recused from the case. Democratic Commissioners Melissa Slaughter and Alvaro Bedoya voted in favor of the administrative complaint but were fired by President Donald Trump in March.

In a statement, Ferguson said he recused from the case "out of an abundance of caution" because as Virginia's solicitor general he had advised the state attorney general to file an amicus brief in a class action lawsuit against PBMs.

"But now, no sitting commissioners are currently participating in the proceedings," Ferguson said. "After closely consulting with my agency's ethics attorneys, I have decided to no longer recuse myself from the matter to ensure that the case can continue."

Holyoak said in a statement Friday she recused herself from the case because she was involved in similar litigation against PBMs while solicitor general of Utah.

Former FTC Chair William Kovacic said Ferguson's reversal is a consequence of the haphazard firings of the Democratic commissioners made with no real foresight.

"If your sequence of decision making is ready-fire-aim, you're going to have to clean up a lot of messes," added Kovacic, now a George Washington University law professor

The FTC did not immediately respond to a request for comment Friday.

The FTC's administrative complaint alleges Cigna's ESI, CVS Health's Caremark and UnitedHealth Group's Optum—and these PBMs' respective group purchasing organizations—created a drug rebate system that allowed the PBMs to profit off of the discounts.

According to the FTC, drug manufacturers—instead of competing to lower prices—were compelled to increase list prices to provide for larger rebates that would secure the companies favorable placement on the PBMs' "formularies," or lists of covered prescription drugs, including insulin.

The PBMs have denied wrongdoing.

It is unclear what Ferguson's decision means for the timeline of the case. According to the FTC's filing on Tuesday, the stay will remain in place for a minimum of 105 days, after which the commission may move to lift the stay.

Attorney Jeff Ansley said he is not aware of another case in which the commission effectively acts at the behest of a single commissioner. He added he expects the case will eventually proceed with Ferguson's support.

"My knee-jerk reaction was that I would not expect the administration to advance the litigation ball against these PBMs," said Ansley, a Vedder Price shareholder. But upon closer analysis, he said, the case fits within the administration's goal of eliminating federal waste.

"To the extent that there is a belief that the PBMs are acting to increase the costs of drug prices paid by federal insurers... that would be something that I think this administration probably, likely would see as fraud, waste and abuse," Ansley said.

Deutsche Bank Asset Management Unit Pays €25m Greenwashing Fine

K [dandodiary.com/2025/04/articles/esg/deutsche-bank-asset-management-unit-pays-e25m-greenwashing-fine](https://www.dandodiary.com/2025/04/articles/esg/deutsche-bank-asset-management-unit-pays-e25m-greenwashing-fine)

Kevin LaCroix

April 6, 2025



In what is a reminder that potential liabilities based on alleged ESG-related overstatements remains a significant corporate risk, DWS, the asset management arm of Deutsche Bank has agreed to pay a €25 million fine to settle greenwashing allegations related to its ESG-focused investment products. The fine, imposed by the Frankfurt Public Prosecutor's Office, follows an earlier \$19 million SEC fine the firm agreed in 2023 to pay based on similar charges. The firm's April 2, 2025, statement about the Frankfurt Public Prosecutor's Office fine can be found [here](#).

Background

DWS is an asset management firm that is majority owned by Deutsche Bank but that also maintains its own stock listing. The underlying allegations go back to August 2021, when Desiree Fixler, DWS's former sustainability chief, came forward as a whistleblower asserting that the firm painted "a rosier-than-reality picture" to investors about its ESG efforts and products. An August 1, 2021 *Wall Street Journal* article about the whistleblower's claims can be found [here](#).

The Prior SEC Proceeding

The whistleblower's allegations resulted in an SEC investigation and enforcement action against DWS units, which ultimately settled, as reflected in the SEC's September 25, 2023 press release, [here](#). (The firm also separately settled unrelated charges related to alleged anti-money laundering allegations at the same time.)

The agency had alleged that the firm "made materially misleading statements about its controls for incorporating ESG factors into research and investment recommendations for ESG integrated products, including certain actively managed mutual funds and separately managed accounts." The agency also alleged that the firm "failed to adequately implement certain provisions of its global ESG integration policy as it had led clients and investors to

believe it would” and “failed to adopt and implement policies and procedures reasonably designed to ensure that its public statements about the ESG integrated products were accurate.” The firm agreed to pay a \$19 million fine for the ESG-related allegations. The SEC’s September 25, 2023, cease-and-desist order entered against the DWS units can be found [here](#).

The Subsequent German Proceedings

German prosecutors also separately investigation the greenwashing allegations against the company. In May 2022, German police raided DWS’s Frankfurt offices, as reported [here](#). German prosecutors later charged that the firm had made misleading statements about its ESG credentials and products.

According to news reports ([here](#)), the prosecutors alleged that from 2020 to 2023 DWS had “extensively” advertised financial products that claimed to have ESG characteristics. The prosecutors reportedly alleged that “statements in external communications, such as claiming to be a ‘leader’ in the ESG area or stating ‘ESG is an integral part of our DNA’ did not correspond to reality.”

In its April 2, 2025, statement about its resolution of the Frankfurt Prosecutors Office’s charges, DWS said that the prosecutor had “identified a negative infringement” and “issued a fine to DWS in relation to its past regarding certain ESG-related documentation and control processes.” In its statement, DWS acknowledged that “in the past our marketing was sometimes exuberant,” while also stating that “we have already improved our internal documentation and control processes.”

Media reports (for example, [here](#)) quote statements from the environmental group Greenpeace as saying that the fine DWS agreed to pay “was the highest ever penalty imposed in Europe’s biggest economy for such an offense.”

Discussion

Though the German fine was just assessed this past week, in many ways the German proceedings feel like a throwback to an earlier time. The allegations against DWS are a reminder that just a short time ago, firms felt compelled to try to demonstrate their green credentials. The prosecution against DWS is a reminder that some firms, as part of ESG-related virtue signaling, managed to get ahead of the reality of their actual ESG practices and products.

How quickly things can change, though. More recently, many companies (particularly in the U.S.) have experienced an anti-ESG backlash, in which activists and red-state politicians have targeted firms they feel have advanced ESG goals to the detriment of investors’ interests. From a time just a short while ago when companies felt such compulsion to

establish their green credentials that some companies engaged in greenwashing, many companies have now found it expedient to forebear from making ESG-related statements, a process that has been called “greenhushing.”

These events show how the entire topic of ESG has changed in many ways over a very short period of time. The sequence of events involving DWS unquestionably contains many lessons about the perils for companies of overstating green credentials. But in the significantly different political and social environment that now prevails, many firms are now likelier to conclude that perhaps they are better off not talking about ESG issues at all. In the U.S., this observation is true not only with respect to environmental and climate change-related issues, but also with respect to DEI-related issues, as well.

Since the time that the charges against DWS first surfaced, the potential liability risk associated with ESG have been completely transformed. While there is no doubt that even now companies that overstate their sustainability credentials could be subject to greenwashing claims, the likelier ESG-related claim these days (especially in the U.S.) is anti-ESG backlash type claim, of the type I have written about in numerous prior posts on this site (most recently, for example, [here](#) and [here](#)). These days, the likeliest ESG-related lawsuit plaintiff is an anti-ESG activist or a red state attorney general.

Securities Law

April 7, 2025, 10:27 AM PDT

Matt Levine's Money Stuff: Tariffs Are For Emergencies

Nondelegation

The stock market continued to [crash this morning](#) because of President Donald Trump's "Liberation Day" tariffs announced last week. Despite widespread [criticism](#) of the tariffs, [Trump is unmoved](#). He gets to decide, and he has decided that the tariffs are good.

But does he get to decide? In some ways the simplest solution to the tariff problem is the one that I [wrote about](#) last Thursday. The US Constitution says that "the Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises." The power of taxation is the most fundamentally legislative function, so much so that the Constitution also says that "all Bills for raising Revenue shall originate in the House of Representatives." This was at the very center of constitutional design, and in fact of the founding of America. As a history of the House puts it:

Congress—and in particular, the House of Representatives—is invested with the "power of the purse," the ability to tax and spend public money for the national government. Massachusetts' Elbridge Gerry said at the Federal Constitutional Convention that the House "was more immediately the representatives of the people, and it was a maxim that the people ought to hold the purse-strings."

English history heavily influenced the Constitutional framers. The British House of Commons has the exclusive right to create taxes and spend that revenue, which is considered the ultimate check on royal authority. Indeed, the American colonists' cry of "No taxation without representation!" referred to the injustice of London imposing taxes on them without the benefit of a voice in Parliament.

Tariffs are uncontroversially taxes – "duties, impost and excises" are listed in the constitutional text, and they are designed to raise revenue – so only the House of Representatives can originate them. It is simply an error for President Trump to impose tariffs. He can't, that's not his job, this is all a misunderstanding, and the tariffs will go away as soon as anyone notices.

Of course it is not that simple. Congress has in fact delegated tariff powers to the president for over 100 years, and courts have generally said that that's fine.

But there are some differences between those precedents and the current situation. For one thing, Trump's tariffs were imposed under a law called the International Emergency Economic Powers Act of 1977, which allows the president to regulate imports if he declares a national emergency. The IEEPA had never been used to impose tariffs before Trump used it in February to impose tariffs on Canada, China and Mexico; he also used it on "Liberation Day" last week to impose much broader tariffs. Here is what the IEEPA says:

Any authority granted to the President by section 1702 of this title may be exercised to deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat.

The authorities granted to the President by section 1702 of this title may only be exercised to deal with an unusual and extraordinary threat with respect to which a national emergency has been declared for purposes of this chapter and may not be exercised for any other purpose. Any exercise of such authorities to deal with any new threat shall be based on a new declaration of national emergency which must be with respect to such threat.

What is the “unusual and extraordinary threat” that requires these tariffs? The declaration of the tariffs says that there is a “national emergency posed by the large and persistent trade deficit that is driven by the absence of reciprocity in our trade relationships and other harmful policies like currency manipulation and exorbitant value-added taxes (VAT) perpetuated by other countries.”

The idea seems to be that every trade policy of every country in the world, over the past several decades, constitutes an “unusual and extraordinary threat.” This is a strange way to use words! How can every instance of trade with every country be *unusual*? How, after decades of trade deficits, is a trade deficit *extraordinary*?

It is also a strange way to use law. The US is in a perpetual state of emergency with respect to every country forever, allowing the president to use emergency powers to bypass the Constitution to impose tariffs.

The other thing that has changed, as we have [discussed](#) a few [times](#), is that US federal courts, and particularly the Supreme Court, have recently become more interested in “nondelegation” challenges to executive action. The idea is that Congress often gives executive agencies the power to make rules, and there is a longstanding, largely conservative legal tradition objecting to this: The Constitution gives Congress “all legislative powers” of the federal government, so only Congress, not executive agencies, should be writing substantive rules.

So sometimes people challenge regulations, saying that they are unconstitutional because only Congress, not regulatory agencies, can legislate. These challenges rarely work. The current state of the law is that Congress must give the executive “an intelligible principle to guide the delegatee’s use of discretion,” and for the last 90 years or so courts have usually found that it has. But there seems to be revived interest in nondelegation challenges: The Supreme Court case I quoted in the last sentence, from 2019, was a 5-3 decision in which four justices expressed interest in “reconsider[ing] the approach we have taken for the past 84 years” and limiting the ability of Congress to delegate its powers to the executive. (Also, disclosure-brag, my wife argued it.) With the current personnel on the Supreme Court, there might be five votes for a more robust nondelegation doctrine.

Would it apply to tariffs? I don't know. The modern revival of nondelegation is often about agency rulemaking: People object to unelected regulators making rules, because (say) the US Securities and Exchange Commission is not as democratically accountable as Congress is. The president is elected, and there is some democratic accountability for the impacts of his tariffs; perhaps Congress *should* be allowed to give him a blank check to invent tariffs.

But the Constitution really does say that only Congress can impose tariffs. Arguably either the IEEPA does have an "intelligible principle" that limits the president's ability to impose tariffs – they have to be a necessary response to an "unusual and extraordinary threat," not just general economic policy – in which case the current blanket tariffs seem suspect, or it doesn't, in which case it is unconstitutional. So you could imagine two sorts of legal challenges to the current round of IEEPA tariffs:

1. The IEEPA doesn't actually give the president to impose tariffs on every country just because he doesn't like free trade. IEEPA powers are only for emergencies, and "international trade exists" can't really be an unusual and extraordinary threat to the US.

- 2. If the IEEPA did give the president sweeping powers to impose tariffs, that would be unconstitutional.

I called this argument "frankly pretty speculative" on Thursday, but obviously someone should try it. There are trillions of dollars at stake, and a lot of the conservative legal establishment is probably not thrilled with tariffs. Surely there will be cases.

As it happens, also on Thursday, somebody filed one. [Bloomberg News reports](#) :

A powerful legal group backed by conservative funding sued President Donald Trump, setting up an early legal clash over the significant US tariffs his administration announced this week.

The New Civil Liberties Alliance said Thursday the president illegally imposed an emergency tariff on Chinese goods. NCLA is representing a small retail stationery business named Simplified, which claims it will suffer "severe" harm from his "unconstitutional" tariffs on China.

The lawsuit filed in federal court in Florida may be the first legal challenge to the sweeping new US tariffs. The levies, which were announced by Trump on Wednesday, have roiled global markets and caused US stocks to plunge.

Here is the complaint. It is *not* about last week's broad tariffs: It's a challenge to the tariffs imposed in February on China (and Canada and Mexico), also under the IEEPA. In those tariffs, the asserted emergency was "the extraordinary threat posed by illegal aliens and drugs, including deadly fentanyl." Simplified argues that the IEEPA can't be used for tariffs at all. From the complaint:

In the IEEPA's almost 50-year history, no previous president has used it to impose tariffs. Which is not surprising, since the statute does not even mention tariffs, nor does it say anything else suggesting it authorizes presidents to tax American citizens.

IEEPA does authorize asset freezes, trade embargoes, and similar economic sanctions. Presidents have used the IEEPA to target dangerous foreign actors—primarily terrorist organizations and hostile countries such as Iran, Russia, and North Korea. Congress passed the IEEPA to counter external emergencies, not to grant presidents a blank check to write domestic economic policy.

And even if the IEEPA allowed tariffs, this is not a sensible emergency for them:

[Trump's] China Executive Orders show no connection between the opioid problem and the tariff he ordered—much less that the tariff is “necessary” to resolve that problem. The means of an across-the-board tariff does not fit the end of stopping an influx of opioids, and is in no sense “necessary” to that stated purpose.

And:

In fact, President Trump's own statements reveal the real reason for the China tariff, which is to reduce American trade deficits while raising federal revenue. While the “emergency” is not challenged here, the “fit” of the tariffs to the declared emergency does not meet the requirements of the IEEPA.

If the President is permitted to use the IEEPA to bypass the statutory scheme for tariffs, the President will have nearly unlimited authority to commandeer Congress's power over tariffs. He would be empowered to declare a national emergency based on some long-running national problem, then impose tariffs purportedly in the name of that emergency—thus sidestepping the detailed constraints Congress has placed on the tariff authority it has granted.

The complaint was filed after Trump's “Liberation Day” tariffs were announced, but I suppose it was written earlier. That last paragraph turned out to be a good prediction: Trump really did “declare a national emergency based on some long-running national problem, then impose tariffs purportedly in the name of that emergency.” And it is a live question whether courts will let him.

Denominator effect

If you are an institutional investor, and the stock market goes down by 10% in two days, you'll notice. You can, and do, check the prices of the stocks in your portfolio in real time, or at least every day. But your private equity portfolio is different: You don't necessarily get daily statements, and the assets don't really trade, so there is no market price for them. You have to estimate their values. If the stock market is down 10%, what does that mean for the value of your private equity portfolio? Various options:

1. It's down about 10%: It's a portfolio of corporate equity, and what's bad for the economy and corporate stocks is bad for these stocks too, even if they don't trade.
- 2. It's roughly flat: You are paying private equity firms big fees to pick *good* companies and *run* them well. The companies' business models and cash flows haven't changed even if public market prices have.

- 3. It's down 20%: Private equity companies are *levered* corporate equities, so what's bad for corporate stocks is worse for levered corporate stocks.

It turns out that the conventional answer is "it's roughly flat": Private equity prices get marked down, if at all, more slowly than public equity prices. You mark your public equity portfolio to market every day; you mark your private equity portfolio whenever the private equity managers tell you its value has changed, and they are in no hurry to do that.

This is a [well-known](#) *benefit* of private equity. It is a *hedge*, a *diversification* benefit. If you have \$100 of public stocks and the market is down 10%, you lose \$10. If you have \$50 of public stocks and \$50 of private equity and the market is down 10%, you lose only 5%. Next quarter, maybe your private equity portfolio gets marked down – but maybe the stock market is up in the interim, offsetting your losses. The simplest dumbest model of private equity is " [public equity, on a delay](#) ," which makes it somewhat uncorrelated with public equity. If you are an institutional investor, this is good for you. You can report steadier results; you can get the same returns (equity returns) with less perceived risk (lower reported volatility).

On this extremely dumb model there is, however, one even dumber downside. If you have a \$100 portfolio allocated 50% to public equity and 50% to private equity, and the market drops by 10%, then you have \$45 of public stocks and "\$50" (at current marks) of private equity. You are out of balance; you are above your target allocation to private equity. You need to rebalance: Your \$95 portfolio should be in \$47.50 public stocks (so you have to buy) and \$47.50 of private equity (so you have to sell). I suppose there is something nice and volatility-dampening about this, on the public side: You are buying the dip. On the private side, though, it is just a mess. How do you sell \$2.50 worth of your private equity portfolio? The whole point of private equity is that it doesn't trade.

Remember, on this model, this is all fake. Your private equity stake *isn't* worth \$50: It's worth \$45, just like your public stake; it lost 10% of its value when the market lost 10% of its value. It's just that you get to delay marking it down. But to delay marking it down, you have to pretend to believe that it's still worth \$50, which means that you have to pretend to believe that you are now overweight private equity and need to sell some.

Again, this model is dumb and wrong, but ... I don't know, it does seem to capture something real? Here's a Financial Times story:

Large institutional investors are studying options to shed stakes in illiquid private equity funds after the rout in global financial markets pummelled their portfolios, according to top private capital advisers. ...

Now, after global stock markets dropped by trillions in value, these institutions face a double hit.

Dealmaking and IPO activity has ground to a halt, minimising cash returns. Moreover, pensions' exposure to unlisted assets swelled this week as the plunge in public markets has created a "denominator effect", in which private market holdings that are only marked quarterly rise as a percentage of their overall assets, skewing desired allocations.

"If the public market keeps going down and down, the denominator effect will become an issue again," said Oren Gertner, a partner specialising in secondaries at law firm Sidley Austin.

Many large investors are speaking to advisers and considering options to sell their stakes in funds at discounts on second-hand markets, top industry bankers told the Financial Times.

"The denominator effect is going to mean a lot of people are over-allocated," said one adviser, who forecast endowments would be the first to consider new sales of assets on second-hand markets.

If you have \$45 of public equity and \$50 of private equity, and the only bid for your private equity stake is at a 10% discount to its stated value, doesn't that mean that you are *not* over-allocated to private equity?

"Good news, turns out our private equity stake is worth less than we thought, we don't need to sell after all."

Nondirectional levered ETF

We [talked last year](#) about a quirk of levered exchange-traded funds on MicroStrategy Inc. (now just Strategy). These funds aim to give investors 2 or 3 times the daily returns of MicroStrategy's stock; there are also inverse funds aiming to give investors negative 2 or 3 times those daily returns. The quirk is that the funds need to rebalance their positions every day to continue providing the right *daily* returns, which means their longer-term returns are *not* 2 or 3 (or -2 or -3) times the returns of the stock. In particular, one 3x long MicroStrategy ETF was *down* 82% for the year as of last September, while MicroStrategy itself was *up* 100%. Intuitively, you would think the ETF would be up 300%, but that intuition is totally wrong. This problem is called "volatility drag."

When I wrote about this, I got many emails from readers with the same basic question, which is "how do I get on the other side of that"? The simplest answer is that you can short the ETFs; we [talked in January](#) about David Einhorn doing exactly that. That exposes you to directional risk – if you short a 2x long MicroStrategy ETF, and MicroStrategy goes up, you'll *probably* lose money – which you can hedge, as Einhorn did, by buying the stock. (So: long MicroStrategy, short 2x long MicroStrategy ETF, you figure out the hedge ratio.)

There's arguably a better hedge, certainly a funnier one. Here is the Defiance MSTR Double Short Hedged ETF:

The Fund is an actively managed exchange-traded fund ("ETF") that seeks to generate returns by simultaneously taking short positions in two different daily 2x leveraged ETFs that track the stock of MicroStrategy Incorporated ("MSTR"): one with a daily 2x long exposure (the "Long 2X MSTR ETF") and the other with a daily 2x short exposure (the "Short 2X MSTR ETF"). ...

Rather than attempting to profit from changes in the price of MSTR itself (as do the MSTR ETFs), the Fund is designed to benefit from the structural features of Leveraged MSTR ETFs, which are products designed to be held for only one day. As described in each of the Leveraged MSTR ETF prospectuses, holding shares for greater than one day may result in performance experiences that are very different from the daily 2x or -2x objective of these leveraged ETFs. ...

By simultaneously shorting both a Long 2X MSTR ETF and a Short 2X MSTR ETF, the Fund aims to exploit these differences to generate returns. For example, if the Long 2X MSTR ETF fails to deliver 2x returns over a given period greater than one-day, it may experience negative performance for that period, thereby resulting in positive performance for the Fund through its short position. Similarly, if the Short 2X MSTR ETF fails to achieve -2x returns over the same period, this may result in negative performance for the Short 2X MSTR ETF, thereby resulting in positive performance for the Fund through its short position.

You short the 2x long MicroStrategy ETF, and hedge by shorting the 2x short MicroStrategy ETF. And then you put the result in an ETF. It does feel like sort of a pinnacle of finance.

What could possibly go wrong? Well, if MicroStrategy goes steadily up every day, the 2x long ETF will actually return *more* than 2 times its long-term return (and the 2x short will be down more than -2 times the stock's long-term return). Byrne Hobart calls it "a form of tail-risk insurance: if one of the positions does well enough for long enough, the other one compounds to zero while the winner can get arbitrarily high." You are effectively doing a market-making strategy: You profit from volatility, from the stock bouncing around in both directions, but you get blown up by large monotonic moves. Someone is going to provide that market-making service to MicroStrategy levered ETF investors, and I guess the natural providers are *other* MicroStrategy levered ETF investors.

Ken Griffin real estate

If you are in the business of building expensive houses, one risk that you run is that you will spend a lot of money building a very expensive house but then, when you are done, no one will want to buy it. One way to avoid this risk is to spend even *more* money building *the very most expensive* house, because then, when you are done, Ken Griffin will have no choice but to buy it. Here's a funny Wall Street Journal story about Ken Griffin's love for expensive real estate:

Over the past 13 years, the billionaire Citadel founder, 56, has spent billions of dollars assembling an unparalleled portfolio of trophy properties across the country—Palm Beach, Miami, Chicago, New York and beyond. Industry insiders say his purchases, often for historically high prices, have, for better or worse, helped reshape the pricing dynamics of the high-end real-estate market.

"He's a whale's whale," said property appraiser Jonathan Miller of Miller Samuel. "In my career, I've really never run into somebody that singularly has dominated a segment of the market in so many different places. He's a prolific buyer of full retail-price real estate."

"Full retail-price real estate"! One possible interpretation here is that real estate used to be a normal good where wealthy sophisticated buyers tried to preserve their wealth and signal their sophistication by getting *good value*, but Griffin turned it into a status good, like fine art or sports teams, where wealthy sophisticated buyers try to signal their wealth and sophistication by *paying as much as possible*:

[Douglas Elliman agent Gary] Pohrer said Griffin's purchases have emboldened other moneyed buyers to spend nine figures on luxury homes. "Before, some buyers didn't want to be seen spending that much money on a house, but now that it's been done so many times, it's not that weird. They don't feel like they're overpaying."

In certain circles it would be embarrassing *not* to spend nine figures on your house, and that might be Griffin's doing.

Data privacy

You know how there was a wave of companies whose basic business plan was "we will lose money on our services, but we will accumulate a lot of customer data, and probably eventually that will be worth money"? MoviePass was probably [my favorite example](#) . Anyway here's a business model:

Eager to gain access to an exclusive establishment near Harvard University, biotech executives, doctors, lawyers and politicians filled out applications and handed over IDs, work badges and personal references.

This elite club was a high-end brothel charging up to \$600 an hour for sexual encounters in luxury apartments in Cambridge, Mass.

Now, that unusual trove of personal information is serving as evidence in a series of criminal hearings that have pulled back the curtain on upscale sex work. Dozens of prominent Boston-area men, who lost a legal battle for anonymity, are facing misdemeanor charges that have caused major public fallout. ...

The brothel, where young Asian women used names like Tulip and Tiki, also operated just outside Washington, D.C., but Virginia prosecutors said they declined to pursue charges against johns there.

I submit to you that if you run the Washington, D.C., branch of that business, charging \$600 an hour for sexual encounters is the *least* efficient way to monetize that meticulously maintained client database.

Things happen

[Price Hikes](#) Are Already Rolling in From Tariff-Hit Businesses. In Matter of Days, Outlook Shifts From Solid Growth to Recession Risk. Matt Klein on tariffs. Ray Dalio on tariffs. How Investing Will Change if the Dollar No Longer Rules the World. Crypto's [Trump Rally Evaporates](#) as Tariffs Savage Riskier Assets. [TikTok Deal Stalled](#) by China's Objections to Tariffs, Trump Says. Britain to dilute rules for smaller private equity firms and hedge funds. DeepSeek and Tsinghua Developing Self-Improving AI Models. [Tether](#) Explores New US Stablecoin Launch Targeting Institutions. Big Office Landlord Made \$4 Million in Previously Undisclosed Payouts to Its CEO. Buffett Says Comments Attributed to Him on X Are All False . Tesla Shares Plunge Below Lutnick's ' Never This Cheap ' Level. "Sharoubim, wearing gold Cartier bangles, said that he isn't worried about the extra costs because his clients are rich ."

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- 1. The IEEPA also requires Congress to review the emergency every few months, and it can pass a joint resolution terminating the emergency, but the joint resolution can be vetoed by the president to continue the emergency – effectively making him, not Congress, the decider.
- 2. Not legal advice!

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Here's how much Elon Musk has lost as Tesla protests spread from Wall Street to Main Street

 [marketwatch.com/story/heres-how-much-elon-musk-has-lost-as-tesla-protests-spread-from-to-wall-street-from-main-street-c0f33f05](https://www.marketwatch.com/story/heres-how-much-elon-musk-has-lost-as-tesla-protests-spread-from-to-wall-street-from-main-street-c0f33f05)

James Rogers

April 7, 2025

Tesla Inc. CEO Elon Musk has seen the value of his stake in the electric-vehicle maker plunge since President Donald Trump's inauguration amid an ongoing backlash over Musk's leadership role in the controversial entity known as the Department of Government Efficiency.

The backlash has turned Tesla's stock into a political football and sparked widespread "Tesla Takedown" protests against Musk. There have also been some counterprotests in support of Musk and Tesla.

Tesla shares

↓

TSLA

-1.92%

dropped 4.4% in midday trading on Monday and have tumbled 19.1% over the past three sessions. The stock has now plunged 46.3% since Trump's inauguration in January, as Wall Street views DOGE as a distraction for Musk at a time Tesla is seeing falling sales and increased competition.

Musk, who owns just under 410.8 million shares, or 12.8% of Tesla's outstanding shares, has seen the value of his stake fall by about \$81.2 billion since Trump became president.

Related: Tesla's stock gets caught in the crosshairs of the Trump-China trade war

Musk is still the world's richest person, with a net worth north of \$300 billion at last check, according to the Bloomberg Billionaires Index.

Still, Tesla's stock remains firmly in the spotlight as critics slam Musk, and as his supporters, including Trump, rally around him, most notably in a recent photo op promoting Tesla on the White House lawn.

On Monday, Wedbush analyst and longstanding Tesla bull Dan Ives cut his price target for the EV maker's stock by 43% to \$315, citing the maelstrom surrounding Musk and the "double whammy" of Trump's tariffs.

Related: Tesla's deliveries 'disaster' is a warning for Elon Musk: Focus on EVs, or else

"Tesla has unfortunately become a political symbol because of Musk and this is a very bad thing for the future of this technology stalwart," Ives wrote. "With major protests erupting globally at Tesla dealerships, Tesla cars being keyed, and a full brand crisis tornado turning into a life of its own this has cast a dark black cloud over Tesla's stock."

Ives is still officially bullish on the stock, as his lowered price target implies about 38% upside from current levels.

Of the 57 analysts surveyed by FactSet who cover Tesla's stock, 29 are bullish on Tesla's stock, 15 are neutral and 13 are bearish.

Protests against Musk, both large and small, are ongoing. Last Tuesday a small group of people gathered outside a Tesla service center in Gowanus, Brooklyn, for a lunchtime protest. "It's all about visibility and awareness right now," Kirsten Hassenfeld, who organized the Gowanus protest, told MarketWatch. "We have very little agency to push back against DOGE."

Related: Stocks have never been so political as Howard Lutnick says buy Tesla and Tim Walz says sell

The group of five protesters was getting plenty of support from passing motorists but was also the target of an angry shout of "Get a job!" from someone who drove past in a Tesla.

A protestor named Jen who has organized three protests in Canada told MarketWatch in a phone interview that she felt she "needed to do more than just passive action."

"I have never organized anything in my life until doing this," said the protester, who declined to give her last name. She scoffed at Musk's suggestion that protestors are getting paid. "Paid? When is my check coming?" she quipped. "We're willing to hate Elon for free."

Related: Tesla shares tumble after bullish analyst Dan Ives slashes price target 43%

At the other end of the political spectrum, counterprotestors have been coming out to support Musk. On March 29, which Tesla Takedown organizers designated as a "day of action" against Musk and his company, the Alachua County Republican Party organized a counterprotest outside a Tesla service center in Gainesville, Fla.

The group's chair, Tim Marden, told MarketWatch that the idea came from one of its members following media reports of protests and "negativity" at Tesla locations, as well as vandalism at some Tesla sites.

"We just wanted to bring a more positive element, to push back against that narrative," Marden said.

About 150 people turned up for the counterprotest, some of whom had traveled 50 miles to attend, according to Marden. The Gainesville Sun reported that there were a similar number of anti-Musk protestors on the other side of the street.

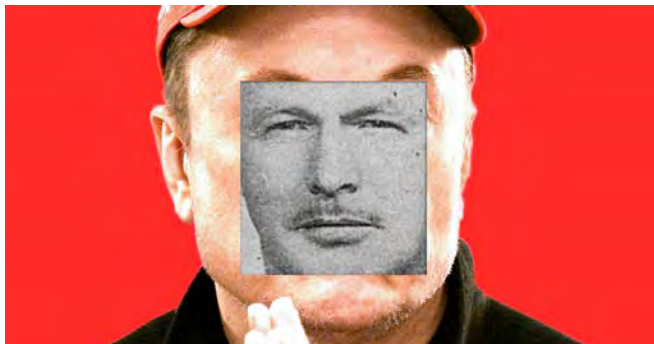
“It really was an opportunity to reinforce our votes from last November,” Marden told MarketWatch. “We can’t just leave it up to Trump to do everything. We have to do our part.”

The Failed Ideas That Drive Elon Musk

 [nytimes.com/2025/04/04/opinion/elon-musk-doge-technocracy.html](https://www.nytimes.com/2025/04/04/opinion/elon-musk-doge-technocracy.html)

Jill Lepore

April 4, 2025



President Trump has reportedly told cabinet members that Elon Musk may soon leave the administration. If and when he goes, what will he leave behind?

Mr. Musk has long presented himself to the world as a futurist. Yet, notwithstanding the gadgets — the rockets and the robots and the Department of Government Efficiency Musketeers, carrying backpacks crammed with laptops, dreaming of replacing federal employees with large language models — few figures in public life are more shackled to the past.

On the day of Donald Trump’s inauguration, Mr. Musk told a roaring, jubilant crowd that the election marked “a fork in the road of human civilization.” He promised to “take DOGE to Mars” and pledged to give Americans reasons to look “forward to the future.”

In 1932, when civilization stood at another fork in the road, the United States chose liberal democracy, and Franklin Roosevelt, who promised “a new deal for the American people.” In his first 100 days, Mr. Roosevelt signed 99 executive orders, and Congress passed more than 75 laws, beginning the work of rebuilding the country by establishing a series of government agencies to regulate the economy, provide jobs, aid the poor and construct public works.

Mr. Musk is attempting to go back to that fork and choose a different path. Much of what he has sought to dismantle, from antipoverty programs to national parks, have their origins in the New Deal. Mr. Roosevelt’s Works Progress Administration provided 8.5 million Americans with jobs; Mr. Musk has measured his achievement in the number of jobs he has eliminated.

Four years ago, I made a series for the BBC in which I located the origins of Mr. Musk’s strange sense of destiny in science fiction, some of it a century old. This year, revising the series, I was again struck at how little of what Mr. Musk proposes is new and by how many of

his ideas about politics, governance and economics resemble those championed by his grandfather Joshua Haldeman, a cowboy, chiropractor, conspiracy theorist and amateur aviator known as the Flying Haldeman. Mr. Musk's grandfather was also a flamboyant leader of the political movement known as technocracy.

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Leading technocrats proposed replacing democratically elected officials and civil servants — indeed, all of government — with an army of scientists and engineers under what they called a technate. Some also wanted to annex Canada and Mexico. At technocracy's height, one branch of the movement had more than a quarter of a million members.

Under the technate, humans would no longer have names; they would have numbers. One technocrat went by 1x1809x56. (Mr. Musk has a son named X Æ A-12.) Mr. Haldeman, who had lost his Saskatchewan farm during the Depression, became the movement's leader in Canada. He was technocrat No. 10450-1.

Technocracy first gained worldwide attention in 1932 but soon splintered into rival factions. Technocracy Incorporated was founded and led by a former New Yorker named Howard Scott. Across the continent, rival groups of technocrats issued a flurry of tracts, periodicals and pamphlets explaining, for instance, how "life in a technocracy" would be utterly different from life in a democracy: "Popular voting can be largely dispensed with."

Technocrats argued that liberal democracy had failed. One Technocracy Incorporated pamphlet explained how the movement "does not subscribe to the basic tenet of the democratic ideal, namely that all men are created free and equal." In the modern world, only scientists and engineers have the intelligence and education to understand the industrial operations that lie at the heart of the economy. Mr. Scott's army of technocrats would eliminate most government services: "Even our postal system, our highways, our Coast Guard could be made much more efficient." Overlapping agencies could be shuttered, and "90 percent of the courts could be abolished."

Decades ago, in the desperate, darkest moment of the Depression, technocracy seemed, briefly, poised to prevail against democracy. "For a moment in time, it was possible for thoughtful people to believe that America would consciously choose to become a technocracy," writes William E. Akin, the author of the definitive historical study of the movement, "Technocracy and the American Dream." In the four months from November 1932 to March 1933, The New York Times published more than 100 stories about the movement. And then the bubble appeared to burst. By summer, Technocrats Magazine and The Technocracy Review had gone out of print.

There are a few reasons for technocracy's implosion. Its tenets could not bear scrutiny. Then, too, because technocrats generally did not believe in parties, elections or politics of any kind — "Technocracy has no theory for the assumption of power," as Mr. Scott put it — they had little means by which to achieve their ends.

But the chief reason for technocracy's failure was democracy's success. Mr. Roosevelt was inaugurated on March 4 and immediately began putting the New Deal in place while calming the nation with a series of fireside chats. By May, E.B. White in *The New Yorker* could write technocracy's epitaph: "Technocracy had its day this year, and it was characteristic of Americans that they gave it a whirl and then dropped it as they had dropped miniature golf."

Nevertheless, technocracy endured. Its spectacles grew alarming: Technocrats wore identical gray suits and drove identical gray cars in parades that evoked for concerned observers nothing so much as Italian Fascists. Mr. Musk's grandfather was a technocracy stalwart. In 1940, when Canada banned Technocracy Incorporated — out of fear that its members were plotting to undermine the government or the war effort — Mr. Haldeman took out an ad in a newspaper, proclaiming technocracy a "national patriotic movement." Weeks later, when he tried to enter the United States for a technocracy speaking tour, he was denied entry at the border, possibly because of a new passport regulation that barred travel into the United States to "an alien whose entry would be contrary to the public safety" (something of an irony, given the current administration's border policies). In Vancouver, British Columbia, he was arrested, convicted and sentenced to a fine or two months in jail. He later joined the antisemitic Social Credit Party, becoming its national chairman.

Mr. Haldeman retired from politics in 1949 and soon began thinking about moving to South Africa, which in 1948 announced the policy of apartheid. In 1950 he moved to Pretoria, where he wrote and distributed typewritten conspiratorial tracts. (Most have disappeared, but in 2023 I discovered several in university and private collections.) In May 1960, for instance, he wrote a pamphlet called "The International Conspiracy to Establish a World Dictatorship and Its Menace to South Africa," a response to the unrest after the Sharpeville massacre. During those protests, Nelson Mandela was among 11,000 people arrested and jailed. Mr. Haldeman suggested the uprising had been staged.

He furthermore believed the West had been the subject of an "intensive mass mind conditioning" experiment, in which ideas he considered ludicrous, like the equality of races and the immorality of apartheid, were being spread by newspapers, magazines, radio, television and especially university professors. Convinced the government was riddled with waste, he also proposed a finance committee to combat inefficiency, writing in all caps, "A watchdog financial agency is needed."

That Mr. Musk has come to hold so many of the same beliefs about social engineering and economic planning as his grandfather is a testament to his profound lack of political imagination, to the tenacity of technocracy and to the hubris of Silicon Valley.

Mr. Musk left South Africa for Canada in 1989, where he stayed with family in Saskatchewan. His grandfather's memory loomed large; not long afterward, his uncle Scott Haldeman, who had left Pretoria to pursue graduate studies in British Columbia, wrote an article in which he described Joshua Haldeman as holding "national and international stature as a political economist."

In 1995, after studying at the University of Pennsylvania, Mr. Musk left a Ph.D. program at Stanford to become a tech entrepreneur. He started a company called X.com in 1999. "What we're going to do is transform the traditional banking industry," he said. (Technocrats also planned to abolish banks. "We don't need banks, bandits or bastards," Joshua Haldeman once wrote.) Mr. Musk made a fortune when eBay acquired PayPal, which had merged with X.com, but in 2017 he bought back the URL, and it was ready to hand when he purchased Twitter and renamed it X, hoping to kill what he called the "woke mind virus" — echoes of his grandfather's "mass mind conditioning." Much that Mr. Musk has attempted to do at DOGE can be found in the technocracy manuals of the early 1930s.

Mr. Musk's possible departure from Washington will not diminish the influence of Muskism in the United States. His superannuated futurism is Silicon Valley's reigning ideology. In 2023 the venture capitalist Marc Andreessen, who helped staff DOGE, wrote "The Techno-Optimist Manifesto," predicting the emergence of "technological supermen." It consists of a list of statements:

We can advance to a far superior way of living and of being.
We have the tools, the systems, the ideas.
We have the will. ...
We believe this is why our descendants will live in the stars. ...
We believe in greatness. ...
We believe in ambition, aggression, persistence, relentlessness — strength.

Mr. Andreessen cited, among his inspirations, Filippo Tommaso Marinetti, who in 1909 wrote "The Futurist Manifesto," which glorified violence and masculine virility and opposed liberalism and democracy. It, too, is a list of statements:

We want to sing the love of danger, the habit of energy and rashness.
We want to exalt movements of aggression, feverish sleeplessness, the double march,
the perilous leap, the slap and the blow with the fist. ...
We want to sing the man at the wheel. ...
We want to demolish museums and libraries, fight morality, feminism. ...
Standing on the world's summit, we launch once again our insolent challenge to the
stars!

Ten years after Mr. Marinetti wrote "The Futurist Manifesto," fists raised to the stars, he co-wrote the founding document of the movement led by Mussolini: "The Fascist Manifesto."

Muskism isn't the beginning of the future. It's the end of a story that started more than a century ago, in the conflict between capital and labor and between autocracy and democracy. The Gilded Age of robber barons and wage-labor strikes gave rise to the Bolshevik Revolution, Communism, the first Red Scare, World War I and Fascism. That battle of ideas produced the technocracy movement, and far more lastingly, it also produced the New Deal and modern American liberalism. Technocracy lost because technocracy is incompatible with freedom.

That is still true, but unlike his forefathers, Mr. Musk does have a theory for the assumption of power. That theory is to seize power with the dead robotic hand of the past. It remains for the living to wrest free of that grip.

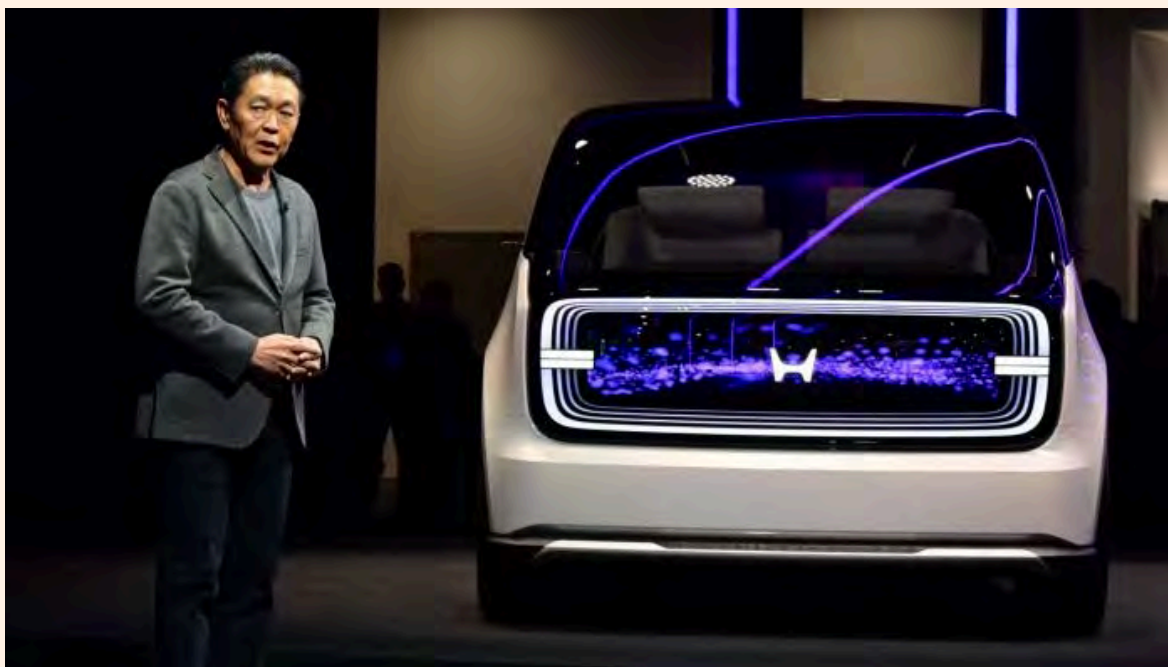
Jill Lepore is a professor of history and law at Harvard, a staff writer for The New Yorker and the host of the BBC podcast "X-Man: The Elon Musk Origin Story."

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Honda Motor Co Ltd

Top Honda executive resigns after allegation of inappropriate conduct

Number two official Shinji Aoyama is corporate Japan's latest business leader to depart in ignominy



Honda said Shinji Aoyama submitted his resignation after the audit committee conducted an investigation into the allegation and was ready to take a decision on disciplinary action © Frederic J. Brown/AFP/Getty Images

Harry Dempsey in Tokyo

Published 4 HOURS AGO



A top Honda executive has resigned abruptly after an allegation that he had engaged in inappropriate conduct during a social gathering, becoming corporate Japan's latest business leader to depart in ignominy.

[Honda](#) said late on Monday that its number two executive Shinji Aoyama submitted his resignation after the audit committee conducted an investigation into the allegation and was ready to take a decision on disciplinary action.

Japan's second-largest carmaker said that Aoyama, a key part of the management team, had been accused of "inappropriate conduct during a social gathering outside of work hours".

It was “deeply regrettable” that its executive vice-president, who was “expected to set an example for the respect of human rights and compliance with relevant laws and regulations, has become the subject of an allegation of conduct contrary to these principles”, the company added.

Honda chief executive Toshihiro Mibe will voluntarily return 20 per cent of his monthly pay for two months “in light of the seriousness of this matter and based on his role as leader of the management team”.

A spokesperson for Honda declined to provide further details on the nature of the allegation. Aoyama could not be immediately reached for comment.

The departure of Aoyama, who joined the company in 1986 and rose up its ranks, comes after its attempt to take over rival Nissan to create the world’s fourth-largest carmaker fell apart two months ago.

His exit comes as Japan grapples with a series of other high-profile executive misconduct scandals.

Fuji Media Holdings held a 10 hour news conference in January, at which it announced executives [stepping down](#) over the network’s handling of a sexual misconduct investigation related to former entertainment star Masahiro Nakai.

Japan’s top oil company Eneos has parted ways with a trio of executives since 2022 due to allegations of sexual harassment of women outside of work.

Japanese labour law is increasingly shifting towards the consideration of employee behaviour outside of the office that could negatively impact the company.

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April 7, 2025, 6:00AM PDT

Crypto's Trump Rally Evaporates; XRP Leads Altcoin Losses

Cryptocurrencies wiped out almost all their gains since Donald Trump's election win in early November as fallout from the US president's tariff onslaught sparked heavy selling in an asset class he's vowed to champion.

Bitcoin briefly tumbled below \$75,000 on Monday for the first time since Nov. 7, dropping as much as 5.3% before recovering slightly. Smaller tokens remained subdued, however, with XRP, Solana and Cardano all trading down between 5% and 10% as of 8:57 a.m. in New York. Ether traded at its lowest since March 2023.

The total market capitalization of all cryptocurrencies fell about 11% to \$2.5 trillion, roughly where it stood when Trump sealed his victory, according to CoinGecko data.

The slide comes as Trump dug in on sweeping [tariffs](#) that have already wiped trillions in value from global equities, and dashed hopes that crypto would withstand the pressure better than other assets. Asian and European stocks and US equity-index futures [slumped](#) on Monday, while the yen surged in a sign of deepening turmoil throughout financial markets.

The crypto industry was incredibly supportive of Trump's second term, ranking as one of the highest bankrollers of his electoral campaign last year. In return, US authorities have dismissed or paused most high-profile investigations into crypto businesses, while lawmakers push ahead with new legislation to regulate the sector.

"Crypto came into 2025 expecting a Trump tailwind and got a Category 5 storm instead," said Matthew Graham, chief executive and founder of crypto-focused venture capital firm Ryze Labs. "We expected the tailwind, and in return, he stiffed us."



CoinGlass data show about \$1.2 billion worth of bullish crypto wagers were liquidated in the past 24 hours, the most since early December.

Options markets suggest the selling pressure may continue "with the skew for puts picking up considerably," said Sean McNulty, head of APAC derivatives at digital-asset prime brokerage FalconX.

Open interest – or the total number of outstanding contracts – for put options with a strike price of \$70,000 is currently higher than for any other expiry, according to data from derivatives exchange Deribit. That highlights a growing demand for further downside protection.

Digital assets had shown some resistance to the panic that roiled markets after Trump first unveiled his tariff program, hinting at a possible [breakaway](#) from the gravitational pull of technology stocks. Monday's selloff indicates that the high positive correlation between crypto and the Nasdaq 100 that has prevailed since the Covid-19 pandemic may persist.

Read more: [Bitcoin's Correlation With Stocks Shows Signs of Breaking Down](#)

"Crypto is typically a leading indicator for risk assets," said Julia Zhou, COO at crypto market maker Caladan.

(Updates chart and pricing throughout, adds quote in fifth paragraph.)

--With assistance from **Emily Nicolle**.

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Ryan Weeks, Dave Liedtka

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SEC Says Stablecoins Aren't Securities That Require Registration

Stablecoin issuers and exchanges got a boost Friday from the Securities and Exchange Commission after the agency's staff determined that the assets, generally, aren't securities.

That means they won't have to be registered with the markets regulator.

The determination applies as long as a crypto asset is backed by a stable currency such as the US dollar, a commodity like gold or a pool of other assets, the staff said in a statement.

"The SEC just drew a clear line: stablecoins backed 1-for-1 with high quality liquid assets — like USDC — are NOT securities," **Heath Tarbert**, president of stablecoin provider Circle Internet Group, said in an emailed statement. "This certainty does not extend to other digital assets just because they call themselves 'stablecoins.'"

A definitive decision about whether a stablecoin must be registered with the SEC still must be done on a case-by-case basis, the SEC said in a footnote.

The determination is likely to help stablecoin legislation and a forthcoming digital asset market-structure bill move through Congress.

House and Senate versions of a stablecoin bill already have been reported out of committee. The House Financial Services Committee is set to hold its first hearing on a market-structure bill next week.

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Tether Explores New US Stablecoin Launch Targeting Institutions

Stablecoin issuer Tether Holdings SA is considering launching a US-based token aimed at institutional clients, as the company looks to capitalize on President Donald Trump's pro-crypto administration.

The stablecoin would likely target institutions seeking faster settlement for payments between banks, Tether Chief Executive Officer **Paolo Ardoino** said during an interview with Bloomberg's Odd Lots podcast.

Ardoino made his first visit to the US in March and stopped off in Washington while Trump held his inaugural digital-asset summit. The president has embraced the crypto industry by appointing friendly regulators, launching his own memecoin and endorsing a decentralized finance project called World Liberty Financial along with his sons. Trump has also gotten behind a stablecoin bill which is now progressing through Congress.

Support for that bill is what prompted Tether to explore the launch of a US-based alternative to its flagship product USDT, according to Ardoino. "We are discussing that opportunity," he said. "We need to wait for the final language and to see which bill will pass but definitely we are open to that."

Ardoino previously discussed the idea of a US-based stablecoin on an episode of the "On The Brink" podcast.

El Salvador-based Tether has a checkered history in the US. In 2021, the company paid \$41 million to settle US allegations that it lied about its reserves. Today, those reserves are managed by Cantor Fitzgerald & Co., which was until recently led by Trump's Secretary of Commerce Howard Lutnick.

Tether's USDT — which is designed to closely match the price of the dollar — has reached a market capitalization of \$144 billion, making it by far the largest stablecoin globally. Tether said it reaped about \$13 billion in profits in 2024, largely generated by parking the reserves that back its stablecoin in US Treasuries and other cash-like assets.



Ari Redbord, global head of policy at TRM Labs, center, David Feder, law enforcement relations council at TRON, right, and Paolo Ardoino, chief executive officer of Tether Holdings Ltd., on screen, during the DC Blockchain Summit in Washington, DC, US, on March 26, 2025.

Photographer: Kent Nishimura/Bloomberg

While USDT is popular among crypto traders, Tether also focuses on giving people in emerging markets access to its dollar surrogate. The idea is that a dollar-pegged cryptocurrency offers a haven for people in countries such as Argentina, where the local currency is more volatile.

Such customers “will stay with you as long as you can prove to them that you have the solid product they can trust for their family savings,” Ardoino said, adding that 40% of all USDT holders use the token as a savings tool.

In the US, where access to dollars is readily available, any stablecoin launched by Tether would be aimed at institutions, as “the product-market fit is completely different than a stablecoin that is used in Africa,” he added.

Potential Audit

The more supportive regulatory environment in the US has also helped Tether progress toward delivering a long-awaited audit of its reserves by a big four accounting firm, according to Ardoino. Currently, Tether releases quarterly attestations which are signed off by BDO Italia SpA.

The administration change has made it possible for Tether “to start to deal with big four auditing firms,” Arduino said. “We committed a few times and we provided timelines that were not realistic.”

In March, Tether appointed Simon McWilliams as its new chief financial officer. Circle Internet Financial LLC, Tether’s closest rival, has published independent audits since 2015. Deloitte & Touche LLC has served as Circle’s independent auditor since 2022. Before that, Grant Thornton LLP acted as the company’s independent auditor, according to the company’s website.

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FTX Expunges Nearly 400,000 Unverified Crypto Customer Claims

- Claimants failed to timely begin 'know your customer' process
- Erased bankruptcy claims likely worth hundreds of millions

FTX Trading Ltd. expunged close to 400,000 creditor claims of customers who failed to timely commence the process to verify their identities.

FTX account holders had until March 3 to at least begin the process of verifying their claims via the "know your customer" procedure to collect from the defunct cryptocurrency platform's bankruptcy estate. But roughly 392,000 customers failed to take initial steps to satisfy KYC compliance, according to papers filed in the US Bankruptcy Court for the District of Delaware.

In accordance with court-approved procedures, the unverified claims have been "expunged and disallowed" in their entirety, the company said in its April 2 filing, which included a list of claims spanning 2,377 pages.

FTX didn't provide a calculated value of removed claims. But as of late January, some 460,000 unverified claims eligible for compensation were collectively worth about \$1 billion, according to calculations by claims-market.com.

The bankruptcy claims trading site said Friday it is in the process of calculating the total value of expunged claims. All compensable customer claims are worth at least \$10.

FTX last year won bankruptcy court approval to liquidate in Chapter 11 and distribute between \$12.6 billion and about \$16.5 billion to customers whose crypto holdings were trapped on the website when the company collapsed into bankruptcy in November 2022.

The estate, once run by convicted fraudster Sam Bankman-Fried, is providing full cash recoveries to creditors based on the value of their digital currency holdings when the bankruptcy commenced.

Now run by wind-down expert John J. Ray III, FTX has said that customer accounts needed to be verified because the company previously "failed to perform basic due diligence on customers" and often "failed to collect information about the source of funds" sent on the exchanges.

Customers who have commenced the KYC process have until June 1 to complete it, or they too will have their claims expunged.

FTX is represented by Sullivan & Cromwell LLP and Landis Rath & Cobb LLP.

The case is In re FTX Trading Ltd. , Bankr. D. Del., No. 22-11068, Notice issued 4/2/25 .

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Trump's Trade War Looks Brutal for Finance, Too: Paul J. Davies (1)

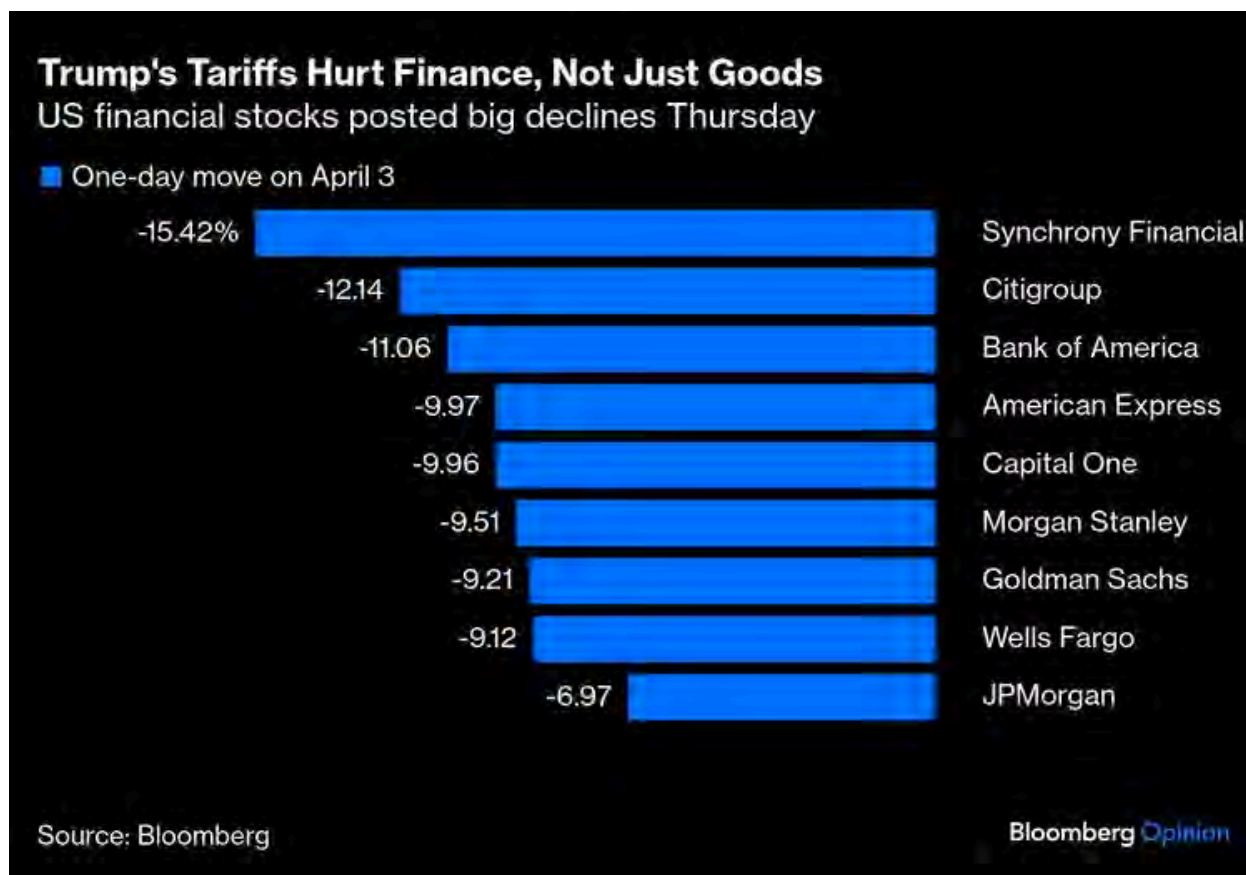
Opinion

President Trump's mad trade war is all about goods, but financial services are also suffering from the White House's arbitrary global tariffs. Bank stocks sold off harder than the wider S&P 500 index on Thursday, and that looked like continuing on Friday. The reason is that unless something changes fast, this industry is about to get hit from all sides at once.

For banking, credit card lending, money management and investment banking, Trump's attempt to take on the world and bully friend and foe alike into reversing their goods trade balances promises to be a nasty mix. Inside the US, it raises the specter of stagflation, the worst possible economic environment for banks because inflation and low growth (or even recession) drive up loan losses. Whatever the Federal Reserve does will be painful for lenders. Maintain high interest rates to tackle the inflationary effect of tariffs, and bad loans will rise rapidly as jobs are lost. Cut rates faster to cope with a worse slowdown — which is what markets are betting on — and interest income gets squeezed faster while credit losses still likely rise.

Lower-income workers and families undoubtedly suffer first and most, so consumer finance company stocks have been among the biggest fallers. Shares in Synchrony Financial were down more than 15% over the week, while American Express Co. and Capital One Financial Corp. were also big losers.

Commercial borrowers big and small across the country will struggle with a pick-and-mix of higher costs, falling profit margins and slower sales. Again, that spells problem loans. Bank of America Corp. and Citigroup Inc. stocks were down about more than 11% each. Citigroup looks worse off because financing global trade is one of its main businesses — nearly half its corporate loan book is to international companies.



Outside of the US, shares of big trade-focused banks also did poorly, with HSBC Holdings Plc and Standard Chartered Plc, both deeply embedded in Asia, getting squished between the belligerence of Trump and China. The former is down 15% and the latter 20% since Wednesday.

There was no respite for investment banks or wealth managers either. Deals and capital markets work has already been a big disappointment this year, and bankers have started to wake up to the reality Trump has created in recent weeks. The president's shock-and-awe campaign of carpet-tariffing only darkens their outlook further. More stock market declines could halt even initial public offerings that have got quite far down the track. The European buy-now-pay-later lender Klarna Group Plc was meant to list in the US this month — but the sliding dollar and tumbling valuations of financial and technology companies are making its potential proceeds look thinner by the day. I wrote on Friday morning it might need to rethink — and this afternoon it paused its plans, according to the Wall Street Journal.

For US wealth and asset managers, there's a double threat. Falling markets shrink fund values and so cut management fees, that's straightforward enough. But also the trade deficit Trump is determined to reverse has an unavoidable reflection in capital inflows. Companies and people that sell into the US have dollar proceeds to invest — and guess what, those dollars find their way back into US financial assets. Stop buying so many goods from abroad and foreigners will stop putting money into US bonds, stocks and private funds. Everyone from Morgan Stanley to KKR & Co. is having their futures diminished by these effects — and their stock prices have joined the slide.

Then, of course, if the trade wars escalate, which seems very much on the cards, then retaliations could easily move beyond into services trade, too. Trump thinks the world has been robbing America blind because of its goods-trade deficit, which was about \$1.2 trillion last year. By the same logic, America's silver-tongued bankers, lawyers and real estate agents have been pick-pocketing the rest of the world for years, generating a surplus last year of about \$300 billion. If, through explicit policy or patriotic feeling, companies around the world start eschewing American services, that's not going to be great for its bankers either.

US financial groups aren't alone. Banks stocks across the world are getting hammered, particularly those in European nations most exposed to industrial trade — like Deutsche Bank AG of Germany or UniCredit SpA of Italy — or those most focused on international capital flows — such as Barclays Plc in the UK or BNP Paribas SA of France. The saving grace for European bank stocks is that they have been on a tear for some time, which accelerated when Trump won last November's election. Deutsche Bank might be down 15% in the past two days, but it's still up more than 20% since Nov. 4.

Maybe the market reactions will encourage Trump to reflect on the wisdom of lobbing cluster bombs into the world economy. Watching the capitalist carnage on Thursday, Trump posted: "I think it's going very well — the MARKETS are going to BOOM..." In financial businesses across the US and beyond, people are no doubt thinking that they'd hate to see what the plan would look like if it was going badly.

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(Adds report of Klarna pausing its IPO, in sixth paragraph.)

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Radius Health Stockholders Sue Ex-CEO After \$890M Co. Sale

By **Jeff Montgomery**

Law360 (April 4, 2025, 8:30 PM EDT) -- Stockholders of global biopharmaceutical venture Radius Health Inc. sued the company's former CEO G. Kelly Martin late Thursday in Delaware's Court of Chancery, alleging breaches of fiduciary duty related to the company's purportedly undervalued, \$890 million sale in August 2022.

The proposed suit asserted that Martin, who joined the company in April 2020, pushed the sale through for consideration at a price that was lower than its standalone value, under terms that included additional payments based on unattainable post-closing values.

According to the complaint, Martin had a history of joining and then selling companies in conflicted deals that provided him with "golden parachute" exit terms.

The suit noted that, between March and December 2020, prior to the company's sale, Radius saw turnover in five of eight board seats, including its chairman and CEO, with its chief financial officer being replaced twice.

All five new board members "had connections among themselves and had a substantial connection with Martin who had a well-documented history of appointing friends and colleagues to companies he controlled and enriching himself by selling public companies and reaping generous golden parachute payments," the complaint said.

Martin's record began to sour soon after his arrival, according to the complaint, when Radius acquired an orphan, cannabis-related, developmental therapeutic drug that caused the company's expenses to balloon.

Soon afterward, Radius came under criticism from Institutional Shareholder Services, which first recommended that stockholders vote against Martin and another board member, and later called for a proxy contest and replacement of the board and management.

Mounting pressure from the activist investors and ISS prompted Martin to seek an exit from the business, the suit said. He allegedly sought accelerated vesting of shares for company insiders, while the board reversed its position and supported an \$11.25 per-share offer that it had previously backed, then rejected, purportedly under activist investor pressure.

"To avoid the embarrassment to the directors of losing the impending proxy contest, and to secure Martin's golden parachute, the board and Martin agreed to sell the company for a discount to what they had only one month prior rejected," the complaint said.

By March 2022, Radius' second-largest shareholder, Rubric Capital Management, was asked to sign a one-year nondisclosure agreement while in discussions with Radius regarding its underperformance.

In a letter to the company in June 2022, the complaint said, Rubric described the NDA move as "a preemptive attempt on the part of Radius to muzzle its second-largest stockholder in the event of a proxy contest. In our view, this is the behavior of a board and management team that are not aligned with their shareholders and [is] unacceptable at any company."

The suit asserted a single breach of fiduciary duty count against Martin, asserting that he served as

Radius' CEO "throughout the alleged wrongs," and "sought and secured personal benefits for himself and other company insiders not shared by stockholders in the merger while failing to seek the best reasonably available value."

Counsel for the stockholder class did not immediately respond to a request for comment Friday.

The proposed stockholder class is represented by Christopher P. Quinn, Michael J. Palestina and Gina M. Palermo of Kahn Swick & Foti LLC, and Juan E. Monteverde and Miles D. Schreiner of Monteverde & Associates PC.

Counsel information for Martin was not immediately available Friday.

The case is Maggie Walton and Charles Morrison v. G. Kelly Martin, case number 2025-0330, in the Court of Chancery of the State of Delaware.

--Editing by Melissa Treolo.

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Chancery Trims Claims, Limits Ruling On Focus Financial Suit

By **Jeff Montgomery**

Law360 (April 4, 2025, 8:31 PM EDT) -- Delaware's chancellor has heavily pruned but refused to entirely dismiss a stockholder suit challenging the \$7 billion August 2023 go-private merger between Focus Financial Partners Inc. and Clayton Dubilier & Rice LLC and Stone Point Capital, with remnants held over for summary judgment.

Chancellor Kathaleen St. J. McCormick said Thursday that she throttled back the suit in order to limit discovery to a single remaining alleged disclosure breach in the complaint after scuttling claims alleging tainting of the deal by conflicted controllers. Also left for summary review are aiding and abetting claims against the buyer and financial adviser — claims only viable if the disclosure count survives.

"Given the dispositive nature of plaintiffs' one viable disclosure issue on the outcome of defendants' motions, the court is converting the motions to dismiss into motions for summary judgment to explore the factual bases for this limited issue," the chancellor's **opinion** said.

Two pension fund stockholders in early 2024 sued multiple parties involved in the deal, which cashed out shares of FFP for \$53 apiece, excluding those owned by Stone Point, which converted to equity in the post-merger business.

The suit branded the agreement an unfair, conflicted controller transaction that should be judged under plaintiff-friendly entire fairness standards or under "enhanced scrutiny" standards still less deferential to business judgment because of the all-cash terms.

"Absent a conflicted controller, the plaintiffs' claims are presumptively subject to enhanced scrutiny unless the transaction is approved by a fully informed, uncoerced vote of the disinterested stockholders," the chancellor wrote.

Although the deal was approved by disinterested stockholders, attorneys for the pension fund argued that the vote was uninformed due to eight disclosure deficiencies. Only one of the eight, however, was said to have given the court "pause."

"The plaintiffs have not adequately alleged the existence of a controller or control group to invoke entire fairness review," the chancellor wrote, adding separately that the pension fund was correct in arguing that the deal arrangement "placed the stockholder in conflict with the company's minority stockholders."

During dismissal arguments in October 2024, attorneys for those sued told Chancellor McCormick that the suit failed to show the kind of relationships needed to carry the complaint and lacked evidence of "significant historical or actual ties" among those named.

Counsel for the pension fund stockholders said during the same arguments that the deal was pushed through during a meeting where Stone Point's directors and FFP management paused a board special committee meeting and boosted the compensation of the chairman and special committee members four- to fivefold before moving to approval.

Chancellor McCormick found that the compensation terms were disclosed in the deal proxy statement and rejected arguments that the terms were "uncertain, contingent," or lacking "objective

benchmarks."

Counsel for the parties did not immediately respond to requests for comment.

Anchorage Police & Fire Retirement System is represented by Derrick B. Farrell, Matthew L. Miller, Robert B. Lackey and Javier Bleichmar of Bleichmar Fonti & Auld LLP and Christine M. Mackintosh, Vivek Upadhy and Casimir O. Szustak of Grant & Eisenhofer PA.

Teamsters Union No. 142 Pension Fund is represented by Ned C. Weinberger, Michael C. Wagner, Dominico Minerva and John Vielandi of Labaton Keller Sucharow LLP, Craig J. Springer of Andrews & Springer LLC, Eric L. Zagar, Cameron N. Campbell and Lauren C. Lummus of Kessler Topaz Meltzer & Check LLC and Jeremy S. Friedman, David Tejtzel, Christopher M. Windover and David A. Rosenfeld of Friedman Oster & Tejtzel PLLC.

James D. Carey, Fayez S. Muhtadie, Stone Point Capital LLC and related funds are represented by Raymond J. DiCamillo, Robert L. Burns, Matthew W. Murphy and Nicholas F. Mastria of Richards Layton & Finger PA and Jonathan K. Youngwood, Craig S. Waldman and Jacob Lundqvist of Simpson Thacher & Bartlett LLP.

Clayton Dubilier & Rice LLC, Ferdinand FFP Acquisitions LLC, et al., are represented by A. Thompson Bayliss, E. Wade Houston and Bryan M. Blaylock of Abrams & Bayliss LLP and Matthew Solum and Mary T. Reale of Kirkland & Ellis LLP.

Rudy Adolf and Rajini Kodialam are represented by Rolin P. Bissell and Alberto E. Chavez of Young Conaway Stargatt & Taylor LLP and Craig E. Zieminski and Andrew E. Jackson of Vinson & Elkins LLP.

Goldman Sachs & Co. LLC is represented by S. Mark Hurd and Courtney Kurz of Morris Nichols Arsht & Tunnell LLP and Robert J. Giuffra Jr., Jonathan S. Carter and Alexander S. Gross of Sullivan & Cromwell LLP.

The case is Anchorage Police & Retirement System and Teamsters Union No. 142 Pension Fund on behalf of themselves and all other former stockholders of Focus Financial Partners Inc. v. Rudy Adolf et al., case number 2024-0354, in the Court of Chancery of the State of Delaware.

--Editing by Rich Mills.

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Musk Atty Objects To 'Outrageous' Deposition Request

By **Jessica Corso**

Law360 (April 4, 2025, 8:05 PM EDT) -- Elon Musk's attorney has said it's "outrageous" that a class of former Twitter investors is trying to depose the attorney in a case accusing Musk of intentionally tanking the social media platform's stock price, telling a California federal judge the move threatens to undermine his attorney-client relationship.

Alex Spiro of Quinn Emanuel Urquhart & Sullivan LLP moved Thursday to quash a subpoena he received from a class of investors suing his client, Musk, over statements the billionaire made in the lead-up to his purchase of Twitter, now renamed X.

Spiro said deposing him could reveal confidential legal advice he gave to Musk as the Twitter deal was being hashed out.

"Most litigants would not even make such an outrageous request on a record like this," Spiro said. "Plaintiffs apparently are banking that the notoriety of client and counsel will cause the court to overlook the 'strong presumption' against deposing trial counsel."

Attorneys for the suing investors declined to comment Friday.

According to Spiro's motion to quash, the investor class would like to question Spiro about conversations he had with Musk about a series of statements Musk made in May 2022.

Shareholders **have said the statements**, which included claims about alleged bots on the platform, were part of an attempt by Musk to drive down Twitter's stock price in order to back out of a promise to buy the social media company or else to renegotiate a lower price.

Musk first tried to back out of the promised \$44 billion purchase but later **agreed to close the deal** after the company sued him in Delaware.

Spiro said Thursday another reason for the court to reject an attempt to subpoena him is that the investors could just ask Musk about the statements, instead. And while he defended Musk in the Delaware case, Spiro said he did not help the billionaire draft documents necessary for the Twitter purchase as he is not a transactional attorney.

"Plaintiffs' topics list does not identify a single category of information about which Spiro possesses any unique knowledge," the Quinn Emanuel partner said.

Musk **agreed to sit** for a deposition in the case last month after the Ninth Circuit **rejected his immediate appeal** of a decision to certify the class in the case.

But Musk did not appear for his scheduled April 3 deposition for reasons that were not publicly revealed, according to a declaration Spiro submitted Thursday. The declaration said Spiro "arrived to transport Mr. Musk to the deposition location" in Washington, D.C., and the reason that Musk was not able to make it is redacted in the document.

It said Musk's attorneys offered to reimburse the class and to reschedule the deposition "for the earliest mutually agreeable date."

Spiro and other Quinn Emanuel attorneys didn't immediately respond to a request for comment.

The shareholders are represented by Joseph W. Cotchett, Mark C. Molumphy, Tyson C. Redenbarger, Gia Jung and Caroline Yuen of Cotchett Pitre & McCarthy LLP, and Francis Bottini Jr., Albert Y. Chang and Aaron P. Arnzen of Bottini & Bottini Inc.

Musk is represented by Alex Spiro, Jesse Bernstein, Jonathan Feder, Michael T. Lifrak, Joseph C. Sarles, Stephen A. Broome, Nathan Archibald and M. Alex Bergjans of Quinn Emanuel Urquhart & Sullivan LLP.

The case is Giuseppe Pampena et al. v. Elon Musk, case number 3:22-cv-05937, in the U.S. District Court for the Northern District of California.

--Editing by Lakshna Mehta.

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Masimo Shareholder Vote Suit Against Founder Moved To Calif.

By **Sarah Jarvis**

Law360 (April 4, 2025, 5:36 PM EDT) -- A New York federal judge has transferred to California Masimo Corp.'s suit against its founder over allegations he manipulated a shareholder vote at the medical technology company, finding that the "locus of operative facts" warrants the move.

U.S. District Judge Alvin K. Hellerstein said in a Thursday **opinion** that the Central District of California, where Masimo founder Joe Kiani lives and where the company is headquartered, is more convenient for "many parties, witnesses, and relevant evidence in this case." The judge noted among other things that Masimo previously filed suit in that district in a matter concerning the same shareholder vote at issue in the instant case.

"While the first-filed rule does not apply here, since the [Central District of California] action was voluntarily dismissed and is no longer pending, it is appropriate and judicially efficient for the same court that adjudicated the first action to adjudicate this one as well," Judge Hellerstein said.

The judge also referred to California a pending **motion to dismiss** the case, which accuses Kiani — who was also previously the company's CEO and the chairman of its board of directors — of devising a scheme with RTW Investments LP and various affiliates to secretly preserve Kiani's seat on the board. RTW and its affiliates are also named as defendants in the suit.

Kiani has argued Masimo filed suit to run up his legal fees and distract him from securing a severance payment to which he is legally entitled. In his motion to dismiss last month, Kiani said that payment stood at \$520 million and was triggered when he resigned as CEO, after hedge fund Politan Capital Management LP took over the company.

A spokesperson for Kiani said in a statement that California is the appropriate venue for all of Kiani's disputes with Masimo.

"This meritless lawsuit is yet another example of Politan-controlled Masimo's gamesmanship in its coordinated attempt to avoid paying Mr. Kiani what he is contractually owed, and it should be dismissed," the spokesperson said.

Counsel for Masimo and the RTW defendants didn't immediately respond to requests for comment Friday.

Masimo is represented by Michael E. Swartz of Quinn Emanuel Urquhart & Sullivan LLP.

Kiani is represented by John C. Hueston, Marshall Camp, Thomas A. Zaccaro and Adam F. Minchew of Hueston Hennigan LLP.

The RTW defendants are represented by Sanford L. Michelman, Warren A. Koshofer, Molly Wolfe, Mona Z. Hanna and Todd Stitt of Michelman & Robinson LLP.

The case is Masimo Corp. v. Kiani et al., case number 1:24-cv-08147, in the U.S. District Court for the Southern District of New York.

--Editing by Jay Jackson Jr.



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Bigelow Drinkers Overpaid 11% Due To 'USA' Label, Jury Told

By **Craig Clough**

Law360 (April 4, 2025, 10:28 PM EDT) -- An expert testifying for a California class of R.C. Bigelow tea purchasers on Friday told a federal jury considering damages caused by false advertising claims that the class overpaid by 11.3%, or \$3.26 million, due to a "Manufactured in the USA 100%" label the judge already found is deceiving.

Colin B. Weir is the president of Economics and Technology Inc. and has a master of business administration degree from Northeastern University and a bachelor of arts in business economics from The College of Wooster.

He testified on the fourth day of **the trial** as a damages expert and told the jury he reached his conclusion by conducting a study of hundreds of tea buyers known as a conjoint analysis, which is a type of survey that can measure the economic value consumers place on a product's feature, such as a label or marketing statement.

"Ultimately, it's my opinion that members of the class overpaid for Bigelow tea in the amount of \$3,266,679," Weir said. "The steps taken at the highest level to get there was to estimate the amount of the price premium or over payment that consumers would experience that is solely attributable to the 'Manufactured in the USA 100% Family Owned' representation."

Weir was the only witness who testified in open court Friday, as the courtroom was sealed in the morning while the jury watched a video deposition that presumably included confidential sales data. The attorneys also spent a while discussing issues before the judge without the jury present while the courtroom was sealed.

The consumers filed suit in 2020, and U.S. District Judge Dean D. Pregerson certified a California-wide consumer class in 2023. The judge granted partial summary judgment to the tea buyers this past summer, **ruling** that Bigelow's labeling that began in 2017 was "literally false" and teeing up for a jury the question of damages and if the company deliberately **misled** consumers.

The jury heard during an opening statement from Peter Schneider on Tuesday that much of Bigelow's tea leaves come from overseas, including China and Sri Lanka.

Timothy Branson of Gordon Rees Scully Mansukhani LLP, who represents Bigelow, countered in his opening statement that the line "manufactured in the USA" was meant as a reference not to where tea leaves are grown, but to the facilities in Connecticut, Idaho and Kentucky where Bigelow's products are blended and packaged.

Weir told the jury Friday that as part of his analysis, he showed consumers images of three brands of tea, which included Bigelow's competitor Celestial Seasonings, while also listing several attributes and asking which tea they preferred.

The name "Bigelow" was replaced with an alternate name, but several of the company's attributes from the labels were included, Weir said. The phrase "Manufactured In USA 100% American-Family Owned" was among the listed attributes for the Bigelow stand-in, and some survey takers preferred to pay more for that attribute, he told the jury.

Under cross-examination by Branson, Weir defended his methodology, including why he never talked

to the two named plaintiffs in the case.

"Did you not think it important to interview the two persons that purport to represent millions of Bigelow consumers in this case?" Branson asked.

"As I mentioned earlier, given all of the documentary evidence about tea attributes including tea labels themselves, competitor products, internal documents from Bigelow, deposition testimony, [and] interviews with Bigelow tea purchasers, I did not feel that it was incrementally required to interview the named plaintiffs," Weir said.

The trial is scheduled to resume Monday.

The class is represented by Todd M. Schneider, Peter B. Schneider and Jason H. Kim of Schneider Wallace Cottrell Konecky LLP and Aubry Wand of The Wand Law Firm PC.

Bigelow is represented by Timothy K. Branson, Thomas R. Watson and Patrick J. Mulkern of Gordon Rees Scully Mansukhani LLP.

The case is Kimberly Banks et al. v. R.C. Bigelow Inc. et al., case number 2:20-cv-06208, in the U.S. District Court for the Central District of California.

--Additional reporting by Rachel Scharf. Editing by Michael Watanabe.

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FirstEnergy Legal Chief Saw Pay Drop To Nearly \$2.5M In 2024

By **Christine DeRosa**

Law360 (April 4, 2025, 4:44 PM EDT) -- FirstEnergy Corp.'s top attorney saw his compensation decrease from just over \$3 million to about \$2.5 million last year, a recent securities filing shows.

Hyun Park, FirstEnergy's senior vice president and chief legal officer, saw his 2024 pay package drop primarily from a lack of non-equity incentive plan compensation last year, according to a Thursday proxy filing with the U.S. Securities and Exchange Commission. None of the named executive officers included in the filing earned payouts under the company's short-term incentive program because FirstEnergy failed to meet a designated earnings threshold that would have triggered the awards.

As a result, Park went from earning \$653,162 in non-equity incentive plan compensation in 2023 to not receiving a payout in 2024, according to the filing. Park also saw a slight drop — from \$18,484 in 2023 to \$14,775 — in all other compensation, which included 401(k) employer contributions, life insurance and more.

Making up the rest of Park's 2024 compensation package was a \$735,616 salary, over \$1.6 million in stock awards and a \$108,238 change in pension value, the filing shows. In 2023, Park earned a \$725,154 salary, more than \$1.5 million in stock awards and an \$89,494 change in pension value.

On Friday, a spokesperson for FirstEnergy declined to comment beyond the securities filing.

Park **joined** Ohio-based FirstEnergy in 2021 and is responsible for the company's legal and internal audit functions, in addition to overseeing its ethics and compliance program, his company biography states.

Before joining FirstEnergy, Park was a partner and general counsel at LimNexus LLP, a minority-owned boutique law firm, for about a year. There, he advised clients on a range of matters including crisis management, litigation and corporate transactions, according to the biography.

Prior to his time at LimNexus, Park spent two years as of counsel at Latham & Watkins LLP, where he also began his career after graduating from Harvard Law School. During that first stint at Latham, he ultimately became an equity partner at the firm.

From 2006 to 2017, Park was senior vice president and general counsel for PG&E Corp. and its businesses, the biography said. Earlier in his career, Park was the general counsel of Allegheny Energy Inc. and of Sithe Energies Inc.

--Additional reporting by Sue Reisinger. Editing by Melissa Treolo.

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Meta Wins Bid To Transfer Del. MDL Coverage Fight To Calif.

By **Dorothy Atkins**

Law360 (April 4, 2025, 6:26 PM EDT) -- The Judicial Panel on Multidistrict Litigation sent a Delaware insurance-coverage dispute between Hartford, Chubb Group entities and Meta to California where underlying personal-injury litigation is centralized, finding that although the parties accuse each other of forum shopping, "we are not inclined to finely parse which is the guiltier party."

In a four-page order, the JPML on Thursday rejected the insurers' request to vacate a conditional transfer order, and determined that the insurance coverage litigation pending in Delaware involves common questions of fact with the personal injury litigation against Meta Platforms Inc. that is being litigated in California.

Therefore, litigating the insurance dispute in the same forum will be more convenient for the parties and witnesses, and it will promote the "just and efficient conduct of the litigation," the order says.

"Here, both sides accuse the other of engaging in forum shopping, and we are not inclined to finely parse which is the guiltier party," the order notes. "Instead, we look to the facts: two overlapping insurance coverage lawsuits involving the same parties, policies and underlying claims are pending in two courts across the country. Two separate judges need not oversee motions practice and discovery, if needed, regarding these claims. "

The ruling centralizes insurance litigation initially **launched** in Delaware by Hartford units Hartford Casualty Insurance Co. and Sentinel Insurance Co. Ltd. in the Northern District of California. The suit is seeking declaratory relief that the insurance company is not required to cover certain costs Meta incurs in the consolidated personal injury litigation pending before U.S. District Judge Yvonne Gonzalez Rogers in Oakland.

The personal injury MDL against Meta and other social media giants was consolidated before Judge Gonzalez Rogers **in 2022**, and it currently involves hundreds of claims by parents of minors, school districts and dozens of state attorneys general who claim that social media platforms — such as Instagram and Facebook, which bring in billions of dollars annually in ad revenues — are designed to be addictive to the detriment of minors' mental health and livelihood.

In recent months, Judge Gonzalez Rogers has been busy **trimming** claims from the MDL, but the judge has largely allowed the allegations to proceed past the pleading stage, teeing up at least some claims for bellwether trials that are expected to take place in early 2026.

Meanwhile, the insurers have asked the Delaware federal court to expedite their request to remand its coverage dispute with Meta to Delaware state court.

Hartford's insurance litigation initially only sought a declaration that its duty to defend Meta in the underlying personal injury cases is excused or limited. But the Chubb Group entities quickly filed a third-party complaint in Delaware also seeking a declaration concerning the rights and coverage obligations of various insurers under various policies.

Meta then filed its own insurance **coverage lawsuit** against Hartford in California, and Meta sought to transfer the Delaware insurance fight to California, **arguing** that at least some of the factual bases on which the insurers seek to avoid coverage are being actively developed in the personal injury litigation.

But the insurers **fought** the transfer request, arguing that discovery likely won't significantly overlap between the insurance dispute and the personal injury MDL, and the insurers accused Meta of forum shopping — an accusation Meta has lobbed against the insurers. Hartford additionally argues that the JPML lacks jurisdictional authority to decide the dispute since it has asked the Delaware federal court to remand the case to state court, which Meta **opposed**, and as of Friday, the Delaware judge had yet to rule on the remand motion.

But in the panel's ruling Thursday, the JPML rejects Hartford's jurisdictional arguments outright, finding "it is well established" that the JPML has the authority to transfer a case in which a jurisdictional objection is pending.

The JPML order also notes that when the JPML first centralized the personal injury litigation in California, the panel found that the actions involved factual questions arising from allegations that Meta's social media platforms are defectively designed to maximize user screen time, "which can encourage addictive behavior in adolescents," and that the plaintiffs contend the defendants were aware, but failed to warn the public of the purported risks.

The panel also notes that although Hartford's complaint seeks declarative relief concerning its duty to defend, Chubb's third-party claims are broader in seeking a declaration concerning Chubb and Meta's respective obligations to pay any settlements or judgments, and Hartford does not seem to be limited to a duty to defend analysis.

"While it is unclear at this juncture how much discovery will be required in Hartford, it is not for the panel itself to decide whether and to what extent discovery is permitted in a particular action," the order says. "We find the transferee judge to be in the best position to make that determination."

The order adds that if Judge Gonzalez Rogers eventually decides that including the insurance dispute in the personal injury MDL is not advisable, she can transfer the case back.

A Chubb spokesperson said Friday that as a matter of policy, the company doesn't comment on individual claims. Counsel and representatives for the other parties didn't immediately respond to requests for comment Friday.

During a hearing in **February**, when counsel for the parties updated Judge Gonzalez Rogers on the status of the pending insurance litigation, as well as the insurers' motion to expedite, the judge slammed the insurers' unnecessary motion to expedite as "unprofessional," noting that such coverage disputes are often resolved late in MDLs, or even years after the MDL has been resolved.

The order was written by panel chair, U.S. District Judge Karen K. Caldwell. U.S. District Judges Nathaniel M. Gorton, Matthew F. Kennelly, Roger T. Benitez, Dale A. Kimball and Madeline Cox Arleo also sat on the panel for the JPML.

Meta and Instagram are represented before the JPML by Martin H. Myers, Heather W. Habes, Emile Katz, Paulina Rafizadeh and Regan J. Hines of Covington & Burling LLP.

Hartford Casualty Insurance Co. and Sentinel Insurance Company Ltd. are represented by James P. Ruggeri of Ruggeri Parks Weinberg LLP.

The third-party Chubb Group insurance entities Federal Insurance Co., Westchester Surplus Lines Insurance Co., Westchester Fire Insurance Co. and ACE Property & Casualty Insurance Co. are represented by Michael S. Shuster, Blair E. Kaminsky and Daniel M. Horowitz of Holwell Shuster & Goldberg LLP.

The JPML is In re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation, MDL number 3047, in the U.S. Judicial Panel on Multidistrict Litigation.

The MDL case in California is In re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation, case number 4:22-md-03047, and Meta's California coverage case is Instagram LLC et al. v. Hartford Casualty Insurance Co. et al., case number 4:24-cv-09500, both in the U.S. District Court for the Northern District of California.

The Delaware federal coverage case is Hartford Casualty Insurance Co. et al. v. Instagram, LLC et al., case number 1:24-cv-01422, in the U.S. District Court for the Northern District of California.

--Additional reporting by Abraham Gross. Editing by Kristen Becker.

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