Litigation

May 13, 2025, 8:28 AM PDT; Updated: May 13, 2025, 8:44 AM PDT

Elevance Investor Sues Over Post-Pandemic Medicaid Costs (1)

- **COURT**: S.D. Ind.
- **TRACK DOCKET**: No. 1:25-cv-00923 (Bloomberg Law subscription)

Elevance Health Inc. misled investors over Medicaid members' cost impact after the federal government lifted the pandemic pause on redetermining eligibility, a proposed class action said.

Share prices plunged almost 11% on Oct. 17, the day the health insurer said it missed quarterly consensus earnings per share expectations due to higher medical costs in its Medicaid business, an investor told the US District Court for the Southern District of Indiana. It was the stock's steepest single-day slide since March 2020, according to data compiled by Bloomberg.

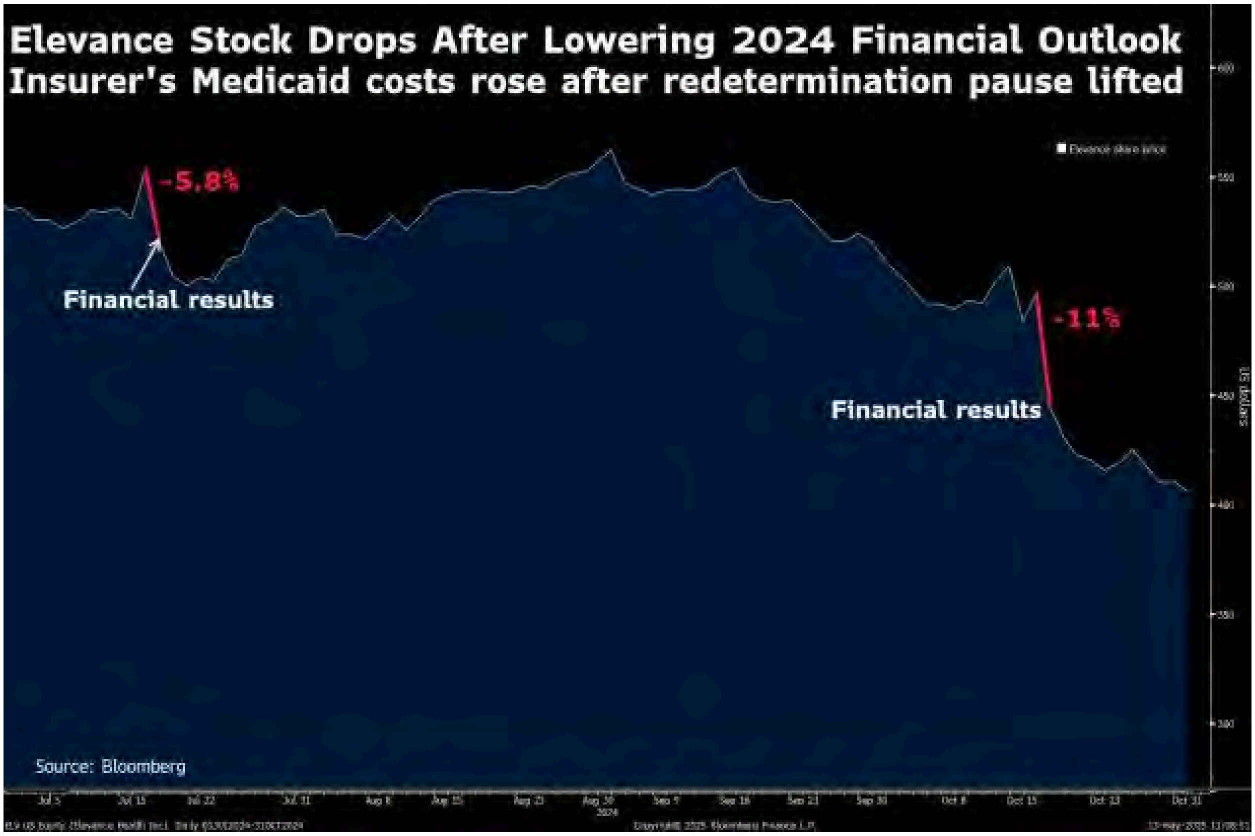
Elevance missed that third-quarter of 2024 adjusted diluted EPS outlook by $1.33, or nearly 14%, and said it was lowering its EPS guidance for the full year from $37.20 to $33, more than 11%, because it expected these Medicaid issues to continue, said the complaint filed Monday.

Costs of providing health benefits to members come from the level of care they need and how often they use it, with sicker individuals using benefits more often raising the insurance giant's per-patient costs, said investor Eric Miller's complaint. The federal government suspended states' verification of whether Medicaid recipients remained eligible during the Covid-19 pandemic. Congress decoupled that eligibility from the public health emergency in 2023, allowing states to review enrollee eligibility that year. Most expected to complete this process by mid-2024, Miller said.

But increasing costs from the shift in Elevance's Medicaid population weren't adequately reflected in its rate negotiations or financial forecast that year, Miller said, and statements about that and its close monitoring of redeterminations were misleading.

Investors started learning about the Medicaid redeterminations' impact when Elevance leadership discussed second quarter financial results in a July 2024 conference call, Miller said. Share prices fell 5.8% to close at $520.93 on July 17 after CEO Gail Boudreaux said its recipient population mix shifted toward sicker patients who needed more care, Miller said. The company was seeing more use in outpatient home care, radiology, durable medical equipment, and some elective procedures, said CFO Mark Kaye per the complaint.

Still, Elevance continued concealing the extent of expense increases, assuring investors that its financial guidance accounted for shifts, Miller said. The Oct. 17 revelations three months later shocked analysts and investors, and the stock price closed at $444.35 that day, he said.



The proposed class would include those who got Elevance shares from April 18, 2024—when Boudreaux said the company was raising its EPS guidance for the year by $0.10 in a first fiscal quarter of 2024 conference call —through Oct. 16, 2024. Miller seeks damages for alleged Securities Exchange Act of 1934 violations by the company and four top executives, including Boudreaux and Kaye.

"The claims in this case are completely without merit, and we will vigorously defend against it," an Elevance spokesperson said in an email Tuesday.

Bernstein Litowitz Berger & Grossmann LLP and Pennsylvania-based attorney Richard A. Maniskas of RM LAW PC represent Miller. Indianapolis-based Williams Law Group LLC is local counsel.

The case is Miller v. Elevance Health, Inc. , S.D. Ind., No. 1:25-cv-00923, complaint filed 5/12/25 .

(Updates with a comment from Elevance in the ninth paragraph.)

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Securities Law News

May 12, 2025, 3:38 PM PDT

Goldman Sachs Conflicted in Redfin-Rocket Merger, Investor Says

- **COURT:** W.D. Wash.
- **TRACK DOCKET:** No. 2:25-cv-00883 **(Bloomberg Law subscription)**

Redfin Corp.'s financial adviser, Goldman Sachs & Co., has a conflict of interest potentially marring the real estate business's planned merger into Rocket Cos., an investor says in a suit over proxy disclosures.

Goldman Sachs Bank USA has a lending relationship with Rocket that was only "vaguely" disclosed in the proxy statement seeking to persuade Redfin shareholders to vote in favor of its $1.75 billion tie-up with Rocket, Jason Morano says. He filed his proposed class action May 9 in the US District Court for the Western District of Washington.

The proxy also "fails to disclose key inputs to a discounted cash flow analysis" that Goldman prepared for its fairness assessment, Morano says. In light of the conflict, those inputs are important to Redfin stockholders and should be disclosed, he says.

Morano seeks injunctive relief and disclosures on his claims of misleading proxy statements and breach of fiduciary duties.

Redfin didn't immediately respond to an email seeking comment, and Rocket didn't immediately respond to a message sent through its web portal. Goldman Sachs, which isn't named as a defendant, didn't immediately respond to an email seeking comment.

Townsend Legal, Monteverde & Assocs. PC, and Wohl & Fruchter LLP represent Morano.

The case is Morano v. Redfin Corp. , W.D. Wash., No. 2:25-cv-00883, complaint 5/9/25 .

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Wells Fargo Hit With Oversight Lawsuit Over Allegations of 'Sham' DEI Hiring Initiatives

law.com/delbizcourt/2025/05/12/wells-fargo-hit-with-oversight-lawsuit-over-allegations-of-sham-dei-hiring-initiatives

Ellen Bardash May 12, 2025

A Wells Fargo shareholder has filed a derivative complaint asking the Court of Chancery to hold the bank's leadership accountable for its allegedly performative diversity hiring requirements.

The lawsuit, filed by Johnson Fistel and Cooch & Taylor, brings seven total claims, alleging the officers and directors named as defendants are liable to the company for misconduct related to failing to properly implement and oversee the application of DEI initiatives.

It also seeks liability against Kleber Santos, CEO of consumer lending at Wells Fargo, who headed the company's diverse search requirement program and allegedly made a roughly $1 million profit for selling Wells Fargo stock the month before information about the company's hiring practices became public.

According to the complaint, Wells Fargo launched policies in March 2020 requiring that at least half of the candidates interviewed for any role with compensation of $100,000 or more must be a member of at least one historically under-represented group, with the same applying to at least one interviewer on a hiring panel. The complaint alleges that when the public learned in June 2022 that Wells Fargo's DEI "shams" involved conducting interviews with candidates it had no intention of hiring solely to comply with those requirements, stock prices dropped.

"Wells Fargo had been conducting 'fake' interviews of diverse candidates simply to claim compliance with the diverse search requirement when, in truth, another candidate was already selected for the position," the complaint states. "These fake interviews were systemic, occurred across many of Wells Fargo’s business lines, and continued into 2022."

Wells Fargo went on to disclose that the DOJ and SEC were conducting investigations into the bank's hiring practices, and in September 2022 a securities class action was filed against San Francisco-based Wells Fargo in the Northern District of California. A motion to dismiss that suit was denied in July 2024.

The complaint states Wells Fargo's board has deferred consideration of the plaintiff shareholder's pre-suit litigation demand, submitted in March 2024, reasoning that the overlap between that demand and the litigation ongoing both in the securities class action and in a separate derivative action—also in California federal court—over Wells Fargo's hiring practices meant addressing the demand letter would unnecessarily compound costs and risks to the company.

"We stand by the board’s deferral and intend to defend ourselves," said a Wells Fargo spokesperson.

Decisive Win for Pensioners, Taxpayers in Kentucky as Judge Wingate Rejects Attorney General's "Get Out of Jail for Almost Free" Scheme for KKR and Blackstone

nakedcapitalism.com/2025/05/decisive-win-for-pensioners-taxpayers-in-kentucky-as-judge-wingate-rejects-attorney-generals-get-out-of-jail-for-almost-free-scheme-for-kkr-and-blackstone.html

May 13, 2025

A plot that extended, in different forms, across two different Republican attorneys general in Kentucky, first Daniel Cameron, now Russell Coleman, has failed, and in a big and embarrassing way, as you can see from an order we have embedded at the end of this post. Both were trying to save the private equity giants KKR, Blackstone, Pimco affiliate PAAMCO, and importantly, finance barons like Henry Kravis, George Roberts, Steven Schwarzman and Tomlinson Hill, from the embarrassment of trying to 'splain their feeding at the trough of the unsophisticated and underperforming Kentucky pensions (once called the Kentucky Retirement System, rebranded as the Kentucky Public Pension Authority. The defendants have been trying since a predecessor suit was filed in 2017 to prevent it from getting to discovery.

This latest gambit not only failed but should damage the attorney general by wasting time and legal fees to help Republican deep pockets at the expenses of an underwater pension fund backstopped by Kentucky, meaning its taxpayers. Keep in mind that, by contrast, an earlier Kentucky attorney general wrote in support of this litigation, which seems hardly surprising. What's not to like about a private party expending time and resources clawing back the fruits of apparent misdeeds on behalf of wronged pensioners and the general public?

To give an idea of the chicanery, the pension fund investors in these customized hedge funds of funds (yes, sports fans, two layers of fees!) were sold the impossible combo of a low-risk/high return investment. It didn't deliver because it could not deliver; the performance was worse than parking the funds in cash equivalents.

The ruse intended to kill the case was for the attorney general to, as Cameron first attempted, to "occupy the field" and settle all claims, including those brought by the plaintiffs, on the cheap. The Kentucky pension fund itself even weakly bleated, since it gets to select counsel and it had not authorized Cameron to act on its behalf. But this first go, embarrassingly, never got much of anywhere, as Cameron kept asking the court for delays because his settlement was supposedly just around the corner.

The defendants' litigation strategy seemed to be working as the plaintiffs suffered a big defeat at the Kentucky Supreme Court over standing. Due to two intervening precedents, they lost on standing. The defined benefit plan beneficiaries were deemed not to have suffered any harm until they were getting shortchanged on pension payouts. The plaintiffs were not allowed to replead the case (a highly irregular decision).

But the plaintiffs reconstituted the case around the so-called Tier 3 beneficiaries, who have hybrid plans that include a defined contribution plan. For defined contribution plans, unlike defined benefit plans, the beneficiary is deemed harmed (and thus has standing) when the fund has sustained a loss, even if it is not yet paying out. So back to the races!

A short review of the second settlement attempt, under Cameron, from a February post:

> This "settlement" was brazen since the Attorney General intended to extinguish claims by plaintiffs he did not represent, here the so-called "Tier 3 Plaintiffs" who have what amounts to hybrid defined benefit and defined contribution plans. Even though they may seem to represent a small portion of total fund assets, their lack of a state guarantee (unlike those in the defined benefit plans) puts them in a first loss position. And demonstrating the seriousness of their claims, their attorneys have filed for what on a current basis (as in with updated interest) would be $807 million of damages, penalties and interest on a single violation by one of the four hedge funds targeted in this case.
>
> In a show of cheekiness, Coleman presented the settlement as $227.5 million, when that figure included $145 million of monies owned by the KRS pension funds that were improperly seized by KKR. The local press wised up to what was going on, including the possibility of a grotesque payout to crooked attorney Ann Oldfather, who after being fired by the original plaintiffs in the case, took their records and information to get hired by the Attorney General. What makes this situation even more offensive is that the earlier Attorney General and protege of Mitch McConnell, Daniel Cameron, who engaged Oldfather ,was widely seen as taking up the case at such a late juncture solely to settle it cheaply so as to curry favor with these powerful Republican donors.
>
> The Courier-Journal recapped the meager returns to pensioners and the possibility of an egregious payout to Oldfather:
>
>> The deal Cameron's office signed with Louisville lawyer Ann Oldfather's office after the initial case was dismissed set terms for fees those attorneys could collect once the lawsuit was settled: 20% of the gross recovery's first $250 million; 15% of the gross recovery between $250 million to $1 billion; and 10% of the gross recovery past $1 billion.
>>
>> If the gross recovery is $227.5 million — a figure that includes the $145 million Kentucky had given to KKR (one of the four hedge funds in the case) that has been withheld as the litigation moved forward — then attorney fees would rise to $45.5 million, a higher sum than the $37 million in new money the state would receive. If the gross recovery does not include that $145 million, attorney fees would reach $16.5 million, with $66 million in new funds going to the state,

In February, judge Thomas Wingate had approved the Tier 3 case going to mediation. This was a backdoor way to have it proceed. Given the vanishingly low odds that mediation would succeed, the next step would be to go to trial, the thing the defendants were desperate to avoid.

As a litigator opined:

> Discovery is the Wall Street defendants' worst nightmare, because all of their phony "trade secret" claims that blew-up in their faces on the statute of limitations [the secrecy had resulted in a statute of limitations claim failing, since the plaintiff had been in an information black hole] are now going to be exposed as nothing but an artifice to cover-up unjust enrichment and fraud.

As we wrote in February, the ruling supporting mediation looked fatal in and of itself.

Nevertheless, the defendants still hoped to rescue victory from the jaws of defeat by getting the court to bless the attorney general settlement….which would include the Tier 3 Plaintiffs claims, which Wingate had already effectively said were a separate matter entirely by authorizing them to go to mediation. Were they hoping against hope that Wingate had a senior moment, forgot his earlier decision, and blessed the settlement?

Not surprisingly, Judge Wingate put another nail in the defendants' coffin. He rejected their petition for him to approve the attorney general settlement, which would include a ginormous fee payment to Ann Oldfather.

Please read the short order in full. It's a delicious bit of drafting. He adopts a tone of mystification as to why the defendants are before him (translation: wasted his time) when they were perfectly capable of settling the claims all on their own. He also professes puzzlement as to them asking him to do things beyond the authority of the court. That at a minimum means blessing the attorney general settling the Tier 3 claims, when the attorney general does not represent the Tier 3 beneficiaries and they have their own counsel.

But the best part is when Wingate rouses himself from this comparatively relaxed posture to smack down the attempt to inflate the settlement amount, and with it, the fees to crooked attorney Ann Oldfather. On page 3, Wingate, his firmness verging on annoyance, bars the parties from including in any "settlement" the $145 million of Kentucky pension fund monies that KKR has purloined and has yet to return under the lame and unsubstantiated excuse that the pension funds might somehow owe that much money. That means this $145 million would not be subject to payment of attorneys' fees.

So where does this leave the plaintiffs and the attorney general? Worse off than when they started this exercise. In theory, the defendants could still settle for $82.5 million, but what would be the point? The Tier 3 plaintiffs, with a formidable legal team headed by Michelle Lerach, look finally on a path to get to court, and with it, the discovery that the defendants have worked so hard to prevent. Even though delay is normally very favorable to defendants, so much of the misconduct is certain to be documented that the normal level of information loss is not likely to make much difference.

So if the press notices (possible), the attorney general will have demonstrated that he wasted money and scarce enforcement resources to curry favor with out-of-state financiers working against the interest of state pension funds and taxpayers. Not a good look. The defendants wasted a lot of money. Their position may be that they have a lot to burn, but this is not a free exercise.

And keep in mind, what is at stake here is not just the actual and opportunity losses to the Kentucky pension funds. It's the demonstration of the depth of misconduct at these supposedly prestigious alpha fund managers.

Recall, for instance, the Proctor & Gamble suit against Bankers' Trust for large losses P&G suffered on derivatives sold by Bankers. Even though I knew from my industry contacts that Bankers was very skilled at selling overpriced derivatives (meaning they would not pay off well or enough from a financial perspective; you have to have an intuitive feel for calculus to get your mind around derivative pricing), I was not very sympathetic to P&G. They are a big, sophisticated multinational. They should have either understood what they were buying, or understood their ignorance and steered clear.

But discovery in that case changed the picture. A recap from ECONNED:

> In 1994 and 1995, Bankers Trust, a premier derivatives trading firm, was getting a lot of bad press. Federal Paper Board, Gibson Greetings, Air Products and Chemicals, and Proctor & Gamble had sued the bank, claiming that it had taken advantage of them on derivatives trades and that they should re-
> cover their losses.
>
> On the surface, none seemed to have much of a case. The lawsuits looked like a desperate effort to welsh on bad bets. After all, these were large corpora tions with sophisticated treasury departments, particularly Proctor & Gamble, with globe-spanning operations, routinely dealing in foreign exchange and interest rate markets. How could a savvy multinational claim to have been duped?
>
> And as the details emerged, the companies had policies against undue risk taking in their treasury departments, and their staff had violated them…
>
> Procter was clearly a more sophisticated player, but even it appeared to be losing its case until BT was forced to produce some damning tape recordings. A few of many damaging remarks:
>
> > “We set ’em up.”
> >
> > “They would never know. They would never be able to know how much money was taken out of that,” says one salesman.
> >
> > In reply: “Never, no way, no way. . . . That’s the beauty of Bankers Trust.”
> >
> > The objective was “to lure people into the calm and then just totally fuck ’em.”
>
> Procter obtained recordings from eight BT clients and all of them contained similar evidence of a deliberate effort to exploit customers. Procter added RICO (Racketeer Influenced and Corrupt Organizations Act) charges to its suit, tripling the amount of the damages that would be awarded if Procter won the lawsuit.
>
> BT settled the cases, and the claimants ended up clawing back a large per centage of the losses they had incurred. BT also paid a $10 million fine to fed eral securities regulators over the charge that it had deliberately misled Gibson on derivative prices.

This case, plus a large escheatment violation with New York State (keeping abandoned funds which by law are to be turned over to government) led to the demise of Bankers Trust via a shotgun marriage to Deutsche Bank in 1998.

While we can't expect such a dramatic outcome here, the odds are not bad that there is a lot of rancidly embarrassingly material in these big financial kingpins' files just waiting to see the light of day. Stay tuned.

20-CI-00590 and 24-CI-00354

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION II

CIVIL ACTION Nos. 20-CI-00590 and 24-CI-00354

COMMONWEALTH OF KENTUCKY **PLAINTIFF**

V.

KKR & CO. INC.; et al. **DEFENDANTS**

ORDER

This matter is before the Court upon the Commonwealth of Kentucky, the Kentucky Public Pensions Authority, the County Employees Retirement System, the Kentucky Retirement System, the Boards of Trustees, PAAMCO Prisma, LLC, Jane Buchan, Prisma Capital Partners LP, KKR Group Co., Inc., Henry R. Kravis, George R. Roberts, Blackstone, Inc., Blackstone Alternative Asset Management L.P., Steven Schwarzman, and J. Tomilson Hill's *Joint Motion to Approve Settlement Agreement, to Sever Claims, and to Enter Approval Order*. This matter was called before the Court on Wednesday, March 26, 2025.

The Commonwealth, the above listed defendants, and the Kentucky Public Pensions Authority have asked the Court to review and sign an order approving, in full, a settlement reached between the above-named parties. The parties ask the Court to find:

(1) The Settlement Agreement is fair, reasonable, and adequate;

(2) The Settlement Agreement is in the best interest of the Commonwealth, the KPPA Entity, and all plans, trusts, systems, pension funds, and tiers whose interests any

News from Bloomberg Terminal
May 12, 2025, 11:47AM PDT

Is Murder Securities Fraud?

By Matt Levine

(Bloomberg Opinion) --

Is being murdered securities fraud?

My rule of thumb is that every bad thing that a public company does, or that happens to a public company, is also securities fraud. This is not literally true — really it's only securities fraud if the company is lying to investors about the bad thing [1] — but it is a useful rule of thumb. If you find a bad thing that has happened to a public company, I will find you a securities fraud case, even if it doesn't seem like anyone is lying.

For instance: If an executive of a company is murdered, is that securities fraud? Brian Thompson, an executive at UnitedHealth Group Inc., was shot and killed outside an investor meeting in Manhattan last year by a gunman who seems to have objected to UnitedHealth's business practices. The stock was down about 5% the next day. Is that securities fraud? [2] Not in the traditional sense, or even in most of the "everything is securities fraud" senses. It's not like UnitedHealth kept the murder secret from its shareholders: It was national news from pretty much the minute it happened. And it would be hard to make a case like "UnitedHealth should have warned shareholders that its executives *might* get shot, which would be bad for the stock price, but it didn't disclose that risk so shareholders were misled." That could happen to any company; seems like a weird thing to put in the risk factors.

Still, find a bad thing and I will find you a securities fraud case:

A group of investors sued UnitedHealthcare Group on Wednesday, accusing the company of misleading them after the killing of its CEO, Brian Thompson.

The class action lawsuit — filed in the Southern District of New York — accuses the health insurance company of not initially adjusting their 2025 net earning outlook to factor in how Thompson's killing would affect their operations.

On Dec. 3 — a day before Thompson was fatally shot — the company issued guidance that included net earnings of $28.15 to $28.65 per share and adjusted net earnings of $29.50 to $30.00 per share, the suit notes. And on January 16, the company announced that it was sticking with its old forecast.

Bloomberg Law adds:

This was misleading, [the plaintiff] said, as it didn't disclose the company was "no longer willing" to "use the aggressive, anti-consumer tactics" it needed to achieve its prior forecast as it was embroiled in heightened public hostility.

The theory is that Thompson's murder caused UnitedHealth to become more patient-friendly, which made it less profitable, but UnitedHealth didn't immediately tell shareholders that, so the shareholders assumed it would continue to be patient-unfriendly and profitable. Here is the complaint, which sort of combines (1) the allegedly patient-unfriendly business practices, (2) the murder and (3) the public statements into one broad critique:

Specifically, Defendants made false and/or misleading statements and/or failed to disclose that: (1) UnitedHealth had, for years, engaged in a corporate strategy of denying health coverage in order to boost its profits, and ultimately, its share price; (2) this anti-consumer (and at times unlawful) strategy resulted in regulatory scrutiny (as well as public angst) against UnitedHealth, which ultimately resulted in the murder of Brian Thompson; (3) animus towards UnitedHealth was such that, subsequent to the murder of Mr. Thompson, many Americans openly celebrated his demise, expressed admiration for his accused killer, and/or otherwise demanded that UnitedHealth change its strategy even if they condemned Mr. Thompson's killing; (4) the foregoing regulatory and public outrage caused UnitedHealth to change its corporate practices; (5) notwithstanding the foregoing, UnitedHealth recklessly stuck with the guidance it issued the day before Thompson's murder, which was unrealistic considering the Company's changing corporate strategies; and (6) as a result, Defendants' public statements were materially false and/or misleading at all relevant times.

So what was the securities fraud? Was it:

1. That UnitedHealth "had, for years, engaged in a corporate strategy of denying health coverage in order to boost its profits, and ultimately, its share price," without telling shareholders that, but that strategy was unsustainable and eventually shareholders realized that (because of the murder) and the stock dropped? Or
2. That UnitedHealth *stopped* doing that, without telling shareholders that the change would reduce profits?

Treating consumers badly to boost profits is securities fraud, but treating consumers well and reducing profits is also securities fraud, because everything is securities fraud.

Retail private equity

If you start a stock mutual fund, what will happen is people will give you money and you will invest their money in stocks. If they give you a little bit of money at first, you will invest a little bit of money in stocks. As they give you more money, you will invest more of it. Perhaps as you get bigger you will buy more stocks – perhaps you'll start with 20 stocks and slowly grow to 100 – but perhaps not; perhaps you really like the same 20 stocks and just buy more shares of each of them. Your inflows might be bit lumpy – no new money for a month, then a ton of new money at the end of the quarter – which will pose some administrative difficulties for you; buying a ton of stock all at once might take effort or move prices. But broadly speaking it's fine.

If you start a private equity fund, this doesn't work. If people give you a little money at first, you can't go out and buy a little bit of a company: You are in the business of buying whole companies. If they give you a lot of money at first, that doesn't work either: You are in the business of buying whole companies, which means that you have to *find* them and *negotiate* acquisitions. You can't just deploy a billion dollars in a day; it takes time. What will you do with the money in the meantime? Also, if you are successful and people want to give you more money, the same problem recurs: What will you do with the new money? You can't just put a new little bit of money to work in your existing deals. To start a private equity fund, you will want to raise a lot of money all at once, but then have a few years to actually invest it.

There is a standard solution to this problem: Normally investors in private equity funds *commit* a lot of money all at once, at the start of the fund, but they don't actually hand over the money. Instead, the fund draws down their capital commitments over time, as it finds deals. So the fund knows that it has $5 billion to spend on deals, rather than having uncertain inflows over time. But it doesn't have to spend that $5 billion all at once, and can wait to spend it as it finds deals.

One way to describe this distinction is that public stocks have a deep liquid *secondary* market, and private equity deals don't. If you want to buy stock in a big public company, you can do it in a minute by pressing a few buttons, because that stock already exists, and other people already own it, and they will sell it to you at a well-defined market price. If you want to buy private companies, you have to call them up and negotiate prices with them directly, one at a time.

So starting a public stock fund means buying readily available stuff in the secondary market; starting a private equity fund means going out and creating brand new private-equity assets in the primary market. And this is also roughly true in the credit markets: You can start a bond fund by buying bonds that already exist, and if you get new money from investors you can quickly buy some bonds with it. In private credit, though, you are mostly finding new deals, one at a time, so you will probably have some sort of drawdown fund.

Another way to describe this distinction is that mutual funds are open to *individual* investors, while private equity funds tend to be open to sophisticated institutional investors. If your investors are institutions, you can do a drawdown fund pretty easily: They sign a limited partnership agreement and agree to put up capital when you call them, and you can be confident that they will. They are big and creditworthy and do this stuff all the time. If your investors are hundreds of individuals, this is harder: They might die or go bankrupt or forget or have cash-flow issues, and you don't want to have to round them up for every deal. So stereotypically retail investors tend to invest in products where they pay in the cash up front, while institutions are more able to invest in products where they commit capital over time.

But, as we discuss a lot around here, the next big thing in private markets is raising big funds from individual investors. One thing that this means is finding ways to structure *funded* vehicles, where you go out and raise a bunch of cash and have to deploy it immediately. (And, relatedly, where you raise some extra cash each quarter and have to deploy *that* when it comes in, rather than when you find a good deal.)

And one way to solve that problem is to create a *deep and liquid secondary market for private assets*, so that, when you raise a $1 billion retail fund, you can go out and find a diversified pool of $1 billion of private assets in like a week. Instead of having to discover and source and negotiate new deals, you just buy some of the private assets that already exist.

This also solves another problem. If you are a private fund manager and your existing institutional investors want to take money *out*, you will need to *sell* some private assets. Who do you sell them to? Well, a deep and liquid secondary market would be nice. A deep and liquid secondary market where the buyers are funds for relatively less sophisticated individual investors that have to deploy a lot of capital quickly would be even nicer.

Anyway here's a Financial Times article about these things:

Big private equity investors are taking advantage of a flood of capital from wealthy individuals to cash out their buyout fund holdings at higher prices despite the industry's years-long downturn.

Some of the largest evergreen vehicles, which allow retail investors to deposit and withdraw cash at regular intervals, have bought swaths of private equity fund stakes from institutional investors seeking liquidity after a dearth of distributions.

That extra demand has helped prop up prices for stakes in private equity funds on the secondary market, even as some institutional investors have cooled on investing in new funds because of the difficulties buyout firms have had exiting investments and returning cash to their backers.

"There's a lot of money flowing into these [evergreen] vehicles," said one leading adviser, which they said were under pressure to deploy it quickly.

Stakes in existing funds — so-called secondaries — are more flexible to buy and sell than direct investments in companies, making them attractive to evergreen fund managers because their investors deposit cash upfront and can regularly withdraw it. …

"A lot of money is raised on a monthly basis and the funds want to invest it immediately," the adviser said.

Retail funds have offered higher prices for secondary stakes than others in the market. That has helped the buyout sector to weather a challenging period by making it easier for institutional investors to cash in holdings, at a time when dealmakers are unwilling or unable to sell the underlying assets.

We have talked about these issues before, for instance last year when we discussed a Blackstone fund for individuals that had to find ways to quickly deploy capital, or last week when we discussed the appeal of mixed public/private funds, which is in part that you can put money to work in public secondary markets while you wait to find private primary deals. We also talked last week about the push to sell private credit to retail, and I said that "a more cynical market-timing-based explanation is also available, along the lines of 'sophisticated institutions will pay 50 cents on the dollar for this stuff so let's sell it to retail at 100.'" Well. Yes.

Trump Media internal controls

Has anyone ever looked at Trump Media & Technology Group's financial statements? Yes, absolutely: I have, and so have a lot of other financial journalists, and I think all of us have come to the financial statements with the same purpose, which is to make fun of them. They're funny! Last quarter, Trump Media lost $31.7 million on revenue of $821,200. Last year I described the company as making about as much revenue "as a top Substack newsletter," but of course with much higher expenses. It is a singularly un-lucrative online media business, with a singularly lucrative *stock:* Its equity market capitalization is more than $5 billion. There are no $5 billion Substacks.

My point here is that you could stare at these financial statements all you want, you can build whatever fancy models you want, but you cannot extract a *price for Trump Media's stock* from its *historical financial statements*. If you are feeling generous, you could say that the price of the stock embeds optimistic assumptions about *future* revenue from future lines of business that are not even hinted at in the historical financials. If you are feeling less generous, you could say that Trump Media is a meme stock, an index of Donald Trump's power and his ability to extract money from that power; historical *and future* financials have nothing to do with it. But in any case, historical financials have nothing to do with it.

I make this point not as investing advice, but as a way to think about a certain genre of stories about Trump Media, stories to the effect of "it is possible that there might be problems with Trump Media's financial accounts." Last year, Trump Media's former auditing firm got in trouble for various hilarious deficiencies, which might have troubled you if you were relying on Trump Media's audited financial statements, but you absolutely absolutely absolutely were not. I wrote: "If you have decided that investing in Trump Media is a good idea, it is probably not because you thought the financial statements looked good, which means that Trump Media has no particular incentive to make its financial statements look good."

Anyway like four people have emailed me about this:

Trump Media & Technology Group Corp. showed "material weakness" in internal controls over financial reporting, raising risks of misstatements, the firm's latest quarterly result showed.

The company carried out an evaluation of its disclosures and controls and found that procedures were not effective, the report said. It cited "failure to design and maintain formal accounting policies, processes, and controls to analyze, and account for complex transactions as well as a need for additional accounting personnel who have the requisite experience in SEC reporting regulation." …

"TMTG's management determined that the material weakness primarily related to its failure to design and maintain formal accounting policies, processes, and controls to analyze, account for and properly disclose income recordation as well as a need for additional accounting personnel who have the requisite experience in SEC reporting regulation," the company said in a statement.

Is it surprising that Trump Media has not done a bang-up job of designing and maintaining formal accounting policies and procedures? Absolutely not. Does it matter? Absolutely not.

Can you blame the chatbots?

We talked recently about lawsuits, real and hypothetical, against artificial intelligence agents. I wrote that "it's possible that they have too little independent agency to be legally responsible for their actions, but enough to make nobody else responsible for their actions." If an AI bot lies to you and you are harmed, who is responsible? The maker of the chatbot might have done their best, and not be negligent in a traditional sense; the chatbot, meanwhile, doesn't seem capable of things like negligence. So who is responsible? I confess I missed the obvious answer, "the insurance company." The Financial Times reports:

Insurers at Lloyd's of London have launched a product to cover companies for losses caused by malfunctioning artificial intelligence tools, as the sector aims to profit from concerns about the risk of costly hallucinations and errors by chatbots.

The policies developed by Armilla, a start-up backed by Y Combinator, will cover the cost of court claims against a company if it is sued by a customer or another third party who has suffered harm because of an AI tool underperforming.

The insurance will be underwritten by several Lloyd's insurers and will cover costs such as damages and legal fees.

Seems right. I assume they'll use an AI model to price the risk.

Pope betting

"Betting on the Pope was the original prediction market," the No Dumb Ideas blog wrote in March, which I guess makes sense; there's a long history of papal elections and people like a gamble. Certainly this year there was a lot of action at online prediction markets about who the next pope would be, though they were not particularly accurate. Here's Nate Silver's analysis of why the pope market wasn't very good:

The choice of the pope presumably doesn't have broader implications for financial markets, so well-capitalized institutional investors are unlikely to be involved. The modal trader probably knows little about the Catholic Church. Papal elections occur extremely rarely. And papal conclaves include relatively few participants, and they're sequestered to prevent any leaks to the outside world.

In such situations, the conventional wisdom can just feed back on itself.

One important upshot of this is that, if you *did* know that Cardinal Robert Prevost was going to become Pope Leo XIV, you could have made a lot of money betting on him at long odds. But you didn't. Even if you had inside information — even if you could have called a cardinal before the conclave and asked "so who's it gonna be?" — you couldn't have put much confidence in it. Even the new pope's brother didn't know:

John Prevost knew there was a chance his brother could be elected pope.

"Last Saturday when I was at church, one of the priests came over and told me the odds in Las Vegas were 18 to 1," said Mr. Prevost, who lives in suburban Chicago. "He didn't have a doubt. He thought it would definitely be my brother."

But Cardinal Robert Francis Prevost, who was preparing for the conclave, shrugged it off when his older brother called from Illinois.

"He said, 'No way, not going to happen,'" recalled Mr. Prevost, 71, who is retired from a career as an educator and school principal.
I assume that Prevost, armed with that absolute denial, didn't short his brother's chances on Kalshi, but it would have been funny if he did.

Elsewhere, here is an X post from a guy who says he made $100,000 on the papal prediction markets, mostly by shorting overvalued favorites but also by buying a few lottery tickets, including the winner.

Tax snails

Apparently the way commercial property taxes work in the UK is that (1) the tenant of a commercial property pays the tax to the local council, (2) if the property is unoccupied, the owner pays the tax and (3) "agricultural facilities" are exempt from tax. If you own an office building and can rent it out to businesses, you should do that, because they will pay you rent (and the tax). If you own an office building and *don't* currently have a tenant, though, your incentive is to do agriculture in the building, because then at least you don't have to pay taxes, and I suppose you can sell the agricultural products you produce.

What sorts of agriculture can you do in an empty office building? I feel like there are plausible answers that involve the word "hydroponic," but if you are looking for the minimum viable answer — the agricultural use that you can most quickly abandon if you find an office tenant — it is apparently a box with two snails in it:

In a £32 million office block on Old Marylebone Road, a short walk from Hyde Park, sat more than a dozen sealed boxes marked "L'Escargotiere" — the Snail Farm.

To the surprise of officers from Westminster city council, a few doors down the road in a second empty office there were more.

The unusual discovery in the heart of London is what the local authority claims is a "ludicrous" tax avoidance scheme it has spent the past three years trying to tackle, losing more than £280,000 of revenue in the process. Each box is said to contain snails that have turned two empty offices, which would be liable for business rates, into "agricultural facilities" exempt from the tax. …

It is not clear how many snails are inside each box or how regularly they are tended to, but L'Escargotiere's website says its "unique breeding terrariums are occupied by just two helix maxima breeding snails". Rural snail farms in the UK that supply restaurants breed tens of thousands of snails. ...

Snail farms have popped up in empty office blocks across the country, causing a headache for local authorities who say they are being deprived of thousands of pounds of revenue. The companies behind the city centre snail farms argue they are legitimate enterprises entitled to the agricultural exemption.
And then when a hedge fund wants the space presumably you just chuck the snail boxes in the garbage? The Times article includes photographs of the outsides of the snail boxes, but not the insides, which raises the obvious question: Does a box labeled "two snails" satisfy the agricultural exemption, or do you actually have to have the snails inside? I think the latter — some council inspectors have apparently popped open the boxes and found the requisite two snails — but that seems a little wasteful; these are pretty abstract snails. These are snails for tax purposes, not so much for eating. I don't know why a pot of basil on the windowsill wouldn't work, but the Times asked an accountant and he apparently drew the line at two snails:

"All that is driving this is cost," said Philip Vernon, head of business rates at PwC. "Empty [business] rates on some city office buildings are not an insubstantial amount of money. Since 2008, empty rates have been levied at the same level as occupied rates. The sheer weight of the cost of the empty rates on buildings which are essentially economically inactive does force some owners and property holders to take drastic action."

Vernon added: "It's on the very edge on what [PwC] would consider reasonable practice. We don't think it is appropriate to create artificial arrangements to take advantage of the tax rules [on] business rates."

I just like the idea of going to an accountant for a ruling on what is and is not reasonable tax practice and the accountant has a chart where like "raze the building and plant soybeans" is at the top and "pot of basil in a closet" is at the bottom and there's a dividing line between "tax exempt" and "come on" somewhere toward the bottom, and "two snails in a box" is right exactly on the line; the tax status of two snails in a box is uncertain, but everything more agricultural than two snails in a box is fine and everything less agricultural is not. And you're like "some lobsters in an aquarium?" and your accountant is like "hmm seems a bit more agricultural than two snails, wave it in" and you're in the lobster business until you find a tenant.

Things happen

Xi Defiance Pays Off as Trump Meets Most Chinese Trade Demands. Citadel Lobbies for Four-Year Non-Competes in Home State of Florida. OpenAI negotiates with Microsoft to unlock new funding and future IPO. OpenAI Stake Cushioned Tiger Global's Megafund Losses. The Giants of Silicon Valley Are Having a Midlife Crisis Over AI. SoftBank Stargate Venture With OpenAI Hits Snags on Tariff Fears. Celsius Founder Mashinsky Gets 12 Years for Crypto Fraud. Trump Administration in Talks to Accept New Air Force One as Gift From Qatar. Boy Accidentally Orders 70,000 Lollipops on Amazon. Jalen Brunson … said of the pope, "It's really cool for him and I'm very happy for him, but I'm focused right now."

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1. Technically it is securities fraud "to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, … in connection with the purchase or sale of any security."

2. By UnitedHealth, I mean. If the killer had shorted UnitedHealth stock before shooting Thompson, I suppose that would have been securities fraud or market manipulation or something bad, but (1) I have seen no evidence that he did and (2) it's also murder, which is worse.

https://www.wsj.com/health/healthcare/unitedhealth-names-new-ceo-suspends-2025-guidance-ed8244a1

HEALTH | HEALTHCARE

UnitedHealth CEO Is Out, Sending Shares Lower

Andrew Witty steps down after steep share decline; Chairman Stephen Hemsley returns as CEO

By Anna Wilde Mathews Follow *and Christopher Weaver* Follow

Updated May 13, 2025 11:21 am ET

Andrew Witty was named CEO of UnitedHealth in 2021. PHOTO: AL DRAGO/BLOOMBERG NEWS

UnitedHealth Group said Chief Executive Andrew Witty stepped down for "personal reasons" after presiding over a punishing period for the company, including a steep drop in its shares after its quarterly earnings last month fell significantly short of investors' expectations.

Effectively immediately, Chairman Stephen Hemsley will return to running the healthcare giant he helped build.

The earnings miss pushed UnitedHealth shares down by more than a third, resulting in the loss of about $190 billion in market capitalization.

Witty, who became CEO of UnitedHealth in 2021 after earlier running pharmaceutical company GlaxoSmithKline, was at the helm during a time of tumult: The company saw a hack of its technology unit bring much of the U.S. healthcare economy to a standstill; the fatal shooting of a top executive shook employees and unleashed a virulent consumer backlash; and the company attracted growing scrutiny, including Justice Department investigations of its business practices.

UnitedHealth said he will serve as a senior adviser to Hemsley. Shares fell more than 15% in morning trading Tuesday.

Stock-price performance

Source: FactSet

UnitedHealth also said it was suspending the reduced 2025 earnings outlook that it issued on April 17.

In a call with analysts Tuesday, the company said it was seeing medical costs continue to accelerate beyond the trends it flagged last month and signs that the issue was spreading beyond enrollees in its Medicare plans.

"To all stakeholders, including employees and shareholders, I'm deeply disappointed in and apologize for the performance setbacks we have encountered from both external and internal challenges," Hemsley said. "This company has both the opportunities and capabilities to deliver exceptional services and outcomes for customers, consumers and care providers, and to continue to reliably generate the earnings growth that align with our 13% to 16% long term growth range."

The company said it expects to return to growth in 2026.

Hemsley, who was UnitedHealth's CEO for more than a decade ending in 2017, will also remain chairman.

Wall Street is likely to be stunned by the financial meltdown, but some investors will welcome the restoration of the man who presided over the company's transformation from a sizable insurance concern to a $400 billion conglomerate that includes a sprawling network of doctor groups, a pharmacy-benefit manager and data operations as well as the nation's largest health insurer. Under Hemsley, UnitedHealth was a consistent investor favorite, reeling out ever-rising earnings.

Hemsley's return echoes a familiar playbook from other companies that, amid setbacks, turned to long-tenured former leaders. Starbucks's Howard Schultz had three stints leading the coffee chain, and Bob Iger returned to the top job at Disney in 2022.

Hemsley said UnitedHealth will approach its challenges with "humility, rigor and urgency," but he also signaled that the company wouldn't be making major changes in direction. "Our strategy and structure are the right ones for this era," he said.

Stephen Hemsley, who was UnitedHealth's CEO for more than a decade ending in 2017, will also remain chairman. PHOTO: DANNY MOLOSHOK/REUTERS

The gathering weight of the issues facing UnitedHealth led to a strain of investor skepticism that burst out after April 17, when the company announced earnings that came in below Wall Street expectations.

UnitedHealth slashed its guidance for the full year in April, to a range of $26 to $26.50 a share in adjusted earnings. Its prior projection, issued in December and reaffirmed in January, had been for adjusted earnings of $29.50 to $30 a share. UnitedHealth didn't immediately offer a new outlook after suspending its 2025 guidance Tuesday.

On April 17, Witty largely blamed federal policy changes and said UnitedHealth was urgently working to fix the problems, but shares dropped 22% that day, costing $119 billion in market capitalization. It was the company's biggest one-day stock fall in more than a quarter-century.

Under Hemsley, UnitedHealth is expected to continue the strategy that he largely created—in which the company's different businesses intertwine, with the insurance unit paying UnitedHealth doctors to treat its members, for instance.

"Steve Hemsley brings a combination of strategic vision and deep operational focus that are highly valuable to our company," said Michele Hooper, lead independent director of UnitedHealth.

At the heart of UnitedHealth's current financial troubles is a business that has long been an engine of its prosperity, the private Medicare plans known as Medicare Advantage.

In its call Tuesday, UnitedHealth said that it was still seeing unexpectedly high costs in its insurance unit, largely in outpatient and physician services, and that similar trends were emerging among "adjacent populations" with complicated health conditions.

The company said both its insurance operation and its physician groups were struggling with an influx of new Medicare enrollees with health needs whose diagnoses hadn't been fully documented by their prior insurers. Medicare insurers are paid more when patients have certain diagnoses. UnitedHealth said it was moving quickly to engage with the new patients.

UnitedHealth's Medicare insurer rivals have also faced rough times in the Medicare Advantage business, which mostly surfaced last year. The CEO of CVS Health was ushered out by the company's board after Medicare woes hurt its earnings. But UnitedHealth's competitors didn't flag new Medicare Advantage problems or emerging financial challenges in the first quarter of 2025, leaving UnitedHealth isolated.

Witty had assured investors in January that UnitedHealth had a handle on its challenges, promising "a strong outlook for the year"—only to suddenly reveal last month that it had missed the mark.

For Witty, the departure marks a difficult end to his second stint as a CEO, after GlaxoSmithKline. A smoothly spoken communicator, he deftly fielded hours of questioning by Congress about the devastating 2024 hack of the company's Change Healthcare unit.

But Witty, who often worked from his native U.K. or Washington, D.C., offices, lacked a background in the nuts and bolts of the insurance business. Unlike prior leaders of the company, he didn't spend many years climbing the ladder in a series of executive roles. He was a member of the UnitedHealth board before becoming the CEO of UnitedHealth's Optum health-services unit in 2018.

In December, after the fatal shooting of UnitedHealth executive Brian Thompson, Witty sought to console employees as the company fielded threats and social media filled with consumer complaints about the insurance industry and UnitedHealth in particular.

At the same time, scrutiny was ramping up on UnitedHealth's business. The Wall Street Journal reported last year that the Justice Department had launched an antitrust investigation. In February, the Journal reported that the Justice Department was also examining UnitedHealth's Medicare Advantage billing practices, including issues covered in a year-long Journal investigation based on analyses of Medicare data.

Sen. Chuck Grassley speaking at Mehmet Oz's confirmation hearing for head of the Medicare agency in March. PHOTO: BEN CURTIS/ASSOCIATED PRESS

Sen. Chuck Grassley, an Iowa Republican, also launched an examination of UnitedHealth, sending a letter to the company in February that cited Journal reporting.

In a Senate confirmation hearing in March, the new head of the federal Medicare agency, Mehmet Oz, was asked repeatedly about the Journal's findings, and he vowed to crack down on insurers' Medicare billing.

As pressure increased, UnitedHealth under Witty sometimes took a pugnacious attitude toward its critics. The company dismissed the Journal's reporting as "misinformation."

Many investors shrugged off the growing challenges facing UnitedHealth earlier this year, and while its shares were lower than their peak, they often regained ground after bad news emerged. However, in the weeks since the April 17 earnings announcement, as it became clear that other insurers weren't seeing similar new problems, the company failed to turn around its stock decline.

Write to Anna Wilde Mathews at Anna.Mathews@wsj.com and Christopher Weaver at Christopher.Weaver@wsj.com

Videos

UnitedHealth Group Inc

UnitedHealth chief Andrew Witty steps down as shares plunge

US healthcare group brings back former boss Stephen Hemsley to retake the helm

Andrew Witty, who was appointed chief executive in 2021, has overseen the group through a tumultuous period © AP

Patrick Temple-West in New York and **Lee Harris** in London

Published 6 HOURS AGO | Updated 08:52

UnitedHealth Group shares sank to their lowest level in more than four years after the insurance group said that former chief executive Stephen Hemsley was returning to the helm as its current boss Andrew Witty stepped down.

The largest US health insurance company by revenue said on Tuesday that Witty was quitting the top job immediately for "personal reasons" as it suspended its annual outlook. UnitedHealth shares were down 16.2 per cent in morning trading on Wall Street, reaching their lowest level since November 2020.

Witty, who was appointed chief executive in 2021, has overseen the group through a tumultuous period. UnitedHealth slashed its profit forecast less than a month ago. It is also grappling with the aftermath of the killing last year of Brian Thompson, who was the CEO of its sprawling insurance division. Witty was also CEO of GlaxoSmithKline from 2008 to 2017.

Hemsley, UnitedHealth's executive chair, was CEO from 2006 to 2017, and had held senior positions at the group since the late 1990s. He will remain the chair of the board.

"I am deeply disappointed in and apologise for the performance setbacks we have encountered with both external and internal challenges," Hemsley said on an investor call on Tuesday.

He did not give additional information about why Witty was leaving, but said the outgoing leader would remain a senior adviser.

In addition to its insurance business, UnitedHealth runs medical practices across the US. The company in mid-April slashed its annual profit forecast after a surge in demand for medical services from older customers that was "far above" expectations. The cut also reflected a "greater than expected" hit from reductions to spending on older patients by the previous Biden administration.

Since December, UnitedHealth has been beset by "broad regulatory concerns" and questions about its coverage decisions, Morningstar said in a research report on Tuesday. "The murky outlook for 2025 and executive suite shake-up inject more uncertainty into the situation," the firm said.

UnitedHealth, which covers about 50mn Americans, is also dealing with a US antitrust investigation over its status as the country's biggest health insurer.

The shake-up at UnitedHealth coincides with the Trump administration's efforts to reduce US drug prices.

President Donald Trump said on Monday he hoped to achieve that in part by facilitating Americans' access to medicines directly from pharmaceuticals groups, bypassing intermediaries. UnitedHealth is among the US's biggest pharmacy benefit managers, which act as intermediaries for the drug industry.

Shares of UnitedHealth peers Cigna and CVS sank after Trump's announcement.

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UnitedHealth's string of setbacks, from exec murder to cyber attack

reuters.com/sustainability/boards-policy-regulation/unitedhealths-string-setbacks-exec-murder-cyber-attack-2025-05-13

Reuters May 13, 2025

The corporate logo of the UnitedHealth Group appears on the side of one of their office buildings in Santa Ana, California, U.S., April 13, 2020. REUTERS/Mike Blake/File Photo

(UNH.N), opens new tab CEO Andrew Witty has stepped down unexpectedly and company veteran Stephen Hemsley is returning to the top role to steer the healthcare conglomerate through one of its most challenging periods.
The company has grappled with a series of challenges over the past year: a surge in medical costs, a cyber attack at its tech unit, the killing of its insurance unit head and subsequent public backlash against the industry.

The following is a timeline of key events for the company since 2024:

January 12, 2024

UnitedHealth shares fell after medical services costs at the healthcare conglomerate surpassed Wall Street expectations for the first time in two years, even as it beat fourth-quarter profit and revenue estimates.
February 21, 2024

UnitedHealth Group's tech unit, Change Healthcare, is hit by a cybersecurity attack on its systems.

February 28, 2024

In a message posted to, and then quickly deleted from their darknet site, the hackers blamed for the strike say they stole millions of sensitive records, including medical insurance and health data, from the company.
February 29, 2024

UnitedHealth Group says the cyber attack was perpetrated by hackers who identified themselves as the "Blackcat" ransomware group.
March 13, 2024

The U.S. government says it has opened an investigation into the cyber attack to find out whether there was a breach of protected health data and if the company followed U.S. health privacy law.

March 13, 2024

UnitedHealth Group says its unit Change Healthcare's pharmacy network is back online, weeks after the fallout from the cyber attack swept across the country's healthcare system that depends heavily on insurance.

April 16, 2024

UnitedHealth Group says it expects the hack of its Change Healthcare unit to cost the company up to $1.6 billion in 2024, but maintained its annual earnings forecast, suggesting the cyber attack's impact was less severe than many on Wall Street had feared.

May 1, 2024

Hackers who breached UnitedHealth's tech unit in February potentially stole a third of Americans' data, the largest U.S. health insurer's CEO tells a Congressional committee.

July 16, 2024

UnitedHealth forecasts a bigger hit to annual earnings from the February hack at its tech unit, but maintains its full-year profit forecast.

September 20, 2024

The U.S. Federal Trade Commission sues the country's three largest pharmacy benefit managers, accusing them of steering diabetes patients towards higher-priced insulin to reap millions of dollars in rebates from pharmaceutical companies.

October 15, 2024

UnitedHealth Group provides a 2025 profit forecast below Wall Street estimates as it expects pressure across its government-supported health insurance businesses.

November 12, 2024

The U.S. Department of Justice and three U.S. states file a lawsuit to block UnitedHealth Group's $3.3 billion acquisition of Amedisys, citing concerns that the deal would reduce competition in the home health services market.

December 4, 2024

Brian Thompson, the CEO of UnitedHealth's insurance unit, is killed outside a Midtown Manhattan hotel ahead of the company's investor day in what police described as a targeted attack by a gunman lying in wait for him.

December 19, 2024

The suspect in the killing of Thompson is charged with federal murder and stalking crimes in a Manhattan courtroom, alongside state murder and terrorism charges previously announced by New York prosecutors.
December 23, 2024

Luigi Mangione, the man accused of fatally gunning down Thompson on a Manhattan street, pleads not guilty to New York state murder charges that brand him a terrorist.
January 16, 2025

At the company's first earnings call since the murder of Thompson, CEO Andrew Witty says healthcare in the U.S. needs to be "less confusing, less complex and less costly."
Witty says the company will work with policymakers to reduce the frequency of prior authorization approvals required before a patient can access medical treatment in its Medicare business for people aged 65 and older or with disabilities.

January 23, 2025

UnitedHealth Group names Tim Noel, the head of its Medicare business, to the top job at its health insurance business, a month after the unit's former CEO Brian Thompson was killed.
January 24, 2025

The company says the cyber attack at its tech unit last year affected the personal information of 190 million people, making it the largest healthcare data breach in the United States.
February 19, 2025

UnitedHealth's insurance unit offers employees in its benefits operations unit the option to accept buyouts if they quit by March 3, CNBC reports.
February 21, 2025

The U.S. Justice Department is investigating UnitedHealth's Medicare billing practices, the Wall Street Journal reports. The health insurer says it is unaware of any new probe underway.
February 25, 2025

U.S. Senator Chuck Grassley requests detailed information on UnitedHealth's Medicare billing practices in a letter to CEO Andrew Witty.
April 4, 2025

The U.S. Federal Trade Commission's lawsuit against pharmacy benefit managers over insulin pricing practices will likely move forward again after being paused amid President Donald Trump's firing of the agency's two Democratic commissioners.
April 17, 2025

UnitedHealth Group surprises investors with what its CEO said was an "unusual and unacceptable" quarterly earnings miss, and lowers its outlook for the full year due to higher-than-expected medical costs, sparking a more than 20% selloff in shares that reverberated across the sector.
April 21, 2025

UnitedHealth Group says it spent nearly $1.7 million on security for its top executives in 2024, months after the fatal shooting of senior executive Brian Thompson.
May 7, 2025

The company is sued for allegedly concealing how backlash from the killing of Thompson was damaging its business.
UnitedHealth Group suspends its 2025 forecast due to surging medical costs, and CEO Andrew Witty steps down suddenly.
Reporting by Puyaan Singh and Sneha S K in Bengaluru; Editing by Devika Syamnath

Our Standards:

- **US court hears small business bid to block Trump tariffs**

  Five American small businesses asked a U.S. court on Tuesday to halt President Donald Trump's "Liberation Day" tariffs, arguing that he overstepped his powers by declaring a national emergency to impose across-the-board taxes on imports from nations that sell more to the United States than they buy.

- Boards, Policy & RegulationcategoryUnitedHealth's string of setbacks, from exec murder to cyber attack9:50 AM PDT · Updated 35 min ago
- World at WorkcategoryVW German cost-cutting drive has sunk factory costs by 13%, brand CEO tells FT9:48 AM PDT · Updated 38 min ago
- BusinesscategoryUnitedHealth CEO leaves abruptly, company pulls forecast as shares sink9:39 AM PDT · Updated an hour ago

Securities Law News
May 12, 2025, 2:20 PM PDT

Jupiter Wellness Investor Gets Suit Over Dividend Reinstated

- **Lower court said fund lacked standing to sue over dividend**
- **Fund's contract claim OK despite selling stock, 2d Cir. says**

An investment fund that held Jupiter Wellness shares in July 2023 has standing to sue the beverage maker over a dividend it allegedly failed to issue on the record date, the Second Circuit ruled Monday.

The district court incorrectly concluded that the right to sue traveled with the stock, which the fund sold before filing suit, the US Court of Appeals for the Second Circuit said in an unpublished opinion. Rather, the right to receive a lawfully declared dividend is a right of the stockholder under Delaware law and doesn't travel with the stock, the appeals court said. Jupiter Wellness Inc., now known as Safety Shot Inc., is incorporated in Delaware.

Further, the dividend—shares of Jupiter's subsidiary SRM Entertainment Inc.—qualified as a property dividend that created a binding obligation on the corporation when declared with a fixed record date, as opposed to a stock dividend, the panel said. The fund's breach of contract claim can proceed, it said.

Sabby Volatility Warrant Master Fund, Ltd. alleged it held stock in Jupiter, which makes a drink designed to reduce blood alcohol. Jupiter allegedly failed to honor the record date it set for a planned July 7, 2023, distribution of SRM shares. Sabby sold its stock before the eventual Aug. 15, 2023 distribution date, it said.

The US District Court for the Southern District of New York properly dismissed the other claims in the case, the Second Circuit said.

Judges Gerard E. Lynch, Steven J. Menashi, and Eunice C. Lee served on the panel.

Olshan Frome Wolosky LLP represented Sabby. Gusrae Kaplan Nusbaum PLLC represented Jupiter.

The case is Sabby Volatility Warrant Master Fund Ltd. v. Jupiter Wellness, Inc. , 2d Cir., No. 24-2777, unpublished 5/12/25 .

To contact the reporter on this story: Martina Barash in Washington at mbarash@bloomberglaw.com

Securities Law

May 13, 2025, 9:29 AM PDT

Hedge Funds Drop Lawsuits Against LME Over Nickel Crisis

A group of hedge funds that sued the London Metal Exchange over the 2022 nickel crisis have dropped their legal action after similar arguments made in separate proceedings were rejected by UK courts.

The move means the exchange, which sparked fury by canceling $12 billion in trades after nickel prices surged due to a short squeeze, has faced down some $600 million in legal claims from some of the world's highest profile investors.

Funds including AQR Capital Management, DRW Commodities LLC, and Pala Investments Ltd. had sued the LME claiming more than $100 million in damages over the 2022 nickel crisis. Their cases had been stayed pending the outcome of Elliott Investment Management 's high-profile legal action against the LME, which earlier this year concluded when the UK's Supreme Court refused the fund permission to appeal the judgment against it.

The other funds' cases have now been discontinued, according to people familiar with the matter and court filings. Representatives of the funds declined to comment or did not respond to requests for comment. A spokesperson for the LME declined.

The LME has argued that its actions in March 2022 were taken to protect the metals industry from a "death spiral" that would have bankrupted numerous players. While the UK courts have found that it acted legally, its regulator, the Financial Conduct Authority, in March fined the LME £9.2 million ($11.9 million) for having inadequate systems and controls to deal with the crisis.

In its annual report, the LME said the Supreme Court's refusal to allow an appeal "effectively brings an end" to Elliott's case against it. The report, dated Feb. 21 and filed earlier this month, also shows that Elliott and Jane Street, which brought the initial legal action, had made interim payments of over £4 million in 2024 to cover the LME's legal costs.

The LME has largely recovered from the crisis, with volumes rising 18% last year to the fourth highest on record. Pre-tax profits at the LME and its sister clearinghouse LME Clear rose to $193 million in 2024, up 68% from the previous year.

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Mark Burton

Litigation
May 13, 2025, 9:22 AM PDT

Split West Virginia High Court Passes on Question in Opioid Case

- **Court asked whether opioid sales can be public nuisance**
- **Majority declined to answer; question rests on disputed facts**

West Virginia's Supreme Court declined to weigh in on whether the distribution of drugs could constitute a public nuisance under state law, as a federal court considers a suit against pharmaceutical companies for their alleged role in the opioid epidemic.

The state high court can't answer the question "due to the disputed factual findings, and related legal conclusions resting on those factual findings" that are currently on appeal, Justice C. Haley Bunn of West Virginia's Supreme Court of Appeals wrote in a Monday opinion.

But Chief Justice William R. Wooton in a dissent said the question "clearly falls within the parameters" of the court's authority to answer.

The US Court of Appeals for the Fourth Circuit is considering a case brought by Huntington, W. Va., and the Cabell County Commission against several drug distributors, including Cardinal Health Inc. and McKesson Corp. The plaintiffs asserted the companies created or perpetuated the opioid epidemic by shipping excessive quantities of opioids to pharmacies in Huntington and Cabell County. The companies' alleged conduct "'resulted in a public nuisance that was subject to abatement under West Virginia common law,'" the plaintiffs alleged.

A West Virginia federal trial court ruled in favor of the drug distributors, concluding that public nuisance law doesn't provide a remedy for the plaintiffs based on the facts of the case, and said they failed to show the companies' conduct interfered with a public right, Bunn wrote.

The commission and Huntington on appeal argued the lower court incorrectly concluded that their public nuisance claim doesn't apply to the sale and distribution of opioids and that the distributors didn't interfere with a public right. The Fourth Circuit asked the West Virginia justices whether "conditions caused by the distribution of a controlled substance constitute a public nuisance" under state law, and what the elements of that claim would be.

But "whether a nuisance exists is a factual issue," and the justices "would have to assume that some or all" of the district court's disputed facts and legal conclusions were incorrect in order to answer the Fourth Circuit's question, Bunn said.

"Because," Bunn added, "if the district court's challenged findings and related conclusions are correct, this Court need not reach the legal question of whether a public nuisance cause of action exists in these circumstances."

The state high court "cannot disregard" the district court's conclusions and the parties' arguments on appeal before the Fourth Circuit. Since disputed facts "underlie our consideration of the certified question and are essential to addressing the issue before us, we respectfully decline to answer the certified question," Bunn wrote.

But Wooton, in his dissent, said he would hold that the distribution of drugs would be actionable under West Virginia public nuisance law if it "causes a condition of widespread harm."

Wooton also said the majority's underlying rationale appears to be that the answer to a certified question "must be dispositive of an entire case," but "our mandate is to resolve an issue, which is exactly what the Fourth Circuit has asked us to do."

Judge Tera L. Salango, of the state's Eighth Judicial Circuit and sitting by temporary assignment, joined the dissent.

Judge Andrew Dimlich, of the state's Fourteenth Judicial Circuit and sitting by temporary assignment, joined the majority. Justice Elizabeth D. Walker concurred in Bunn's majority opinion. Justices Tim Armstead and Charles S. Trump IV didn't participate.

Woelfel & Woelfel LLP, Kellogg, Hansen, Todd, Figel & Frederick PLLC, and Motley Rice LLC represent the plaintiffs. Williams & Connolly LLP, Reed Smith LLP, and Covington & Burling LLP represent the companies.

The case is City of Huntington and Cabell Cnty. Comm'n v. AmerisourceBergen Drug Corp. , 2025 BL 160743, W. Va., No. 24-166, 5/12/25 .

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'Time-Barred Antitrust Claims'?: Split 4th Circuit Revives 'No-Poach' Class Action Against Shipbuilders

law.com/nationallawjournal/2025/05/12/time-barred-antitrust-claims-split-4th-circuit-revives-no-poach-class-action-against-shipbuilders

Sulaiman Abdur-Rahman May 12, 2025

What You Need to Know

- Cohen Milstein Sellers & Toll argued the appeal successfully on behalf of plaintiffs alleging a no-poach conspiracy in the naval shipbuilding industry.
- Jenner & Block represented defendant shipbuilders and naval-engineering consultancies.
- Chief Judge Albert Diaz of the Fourth Circuit wrote a dissenting opinion saying the majority applied the wrong standard in reviewing fraudulent concealment claims.

The U.S. Court of Appeals for the Fourth Circuit in a 2-1 ruling Friday revived a putative antitrust class action against the nation's largest shipbuilders and naval-engineering consultancies.

Plaintiffs sufficiently alleged a "no-poach" conspiracy between shipbuilders and specialized consulting firms accused of fraudulently concealing an unwritten agreement not to actively recruit each other's employees in violation of the Sherman Act, the Fourth Circuit ruled.

"We hold that neither logic nor our precedent supports distinguishing between defendants who destroy evidence of their conspiracy and defendants who carefully avoid creating evidence in the first place," Judge James Andrew Wynn wrote in the majority opinion for the Fourth Circuit. "Accordingly, we reverse the dismissal of this matter."

The Fourth Circuit remanded the case for additional proceedings in the U.S. District Court for the Eastern District of Virginia, ruling the plaintiffs' claims are not time-barred by the Sherman Act's four-year statute of limitations because their allegations are sufficient to toll the limitations period.

Chief Judge Albert Diaz wrote a dissenting opinion, arguing the majority applied the "wrong standard" in evaluating the fraudulent concealment claims.

Instead of using the Fourth Circuit's affirmative-acts standard for reviewing allegations of fraudulent concealment, the majority "effectively apply the self-concealing standard," Diaz wrote in his dissenting opinion. "My colleagues also substantially relax the required showing

under [Federal Rules of Civil Procedure] Rule 9(b) that the plaintiffs must satisfy to plead any affirmative acts of fraudulent concealment."
"Plaintiffs failed to make the requisite showing for fraudulent concealment," Diaz added. "And the majority compounds that omission by applying the wrong standard in evaluating the fraudulent concealment claims. The district court correctly dismissed the complaint. Because the majority holds otherwise, I respectfully dissent."

Cohen Milstein Sellers & Toll partner Robert W. Cobbs argued the appeal successfully on behalf of the plaintiffs Susan Scharpf and Anthony D'Armiento, who previously worked for some of the defendants more than 10 years ago as naval architects.

Matthew Hellman, co-chair of Jenner & Block's appellate and U.S. Supreme Court practice, argued on behalf of the defendants, including the largest military shipbuilding company in the United States, Huntington Ingalls Industries. Hellman did not respond to a request for comment on this article.

Judge DeAndrea Gist Benjamin joined Wynn's opinion, ruling the plaintiffs' claims are not time-barred by the Sherman Act's four-year statute of limitations because the plaintiffs "adequately allege" an undocumented no-poach agreement between the defendants.

Counsel for the plaintiffs filed a complaint in October 2023 accusing 19 shipbuilders and naval-engineering consultancies of conspiring to suppress wages through an anticompetitive scheme involving an unwritten no-poach agreement in violation of the Sherman Act. The complaint accused the defendants of engaging in "comprehensive efforts to conceal" a decades-long conspiracy not to recruit each other's naval engineers.

U.S. District Senior Judge Anthony J. Trenga of the Eastern District of Virginia dismissed the complaint in April 2024, ruling the plaintiffs failed to sufficiently allege affirmative acts of concealment to avoid their claims being time-barred by the Sherman Act's four-year statute of limitations.

In reversing Trenga's judgment, the Fourth Circuit reaffirmed its 1995 doctrine in *Supermarket of Marlinton Inc. v. Meadow Gold Dairies Inc.*, holding unwritten agreements can constitute fraudulent concealment.

"We hold that an agreement that is kept 'non-ink-to-paper' to avoid detection can qualify as an affirmative act of concealment," Wynn wrote in his opinion for the Fourth Circuit. "Surely, Congress did not intend for us to reward conspirators who are savvy enough to avoid taking notes while punishing those who take notes but later destroy them. This would unjustly 'benefit those defendants who were cunning enough to commit their crimes initially in such a manner that there was no need for further concealment.'"

Counsel for the plaintiffs include Cohen Milstein Sellers & Toll; Hagens Berman Sobol Shapiro; Handley Farah & Anderson; Berger Montague; and Lockridge Grindal Nauen.

Cobbs of Cohen Milstein did not respond to a request for comment on this article.

Litigation
May 13, 2025, 9:33 AM PDT

Visa, Mastercard Keep Antitrust Win as Court Preserves Dismissal

- **Judge previously found plaintiffs lacked antitrust standing**
- **Card companies allegedly conspired to inflate fees**

Visa Inc. and Mastercard Inc. prevailed in an antitrust suit claiming they conspired to fix card transaction fees, after a federal judge denied the cardholder plaintiffs' motion to amend their previously dismissed complaint.

Judge Margo K. Brodie of the US District Court for the Eastern District of New York in a Monday opinion said the plaintiffs failed to identify any facts that she overlooked in her December 2024 ruling, which determined they lacked antitrust standing and didn't participate in the market where the alleged anticompetitive conduct occurred.

The plaintiffs' attempt to repackage the relevant market definition is "unpersuasive," Brodie said.

The case is among many tossed by courts due to faulty market definitions, a threshold issue in antitrust claims.

Visa and Mastercard have both been increasingly scrutinized by private plaintiffs and federal agencies over their power in the payment processing industry.

Last year, the Department of Justice filed a civil suit against Visa claiming it monopolized the debit network market.

The fees at issue in this case are charged each time a consumer makes a Visa or Mastercard transaction. The fees are set by both Visa and Mastercard and then charged to "acquiring" banks that process payments on behalf of merchants.

Plaintiffs in this case are California residents who alleged the card companies, along with other defendant banks that issue Visa and Mastercard cards to consumers, fixed and stabilized the fees in violation of California's Cartwright Act and the state's Unfair Competition Law. They allege they directly and indirectly paid the fees.

The case, which originated in California state court in 2022, was eventually consolidated into multidistrict litigation in the Eastern District of New York.

Visa and Mastercard argued that the plaintiffs are participants in the payment card market, whereas the anticompetitive conduct is alleged to occur in the entirely separate network services market. The card companies also argued the acquiring banks—not cardholders—pay interchange fees.

The plaintiffs are represented by Alioto Law Firm. Visa is represented by Arnold & Porter Kaye Scholer LLP. Mastercard is represented by Paul, Weiss, Rifkind, Wharton & Garrison LLP.

The case is Palladino v. JPMorgan Chase & Co. , E.D.N.Y., No. 1:23-cv-01215, 5/12/25 .

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Class Action
May 12, 2025, 5:28 PM PDT

Honda Class Settlement Approved in Defective Bluetooth Lawsuit

A federal judge signed off on a settlement where Honda will pay a class of Acura owners up to $500 for out-of-pock expenses related to a defective Bluetooth speaker system in some vehicles.

Judge Jon S. Tigar gave final approval to American Honda Motor Co. Inc.'s settlement agreement in an order May 9 in the US District Court for the Northern District of California. The class alleged defects in the HandsFreeLink Bluetooth system in certain Acura vehicles that prevented them from properly shutting down, causing excessive drain on car batteries.

- The class is composed of California, Kansas, New York, and Washington consumers who purchased Acura's 2004 to 2008 model TL, 2005 to 2008 model MDX, 2007 to 2009 model RDX
- Class members will be reimbursed for replacement expenses regarding their Bluetooth units' "excessive parasitic drain" to up to $500, the order said. They're also eligible for a $350 payment for units that were disconnected or where "excessive parasitic drain was indicated"
- Tigar also approved a more than $8.5 million award of attorneys' fees and just over $1 million in litigation costs to class counsel, the order said. The six named plaintiffs in the class action will also receive $5,000 service awards

Berman Sobol Shapiro LLP, Miller Shah LLP, Seeger Weiss LLP, Gibbs Mura LLP, Baron & Budd PC, and Carella Byrne Cecchi Olstein Brody & Agnello PC represent the class. Shook, Hardy & Bacon LLP represents Honda.

The case is Lou v. Am. Honda Motor Co. Inc. , N.D. Cal., No. 16-cv-04384-JST, order 5/12/25 .

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Colorado top court allows Boulder to sue Exxon, Suncor over climate change

reuters.com/sustainability/cop/colorado-top-court-allows-boulder-sue-exxon-suncor-over-climate-change-2025-05-12

Nate Raymond May 12, 2025

The Suncor Energy logo is seen at their head office in Calgary, Alberta, Canada, April 17, 2019. REUTERS/Chris Wattie/File Photo Purchase Licensing Rights, opens new tab

- Colorado Supreme Court allows climate lawsuit against Exxon, Suncor
- Ruling marked second time a state supreme court has allowed climate case to proceed

May 12 (Reuters) - Colorado's highest court on Monday rejected efforts by Exxon Mobil (XOM.N), opens new tab and Suncor Energy (SU.TO), opens new tab to dismiss a lawsuit by the city of Boulder seeking to hold the fossil fuel companies responsible for climate change.
The Colorado Supreme Court in a 5-2 decision, opens new tab said federal law did not block Boulder and its surrounding county from claiming that the energy companies violated state law by misleading the public about the dangers associated with fossil fuels.
The ruling marked only the second time a state supreme court has allowed one of the numerous lawsuits by state and local governments against major energy companies over climate change to move forward in the years-long litigation.

The Hawaii Supreme Court allowed a similar lawsuit by Honolulu to move forward against Exxon, Sunoco and several other companies in a decision that the U.S. Supreme Court in January declined to review.
"This ruling affirms what we’ve known all along: corporations cannot mislead the public and avoid accountability for the damages they have caused," Boulder Mayor Aaron Brockett said in a statement.

Exxon in a statement said it would continue to fight Boulder's claims. "We've maintained from the beginning this case is meritless and has no place before a state court," the company said.

Suncor did not respond to a request for comment.

Boulder sued in 2018, alleging the companies violated various state laws and created a public and private nuisance by misleading the public about the role their fossil fuel products played in exacerbating climate change.

Boulder argues they should be forced to pay for the costs it will incur to protect its community from climate change.

The companies deny wrongdoing. They had fought for years to have the case heard in federal court. State courts are often considered a more favorable venue for plaintiffs.

But following years of litigation and two trips to the U.S. Supreme Court, the case ultimately returned to state court, where a trial judge declined to dismiss the lawsuit.
On appeal, the companies argued that Boulder's lawsuit would interfere with the federal regulation of greenhouse gas emissions under the Clean Air Act and impair the federal government's ability to conduct foreign affairs.

But Justice Richard Gabriel, who like all of the Colorado Supreme Court's other members was appointed by a Democratic governor, said "a lawsuit does not amount to regulation merely because it might have an impact on how actors in a given field behave."

Justice Carlos Samour dissented, expressing concern that Boulder's case sought to effectively regulate interstate air pollution and could lead to "regulatory chaos."

Reporting by Nate Raymond in Boston, Editing by Alexia Garamfalvi and Sonali Paul

Climate cases: Boulder's OK'd, Trump sued and a $7K plagiarism penalty

legalnewsline.com/stories/671357986-climate-cases-boulder-s-ok-d-trump-sued-and-a-7k-plagiarism-penalty

John O'Brien May 13, 2025

Climate Change

Samour | https://www.coloradojudicial.gov/

DENVER (Legal Newsline) - Colorado's supreme court will let climate change litigation brought by Boulder move forward, giving the alliance of plaintiff lawyers and government officials a ray of hope after five rulings that said otherwise.

Companies like Exxon and Chevron face dozens of cases brought around the country and had scored five dismissals in a row until the Colorado Supreme Court ruled May 12 to deny Exxon and Suncor's motion to dismiss.

State court judges have refused to interject themselves in the international emissions debate, and two Colorado justices disagreed sharply with their colleagues who allowed Boulder's case to advance.

"Boulder is not its own republic; it is part of Colorado and, by extension, of the United States of America," dissenting justice Carlos Samour wrote. "Consequently, while it has every right to be environmentally conscious, it has absolutely no right to file claims that will both effectively regulate interstate air pollution and have more than an incidental effect on foreign affairs."

The case drew significant attention from associations that filed amicus briefs, like Colorado's plaintiff lawyer group, the U.S. Chamber of Commerce and the Natural Resources Defense Council.

Justice Richard Gabriel wrote the opinion for the 5-2 majority, which joins justices in Hawaii who reached a similar conclusion that let Honolulu's lawsuit proceed. Though asked to do so, the U.S. Supreme Court refused to hear Big Oil's appeal in that case.

Gabriel and the majority found the Clean Air Act didn't preempt the state law claims made by Boulder, like public nuisance.

"(T)he torts alleged in this case involve areas of traditional state responsibility," Gabril wrote.

"Moreover, we perceive no manner in which, through its tort claims Boulder is seeking to implement foreign policy. Nor have defendants demonstrated how Boulder's claims intrude on any power over foreign policy expressly or implicitly reserved to the federal government."

The lawsuits allege consumers would not have burned as many fossil fuels as they did had companies been more forthright about their effects and seek damages for infrastructure projects that they say will be needed as climate change continues.

Five judges, including two in Maryland and one in New York, have expressed concerns that though the cases make claims under consumer protection laws, they actually impact the global energy market.

Judge Videtta Brown, in Baltimore's case, said the litigation goes beyond the limits of Maryland law, or whatever states other cases are filed in.

"This Court holds that the U.S. Constitution's federal structure does not allow the application of state court claims like those presented in the instant cases," Judge Steven Platt wrote in tossing Annapolis' case.

"The States such as Plaintiffs here... can participate in the efforts to limit emissions collaboratively, but not in the form of litigation... If states and municipalities [or] even private parties are dissatisfied with the federal rulemaking or the outcome of cases, they may seek federal court review."

Trump's fight to stop climate change cases escalates

At issue is whether state court judges should have the power to essentially impact the international energy market. Twenty Republican state attorneys general argued the Hawaii case involves questions of interstate and international law that can only be decided by Congress or in federal courts.

But other AGs disagree, and when President Donald Trump realized Michigan's and Hawaii's were planning to join the list of plaintiffs, he issued an executive order forbidding it.

Then he went to federal court looking for injunctions to stop them.

"Congress delegated to EPA the authority to determine whether and how to regulate greenhouse gas emissions, thereby displacing federal common law claims and occupying the field of interstate air pollution regulation," the suits say.

Last week, a group of 14 attorneys general filed a lawsuit of their own against the executive order in Seattle federal court.

“This is just the latest in a long line of examples of President Trump illegally using his executive orders and administration to cater to his Big Oil campaign donors at the expense of our Great Lakes, our environment, and the people of Michigan," Michigan AG Dana Nessel said.

Meanwhile in South Carolina, the judge hearing Charleston's lawsuit has asked for input from both sides on how Trump's executive order will impact that case.

Charleston calls it a "forward-looking order" and adds "Neither this Executive Order nor the Executive branch possess constitutional authority to dictate to this Court or the judicial system how to rule in pending cases."

Of course, the defendants disagree, noting state Attorney General Alan Wilson is among those arguing against climate change litigation.

"In sum, the Executive Order underscores what was already clear: Plaintiff's claims are precluded and preempted by the U.S. Constitution and federal law and should be dismissed."

Other recent events

The Rhode Island Supreme Court May 8 heard arguments from Chevron on jurisdictional discovery, arguing the State has failed to show that court can exercise personal jurisdiction over it.

Rhode Island Attorney General Peter Neronha's lawsuit - brought by private, contingency fee lawyers hoping for possibly billions of fees if their cases find success nationwide - said Chevron sold a "substantial portion" of its fossil fuel products in the state.

In response, Chevron said it hasn't operated a gas station in Rhode Island since 1985.

And a lawyer in Puerto Rico whose lawsuit on behalf of San Juan was "an astonishing example of plagiarism" was officially fined $7,000 by a federal judge there.

The San Juan lawsuit “is almost a word-for-word carbon copy” of a class action that was drafted by lawyers at Milberg Coleman Bryson Phillips Grossman and Smouse & Mason, the judge said. Not only does it contain the same spelling errors but at least once, attorney David Efron left in a reference to “this class action,” when he represents a single plaintiff.

ORGANIZATIONS IN THIS STORY

Colorado Supreme Court

Class Action
May 12, 2025, 1:35 PM PDT

DaVita, Fresenius Accused of Inflating Dialysis Treatment Prices

- **COURT:** D. Colo.
- **TRACK DOCKET:** 1:25-cv-01478 (Bloomberg Law subscription)

DaVita Inc. and Fresenius Medical Care AG were sued in federal court with claims the companies colluded to corner the market for dialysis treatments in the US and overcharge patients by billions of dollars.

The plaintiff, the benefits fund for United Food and Commercial Workers Local 1776, alleged that absent the companies' conspiracy, the "prices of outpatient dialysis services would have been determined by competitive forces—and would have been significantly lower," according to a complaint filed May 9 in the US District Court for the District of Colorado.

The suit accuses Colorado-based DaVita and Germany-based Fresenius, the largest providers of dialysis services in the US, of scheming to raise treatment costs and reduce the quality of patient care.

The two companies together acquired small, independent clinics in "uncontested takeovers" and divided territories among themselves to reduce competition with one another, according to the proposed class action.

They also rarely objected to each other's entry into a market with a new dialysis center through the certificate-of-need process—"despite the fact that they are each other's primary (and only significant) competitor," the complaint said.

DaVita has separately faced other antitrust allegations, including a 2021 indictment on charges that the company and its former CEO conspired to suppress competition for senior-level executives. A jury later found the company and the ex-CEO not guilty.

The fund, which represents workers in the state of Pennsylvania, seeks relief under laws including Section 1 of the Sherman Act, which prohibits agreements that restrain trade.

It seeks to represent people in the US and its territories that purchased outpatient dialysis services directly from the defendant companies during a class period back to at least May 9, 2021.

DaVita said in an emailed statement to Bloomberg Law that the allegations are "baseless" and that the company will defend itself vigorously. "We remain committed to compliance and operating with the highest integrity as we focus on the future of kidney care and doing what we do best: serving our patients," the company said.

Fresenius didn't immediately respond to requests for comment. The suit also names Fresenius' US units as defendants.

The plaintiffs are represented by Korein Tillery LLC, Lowey Dannenberg PC, and Young Law Group PC.

The case is United Food & Com. Workers Local 1776 v. DaVita Inc. , D. Colo., No. 1:25-cv-01478, 5/9/25 .

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A VIP Seat at Donald Trump's Crypto Dinner Cost at Least $2 Million

wired.com/story/trumpcoin-dinner-ticket-bidding

Paige Oamek, Joel Khalili, Natasha Bernal May 12, 2025

Ten days from now, 220 crypto investors will sit down to a lavish three-course dinner and enjoy “stunning views of the Potomac river” with US president Donald Trump at his 600-acre golf club in Washington DC. To earn an invitation, all they had to do was buy a boatload of the president’s personal crypto coin.

The dinner was announced on April 23 by CIC Digital LLC—a subsidiary of a conglomerate owned by the Trump family—and Fight Fight Fight LLC, which together control 80 percent of the TRUMP coin supply. They pitched it as “the most exclusive invitation in the world,” giving lucky attendees the opportunity to “hear first-hand president Trump talk about the future of crypto.”

The attendees were selected based on who had spent the most on TRUMP and held their coins the longest between the announcement date and the deadline at 1:30pm ET today. The identities of the investors who vied for a place are concealed behind leaderboard usernames and alphanumeric crypto wallet addresses.

To win a seat under the crystal chandeliers of the great ballroom at the Trump National Golf Club in Washington, the 220 qualifying attendees had to hold or purchase at least 4,196 units of the TRUMP coin—worth about $55,000 at the time of writing, WIRED calculated.

The 25 largest holders will enjoy an even more intimate experience, including a VIP tour and an "exclusive reception before dinner with YOUR FAVORITE PRESIDENT [sic]," according to the website. To qualify for the reception, these VIPs held around 325,000 TRUMP coins on average, worth $4.3 million as of 1:30pm ET.

The biggest spender, an investor going by the name Sun, topped the leaderboard with around 1.43 million TRUMP coins, worth over $19 million. (The wallet going by Sun sold nearly $1 million worth of TRUMP before the contest ended.) Many have speculated whether the wallet belongs to Chinese born billionaire Justin Sun; according to a New York Times report, the coins belong to an exchange for which Sun is a global advisor. Sun did not respond to a request for comment.

Despite the scoring system favoring investors who held TRUMP coins the longest, a number of qualifying VIPs entered the competition at a late stage. In sixth place on the leaderboard, an investor going by the pseudonym Woo bought 1,000,001 coins (now worth over $13 million) on May 6 and sat on them until the end of the competition.

At the bottom end of the leaderboard, smaller investors fought over the final remaining dinner places. One investor going by the username hihi almost doubled their TRUMP holdings in a series of purchases in the hours before the deadline, earning themselves a seat at the dinner.

Conversely, having comfortably secured their places, around 35 of the 220 gala attendees had already sold off nearly all their TRUMP holdings by Monday morning, presumably to shield themselves from any potential drop in value. Analysts had predicted a slump in price after the spaces at the dinner were confirmed and the immediate incentive to hold the coin evaporated.

Most Popular

VIP investors with the usernames Top and ivo sold 200,000 (worth almost $2.7 million) and 427,568 (worth almost $5.7 million) ahead of the deadline, respectively.

Trump first announced his crypto coin on January 17, three days before his 2025 inauguration. He pitched it as a memecoin, a type of coin used almost exclusively for financial speculation. Because memecoins do not generate revenue, nor have any underlying business model, their price tends to fluctuate wildly with swings in public sentiment toward the person, meme, or concept they are based upon.

In the days after trading began, the 20 percent of TRUMP coins released into circulation surged in value to $14 billion. On paper, Trump's net worth had increased by tens of billions of dollars almost overnight.

The value of the coin has since dropped by more than 80 percent from its peak. But when Trump announced the dinner on April 23, it prompted another trading frenzy, causing the price of the memecoin to surge. As market intermediaries, Fight Fight Fight and CIC Digital likely made hundreds of thousands of dollars in trading fees.

Since launch, critics have cast the TRUMP memecoin as an unethical “money-grab”—an abuse of Trump’s office for the sake of self-enrichment. They have also expressed concern that the coin could be used to discreetly transfer wealth to the Trump family. By making a large investment and driving up the price of the coin, foreign powers and other politically-motivated actors could try to curry favor with the president, the argument goes.

In establishing an explicit quid-pro-quo—a large investment in exchange for access to Trump—the dinner rekindled those fears. “He is granting audiences to people who buy the memecoin that directly enriches him,” said Democrat senator Jon Ossoff in a town hall meeting on April 25.

Got a Tip?

Have you invested in Trump’s memecoin? Are you attending the president’s crypto dinner? We'd like to hear from you. Using a nonwork phone or computer, contact Joel Khalili securely on Signal on Joel_Khalili.28.

The identities of the investors who won a seat at the gala dinner are largely unknown. The largest holders include investors going by the usernames Woo, REKT, GAnt, and CASE. The White House and the event organizers did not respond when asked whether the attendee list will be made public.

However, other investors have chosen to reveal their identities, seizing upon the competition as a branding opportunity. The second place holder, MeCo or “MemeCore,” asked users on X to send $TRUMP to their wallet to boost their ranking, promising a full refund at the end of the contest. “See you guys at Trump’s Gala,” added Rudy Rong, chief business development officer at MemeCore, who comes from a billionaire Chinese family.

In Congress, Democrat lawmakers are attempting to push through legislation that would prevent elected officials from releasing their own memecoins, to offset the risk that these coins could facilitate bribery or open the door to foreign influences. Though the MEME Act stands little chance of being written into law because of the Republican congressional majority and the strength of Trump’s hold over his party, it signals growing discontent over the president’s involvements in cryptocurrency.

“It provides a cloak for payments from bad actors to elected officials and their family,” Democrat congressman Sam Liccardo, who introduced the MEME Act, told WIRED. “The point is that those who are benefiting may include individuals who do not have America’s best interests at heart.”

Securities Law News
May 12, 2025, 3:23 PM PDT

Trump Memecoin Issuer Launches Loyalty Program, Reward Points

President Donald Trump's memecoin issuer is launching a loyalty program, according to its website and social media account.

Users are encouraged to connect their self-custodied wallets to the site to join a leaderboard and earn Trump Reward Points and badges. "Join the Trump Community! Have FUN!" the Website said. Specifics of the program weren't provided.

The move comes as some large holders of the Trump memecoin dumped their balances Monday after a competition to win time with the president ended. They had been encouraged to register with the Trump memecoin website and to keep average holdings up, with the top 220 promised a dinner with Trump on May 22. The competition ended Monday, when more than 20 of the top 220 holders had zero or near-zero balances, according to the site's leaderboard. On Monday, the coin's issuer, Fight Fight Fight LLC, announced the loyalty program and promised that people who continue to hold their coins until the dinner will get special non-fungible tokens.

"For all those that hold the same amount of $TRUMP at the dinner as on your final Leaderboard number, YOU will ALSO get a TRUMP DIAMOND HAND limited edition TRUMP SOLANA NFT," the issuer said in a post on X. "Very Special and Rare. (DIAMOND HAND Holders will also give you more TRUMP REWARDS POINTS!)"

Trump's memecoin dinner has been highly controversial and subject of calls for an inquiry from Democrats in Congress. In April, Senators Adam Schiff and Elizabeth Warren called for a federal ethics investigation into "President Donald Trump's scheme to enrich himself by offering access to the President and other perks to individuals who have made significant investment in his personal meme coin." A Bloomberg investigation found that many holders on the memecoin dinner leaderboard traded overseas.

Trump memecoin's price declined about 8% in the last 24 hours, per tracker CoinMarketCap.com. The token's market cap peaked at nearly $15 billion in January before dropping to less than $3 billion. It rallied again in April, on the presidential dinner announcement, but is now down again to $2.55 billion, according to CoinMarketCap.com.

CIC Digital LLC, an affiliate of The Trump Organization, and Fight Fight Fight LLC together own 80% of the Trump memecoin supply, subject to a three-year unlocking schedule, set to jump start in about two months. Unlocking means that the organizations would be able to start selling the coin. CIC Digital LLC and Celebration Cards LLC, the owner of Fight Fight Fight LLC, receive trading revenue derived from trading activities of the coin.

Fight Fight Fight didn't immediately return a request for comment.

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Michael B. Marois

Google Strikes $1.3B Settlement with Texas: Meet the Law Firm Behind the Deal

law.com/texaslawyer/2025/05/12/google-strikes-13b-settlement-with-texas-meet-the-law-firm-behind-the-deal

Laura Lorek May 12, 2025

Texas Attorney General Ken Paxton secured a $1.375 billion settlement with Google over alleged violations of the state's data privacy laws, marking it the highest recovery nationwide against Google for enforcing state privacy laws.

And Norton Rose Fulbright served as outside counsel to the Texas Attorney General's Office.

In 2022, Paxton sued Google for unlawfully tracking and collecting users' private data regarding geolocation, incognito searches, and biometric data.

"In Texas, Big Tech is not above the law," Paxton said in a statement. "For years, Google secretly tracked people's movements, private searches, and even their voiceprints and facial geometry through their products and services."

According to Google, the settlement resolves these matters without admitting wrongdoing or liability.

"This settles a raft of old claims, many of which have already been resolved elsewhere, concerning product policies we have long since changed. We are pleased to put them behind us, and we will continue to build robust privacy controls into our services," José Castañeda, Google spokesman, said in a statement.

According to Google, this settlement covers two cases and three claims, encompassing incognito, location history, and biometrics-related allegations. The settlement does not require any new product changes. All necessary disclosures and policy changes have already been announced or implemented.

Forty attorneys general secured a $391.5 million settlement with Google in 2022 over location tracking that also collected location information. At the time, it was the largest multistate privacy settlement in U.S. history with Google.

In July, Paxton secured a $1.4 billion settlement for Texas against Meta, formerly Facebook, for allegedly unlawfully collecting and using facial recognition data. This was the largest settlement ever obtained from an action brought by a single state.

In the Meta case, the Texas Attorney General's office contracted with Chicago-based Keller Postman and Dallas-based McKool Smith, which billed a combined $142.6 million for their work, according to a Reuters story.

Previously, Paxton reached $700 million and $8 million settlements with Google for alleged anticompetitive and deceptive trade practices.

Norton Rose Fulbright served as outside counsel to the Texas AG. The Texas Attorney General's Office has three zero-cost contracts with Norton Rose Fulbright. The firm did not respond immediately to a request for comment, and the Texas Attorney General’s office also did not respond immediately.

Under the terms of the contracts, Norton Rose Fulbright's "share of the settlement, if the parties approve the $1.375 billion figure, would be $137 million to $371 million," according to a Texas Tribune story.

Texas is one of 19 states with a privacy law.

In 2023, the legislature passed the Texas Data Privacy and Security Act, which Gov. Greg Abbott signed into law. The legislation went into effect on July 1, 2024. It provides consumers with the right to control their personal data.

Class Action
May 12, 2025, 10:46 AM PDT; Updated: May 12, 2025, 11:27 AM PDT

Google Reaches Settlement in Suit Over Kids' Data Collection (1)

Google LLC has reached a settlement in a long-running proposed class action alleging it illegally collected the personal information of children who watched videos on its YouTube LLC website.

The company and the plaintiffs filed a joint notice of proposed settlement May 9 in the US District Court for the Northern District of California. They anticipate filing a motion for preliminary approval of the deal by Aug. 11, it said.

- The filing comes four months after Magistrate Judge Susan van Keulen of the US District Court for the Northern District of California allowed many of the lawsuit's claims to survive the online-search company's motion to dismiss
- An attorney for Google declined to provide additional settlement details, and attorneys for the plaintiffs didn't respond to a request for comment
- The plaintiffs alleged in a sixth amended complaint Google collected their children's information without parental consent and caused injury by reducing the value of their children's information

Pritzker Levine LLP and Silver Golub & Teitell LLP represent the plaintiffs and the proposed class. Hogan Lovells US LLP represents Google and YouTube.

The case is Hubbard v. Google LLC , N.D. Cal., No. 5:19-cv-07016, notice of settlement filed 5/9/25 .

(Updates second bullet to indicate that an attorney for Google declined to comment.)

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Litigation

May 12, 2025, 11:38 AM PDT

SCP Health Whistleblower Can Proceed With Upcoding Fraud Suit

- **Whistleblower adequately alleged FCA materiality, court says**
- **Appeals court ruling backing constitutionality is 'good law'**

The Schumacher Group of Louisiana Inc., which does business as SCP Health, must continue to face a False Claims Act suit alleging improper billing of federal health-care programs for emergency medical services, a California federal district court said.

Whistleblower Kenley Emergency Medicine Corp. adequately alleged fraud with the particularity required by the federal rules of civil procedure, Judge Susan Illston of the US District Court for the Northern District of California said in a May 9 order.

Kenley contracted with defendant California Emergency Associates, an SCP Health affiliate, to provide emergency medical services at Chinese Hospital in San Francisco. Kenley alleges that SCP Health engaged in fraud by pressuring medical providers to improperly overcharge the government for critical care services, and by deliberately and inappropriately upcoding non-critical care to a more profitable level of non-critical care.

SCP Health argued that Kenley failed to adequately plead materiality, which concerns whether a defendant's act or omission affected a government payment decision.

The court disagreed, stating that the complaint "alleges that the billing codes determine what the government and private insurers reimburse and that the government only pays for medically necessary and reasonable services."

The government considers upcoding to be a fraud, and will not pay claims when it knows miscoding occurred, Illston said.

And the court said Kenley's complaint "succinctly" provided details regarding an alleged nationwide scheme sufficient to allege violations of state false claims statutes. Kenley plausibly alleged that the fraudulent scheme extends beyond the California hospital due to SCP Health's nationwide practices, the court said.

Constitutionality Question

Ilston also rejected SCP Health's argument that the suit must be dismissed for lack of jurisdiction because the FCA's whistleblower provisions unconstitutional.

SCP Health cited a 2024 decision by a Florida federal district court, *United States ex rel. Zafirov v. Florida Medical Assocs. LLC* , which said FCA whistleblowers violate the appointments clause in Article II. An appeal of that decision is pending at the US Court of Appeals for the Eleventh Circuit.

But SCP Health also acknowledged that the US Court of Appeals for the Ninth Circuit rejected that argument in *US ex rel. Kelly v. Boeing Co.* , the court said. "*Kelly* remains good law in this circuit," Ilston said.

Kessler Topaz Meltzer & Check LLP; Phillips & Cohen LLP; and Sanjiv N. Singh APLC represent the whistleblower. Farella Braun + Martel LLP and Pollack Solomon Duffy LLP represent the defendants.

The case is Kenley Emer. Med. v. The Schumacher Grp. of La. Inc. , N.D. Cal., No. 3:20-cv-03274, 5/9/25 .

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Is this the best-timed Tesla stock insider trade of 2025?

finbold.com/is-this-the-best-timed-tesla-stock-insider-trade-of-2025

Andreja Stojanovic May 12, 2025

Summary:

- Tesla director Joseph Gebbia bought $1M in stock at $256.31 per share
- Shares rose 21.36% to $311.05, earning over $200K in under three weeks
- Trade gains came amid tariff relief and Musk’s expected reduced government role

Director Joseph Gebbia’s April 24 insider trade of Tesla (NASDAQ: TSLA) stock was immediately noted as unusual for being the first of its kind in years, and, by May 12, 2025, it also proved highly lucrative.

The buy, as picked up by Finbold’s insider trading radar, was executed at an average price of $256.31, meaning its total value amounted to just over $1 million.

SEC Form 4

FORM 4

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP

OMB APPROVAL

1. Name and Address of Reporting Person: Gebbia Joseph (Last) (First) (Middle)
C/O TESLA, INC
1 TESLA ROAD
(Street)
AUSTIN TX [illegible]
(City) (State) (Zip)

2. Issuer Name and Ticker or Trading Symbol: Tesla, Inc. [TSLA]

3. Date of Earliest Transaction (Month/Day/Year): 04/24/2025

4. If Amendment, Date of Original Filed (Month/Day/Year)

5. Relationship of Reporting Person(s) to Issuer (Check all applicable): X Director; 10% Owner; Officer (give title below); Other (specify below)

6. Individual or Joint/Group Filing (Check Applicable Line): X Form filed by One Reporting Person; Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security	2. Transaction Date	2A. Deemed Execution Date, if any	3. Transaction Code: Code	V	4. Amount	(A) or (D)	Price	5. Amount of Securities Beneficially Owned Following Reported Transaction(s)	6. Ownership Form: Direct (D) or Indirect (I)	7. Nature of Indirect Beneficial Ownership
Common Stock	04/24/2025		P		4,000	A	[illegible]	[illegible]	I	by Trust

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned
(e.g., puts, calls, warrants, options, convertible securities)

Explanation of Responses:

Joseph Gebbia’s outright insider buy of 4,000 TSLA shares. Source: SEC

By press time on May 12, Tesla stock had rallied 21.36% to $311.05, making the purchased shares worth $1.24 million. The electric vehicle (EV) maker’s latest, high equity price resulted from its strong performance in recent weeks, which took it to its latest closing price of $298.26, and from the Monday pre-market 7.73% rally that sent TSLA to its press time price.

TSLA stock 30-day price chart. Source: Finbold

Such a setup ensures that Gebbia's insider trade was uncommon, both because it was the first such buy in more than half a decade and because it proved highly and rapidly lucrative, generating more than $200,000 in return in less than three weeks.

Why Gebbia's Tesla stock insider trade can become more profitable

Tesla investors are almost guaranteed to greet Elon Musk's expected departure from government duties with enthusiasm, while the latest round of technology and robotics promises could also trigger a rally.

One of the major downward pressure points has also recently been relieved. The latest trade talks between the U.S. and China appear to have been successful, as they have seemingly removed the majority of the prohibitively high tariffs, at least for the next 90 days.

Tesla's Board Chair Made $198 Million Selling Stock as Profit Fell

Robyn Denholm sold Tesla stock in recent months while Elon Musk, the chief executive she oversees, worked for President Trump and alienated many car buyers.

Listen to this article · 8:52 min Learn more

By Aaron Krolik, Rebecca F. Elliott and Jack Ewing
May 13, 2025 Updated 12:57 p.m. ET

In March, after a steep decline in Tesla's share price, Elon Musk told employees, "Hang on to your stock."

The chair of Tesla's board, Robyn Denholm, has not heeded his advice. Ms. Denholm has made $198 million in the past six months selling Tesla stock that she earned for serving on the board, according to a New York Times analysis of securities filings.

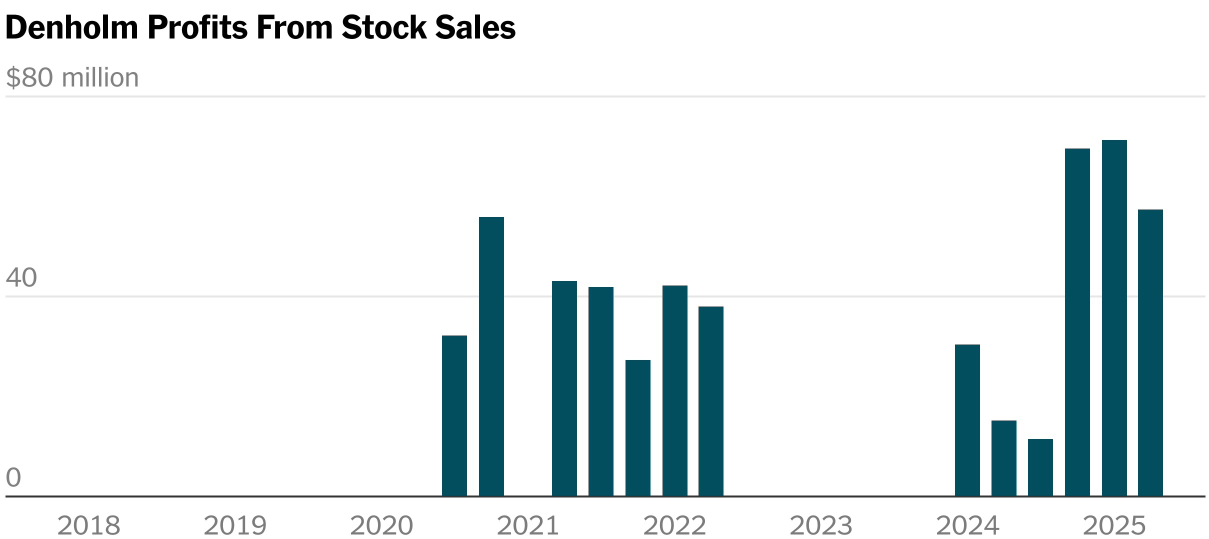
That brings her total profit on the sale of Tesla stock to more than $530 million since becoming the board's leader in late 2018, far more than her peers have made at the most valuable U.S. companies during that time, the analysis shows.

The share sales raise questions about Ms. Denholm's confidence in Tesla's prospects. Her most recent sales, executed under a prearranged trading plan filed last summer, came as Mr. Musk, the company's chief executive, took a time-consuming role in the Trump administration. Tesla's car sales have plunged partly because Mr. Musk's political activities have turned off some car buyers. The company's quarterly profit fell in the first three months of 2025 to its lowest level in four years.

Ms. Denholm earned the right to buy those shares, what are known as stock options, for serving on the board, a part-time position. Tesla granted the options between 2014 and 2020, and its share price has soared since then, giving Ms. Denholm the right to buy shares for a lot less than their current price. Last week, for example, she bought more than 112,000 shares for $24.73 apiece and sold them the same day for more than $270.

Stock Sales Aligned With Surging Share Prices

Robyn Denholm filed a stock sale plan soon after Elon Musk endorsed Donald Trump for president. The first sale came the week after Mr. Trump was elected.



Sources: Securities filings, FactSet • Notes: Stock price incorporates two stock splits. • Aaron Krolik/The New York Times

“To dump her stock, it doesn’t send a message that this is a board chair who is invested in the future of the company,” said the New York City comptroller, Brad Lander, who oversees the city’s five public pension funds. As of March, those funds held more than three million Tesla shares, valued at the time at roughly $817 million.

A spokesman for Ms. Denholm said Tesla paid board members in a manner that was “completely aligned with shareholder interests.”

“The reason the value of the Tesla directors’ options has increased is because Tesla has outperformed its industry peers and created outsized returns for the owners of the company, the shareholders,” he said in a statement.

Stock options, which for years made up the bulk of Tesla directors’ compensation, are only valuable if the company’s share price rises, as Tesla’s did. Those who exercise their options to buy company stock can sell or hold onto their new shares.

Ms. Denholm has sold more than 1.4 million Tesla shares and continues to hold 85,000 of them and roughly 49,000 stock options, according to the Times analysis. Equilar, a compensation consulting firm, reviewed the methodology. Her latest wave of stock sales were carried out under the plan she set into motion in July, soon after Mr. Musk endorsed Donald J. Trump for president.

Under securities regulations, executives and other insiders can use such plans to trade shares in their companies. They are not required to disclose many details of their plans, including the reason for them or the conditions under which shares will be sold. They also have a lot of leeway to cancel the plans.

A native of Australia and veteran technology executive, Ms. Denholm has maintained a low profile and rarely speaks publicly about Tesla or Mr. Musk. She was recruited to the Tesla board in 2014 and appointed chair in 2018 after Mr. Musk agreed to step down from the position under a settlement with the Securities and Exchange Commission.

She and other board members have been criticized by some investors, activists and a Delaware judge for not serving as counterweights to Mr. Musk, who is widely seen as brash and impulsive. Tesla directors have also been faulted for failing to ensure that he remains focused on Tesla.

"Musk operates as if free of board oversight," Chancellor Kathaleen St. J. McCormick of the Delaware Court of Chancery wrote last year when she ruled in favor of a shareholder who had challenged Mr. Musk's 2018 pay package, valued at around $56 billion. Judge McCormick, in that ruling, described Ms. Denholm's style of overseeing Mr. Musk as "lackadaisical."

Tesla has appealed the decision, which voided Mr. Musk's pay package, and Ms. Denholm has pushed back on Judge McCormick's critique.

"Anybody who knows me, knows that I am not lackadaisical, now that I know what that word means," Ms. Denholm told the Financial Times last year. "It is probably the furthest from the truth. I am really intense and very diligent in what I do."

During the trial over Mr. Musk's pay, Ms. Denholm described the money she had made from her Tesla board service as "life-changing." Director pay at Tesla was subject to a separate lawsuit that Ms. Denholm and other board members settled in 2023.

Mr. Musk, who has long been a part-time chief executive of Tesla, has taken on even more responsibilities over the years. He has become a regular presence in Washington, leading President Trump's efforts to slash government spending and dismiss federal government employees.

Mr. Musk said recently that he would cut back his time in Washington to one or two days a week. His attention will likely remain divided, however, because he also leads several other businesses, including SpaceX and X, the social media site he owns.

Ms. Denholm's first sales under her recent trading plan took place in November, the week after the presidential election, as Tesla's share price was climbing. The stock reached a new high a few weeks later, in December. She continued to sell through early May, as the company faced consumer backlash over Mr. Musk's political activities and the stock price fell.

The stock is now down around 34 percent from its peak after recovering some of its losses over the last few weeks.

Mr. Musk acknowledged Tesla's difficulties during a meeting with company employees in March. "If you read the news it feels like, you know, Armageddon," he said half-jokingly.

He went on to advise workers not to sell their stock, saying that Tesla would become the most valuable company in the world as it perfects self-driving taxis and robots that resemble and move like humans. "The future is incredibly bright," he said.

Ms. Denholm's sales have far outstripped those by other Tesla directors, with the exception of Mr. Musk, who remained on the board after stepping down as chair.

She and other current and former Tesla board members agreed to settle a shareholder lawsuit over their pay in 2023, collectively agreeing to return compensation valued at $735 million. They denied wrongdoing. Stock options valued at more than $130 million were canceled on May 1 to satisfy Ms. Denholm's obligations under that settlement, securities filings show.

Board members agreed in June 2021, after that lawsuit was filed, to forgo new equity grants.

Ms. Denholm also made more money selling her company's stock than the leaders of other corporate boards during the same period. The Times reviewed stock sales by board chairs at the most valuable U.S. companies who, like Ms. Denholm, are not executives at those companies.

The nonexecutive chair with the next-highest profit from selling shares in the company he oversees was Stephen Hemsley of UnitedHealth Group. Mr. Hemsley has earned more than $100 million from the sale of UnitedHealth shares since

November 2018, though he received all of that stock while he was chief executive of the health care company.

UnitedHealth Group confirmed the findings, but declined to comment. On Tuesday, the company announced Mr. Hemsley would retake the chief executive job in addition to serving as chairman.

Share sales by executives and directors often predict poor performance by the companies they lead, some academic research has found.

Leaders like Ms. Denholm have access to nonpublic information and a deep understanding of how broader economic forces may affect company performance. That can make their trades especially profitable, according to Nejat Seyhun, a professor of finance at the University of Michigan.

Insiders “set up plans when they have information,” Professor Seyhun said. If conditions change, “they can cancel those plans.”

Rebecca F. Elliott covers energy for The Times with a focus on how the industry is changing in the push to curb climate-warming emissions.

Jack Ewing covers the auto industry for The Times, with an emphasis on electric vehicles.

Tesla's refresh to best-selling Model Y SUV starts on rocky road

reuters.com/business/autos-transportation/teslas-refresh-best-selling-model-y-suv-starts-rocky-road-2025-05-13

Abhirup Roy May 13, 2025

Item 1 of 2 A guest takes photos of Tesla Model Y, displayed during the inauguration ceremony of the first Tesla showroom in Riyadh, Saudi Arabia. April 10, 2025. REUTERS/Mohammed Benmansour/File Photo

[1/2]A guest takes photos of Tesla Model Y, displayed during the inauguration ceremony of the first Tesla showroom in Riyadh, Saudi Arabia. April 10, 2025. REUTERS/Mohammed Benmansour/File Photo Purchase Licensing Rights, opens new tab

- Attractive financing deals soon after rollout show weak demand
- Short wait times for customers suggest that demand is less than supply
- Analysts blame rising competition, backlash against Musk's politics
- Slow kickoff piles pressure on Tesla to launch cheaper models

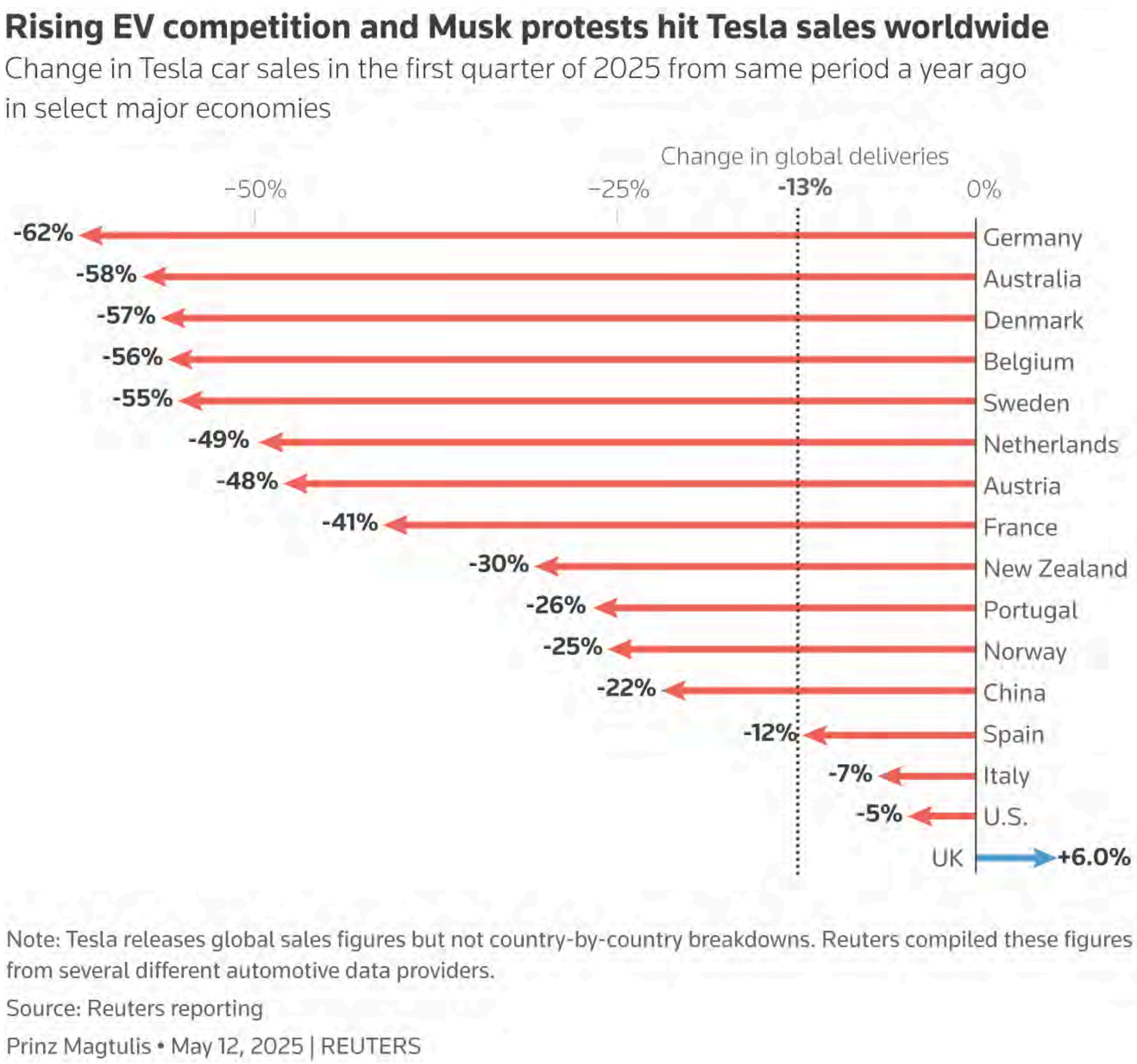
SAN FRANCISCO, May 13 (Reuters) - Tesla (TSLA.O), opens new tab investors had pinned their hopes on a refresh of the company's flagship compact SUV to reinvigorate sales. But rock-bottom financing deals for the Model Y and its easy availability suggest that this expectation is unrealistic.

The electric vehicle maker is offering financing deals as low as 0% on the spanking new version of the Model Y. While other automakers including Kia and General Motors (GM.N), opens new tab are offering similar deals on some EV models, such offers within weeks of a model rolling out are rare.

Early signs of weak demand for the restyled Model Y- launched in January - come amid stiff competition and customer aversion to CEO Elon Musk's divisive politics.

"Why would you discount and have all these incentives and offers literally out of the gate?" asked Loren McDonald, chief analyst with EV data firm Paren. "That just doesn't make sense when your margins are already at multiyear lows. That suggests very strongly that there is a demand problem."

Global sales data on the refreshed Model Y is not yet available, leading analysts to pursue clues on how Tesla is marketing the vehicle and whether it appears to be in short supply.



Graphic: A chart that shows the change in Tesla car sales in the first quarter of 2025 from same period a year ago in select major economies.

Supplies are not tight. The refreshed version is available immediately in many parts of the world, with some units already available in Tesla's inventory. That is a far cry from the long wait times typically seen for the previous Model Y, which was the highest-selling car in the world last year.

In fact, overall Tesla sales in Europe continued to plunge in April across key countries, data showed this month. Sales in China dropped over 8% last month, data from the China Passenger Car Association showed on Sunday.
"Short delivery wait times, low-interest loan offers, and weak April registration numbers in China and Europe all point to soft demand for the refreshed Model Y in key markets," researcher Troy Teslike, who follows Tesla, told Reuters.

A slow kickoff for the Model Y - which Tesla has blamed on retooling needed at its factories for the revamp - piles fresh pressure on the company to launch its long-promised cheaper models.

After Tesla reported its first drop in annual deliveries last year, Musk pulled back his forecast of a 30% increase in vehicle sales this year and said simply that Tesla would return to growth. Last month, Tesla said it would revisit that forecast in three months in light of "shifting global trade policy." After a 13% drop in first-quarter vehicle sales, analysts expect Tesla deliveries to fall again this year.
Musk's embrace of far-right politics in Europe, and his work as U.S. President Donald Trump's ally, cutting federal jobs and humanitarian aid, have alienated Tesla's largely liberal customer base. It has also prompted global protests, and, according to data, a record number of trade-ins.
Musk himself holds there is no pullback in demand other than some caused by broader economic concerns. Tesla finance chief Vaibhav Taneja, however, said last month that "unwanted hostility towards our brand and our people had an impact in certain markets."

Tesla did not respond to an email seeking comment for this story.

NOT NEW

The revamped Model Y's most striking feature is a light bar that stretches across the front of the car, much like the Cybertruck, which too has failed to find many buyers. The car drives more smoothly and quietly than its predecessor, according to Tesla, and comes with a rear-seat touch screen and ambient lighting.

The new Model Y is selling at roughly the same price as the previous version, although Tesla regularly raises and lowers prices.

In the United States, Tesla has Model Y promotions such as a 1.99% interest rate or zero down payment and is offering a $2,000 discount for existing Model Y customers. In some European countries, the company is offering the Model Y at 0% interest rate, with two years of free charging at its high-speed Superchargers.
In China, a key market for Tesla, where local competition has been denting sales, the company is promoting a five-year 0% interest rate before June 30.
Those offers are far lower than the competition.

The average U.S. interest rate on new vehicles in April was 7.1%, according to Jessica Caldwell, head of insights at Edmunds, a national vehicle research and shopping site. For EVs that are sold through dealerships it was 5.5%.

A 1.99% interest rate on the Model Y would save a customer anywhere from $4,500 to over $6,600, according to Edmunds' calculations.

The Model Y now has nearly 30 competitors in the United States, according to Paren's McDonald.

"No one's looking at that vehicle thinking, 'Oh, that's totally different and new,' and I think that may be part of the issue," Caldwell said, referring to low demand.

Earlier this month, Tesla introduced a cheaper, rear-wheel drive option for the Model Y - a sign that signaled Tesla's efforts to find new consumers.

"If you're not going to have as much from a product story, at least you have something from a pricing story to talk about," Caldwell said.

Reporting by Abhirup Roy in San Francisco; Additional reporting by Marie Mannes in Europe; Editing by Peter Henderson, Sayantani Ghosh and Matthew Lewis

- Suggested Topics:
- Autos & Transportation
- ADAS, AV & Safety
- EV Battery
- Manufacturing
- Sustainable & EV Supply Chain

US agency asks Tesla to answer questions on Texas robotaxi plan

reuters.com/business/autos-transportation/us-agency-ask-tesla-answer-questions-robotaxi-deployment-plan-2025-05-12

David Shepardson May 12, 2025

The logo of Tesla is seen on a store in Paris, France, October 30, 2020. REUTERS/Charles Platiau/File Photo Purchase Licensing Rights, opens new tab

- NHTSA probing crashes of Teslas in full self-driving mode
- Robotaxi sensors and reduced visibility cited as concerns
- NHTSA cites four crashes; in one a pedestrian was killed

WASHINGTON, May 12 (Reuters) - U.S. auto safety investigators asked Tesla to answer questions on its plans to launch a paid robotaxi service in Austin, Texas, in June, in order to assess how the electric vehicle maker's cars with full self-driving technology will perform in poor weather.

The National Highway Traffic Safety Administration, in a letter made public on Monday, said it has been investigating Tesla full self-driving collisions in reduced roadway visibility conditions since October.

NHTSA said it is seeking additional information about Tesla’s development of robotaxis "to assess the ability of Tesla’s system to react appropriately to reduced roadway visibility conditions" as well details on robotaxi deployment plans and the technology being used.

Tesla did not immediately respond to a request for comment. NHTSA in October opened an investigation into 2.4 million Tesla vehicles equipped with full self-driving (FSD) technology after four reported collisions, including a 2023 fatal crash.
On Monday, NHTSA said it wants to know how many vehicles will be used as robotaxis and the expected timetable for availability of robotaxi technology for vehicles controlled by people other than Tesla.

NHTSA also wants to know whether robotaxi vehicles will be supervised or monitored by Tesla in real time.

NHTSA's letter asks Tesla to describe how it intends to ensure safety of robotaxi operations in reduced roadway visibility conditions such as sun glare, fog, airborne dust, rain, or snow. It also wants to know what happens if poor visibility is encountered during a ride.

The letter asks for details on the robotaxi sensors, use of cameras and sensors "for the robotaxi system's safe operation when supervised and unsupervised" and whether Tesla complies fully or partially with any industry standards on driving automation systems.

In October, NHTSA said it was opening its investigation after four reports of crashes where full self-driving technology was engaged during reduced roadway visibility conditions. A pedestrian was killed in Rimrock, Arizona, in November 2023 after being struck by a 2021 Tesla Model Y, NHTSA said.

In December, 2023, Tesla recalled more than 2 million U.S. vehicles to install safeguards in its Autopilot advanced driver-assistance system. NHTSA is still probing whether that recall is adequate to address concerns drivers are not paying attention.

There have been at least two fatal accidents involving Tesla's full self-driving technology, including an incident in April 2024 in which a Model S in full self-driving mode hit and killed a 28-year-old motorcyclist in the Seattle area.

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Anadarko Says Class Shouldn't Get Cert. After 5th Circ. Ruling

By **Catherine Marfin**

Law360 (May 12, 2025, 6:52 PM EDT) -- Anadarko Petroleum Corp. told a federal judge on Monday that he shouldn't recertify a proposed class of shareholders who claim they lost money on the company's bad oilfield bet, after the Fifth Circuit overruled his earlier certification last year.

Kevin J. Orsini of Cravath Swaine & Moore LLP, counsel for the oil company, told U.S. District Judge Charles Eskridge that it is able to "rebut the presumption of reliance" through expert testimony showing that a separate incident could have caused the drop in stock prices that was unconnected to what was known as the Shenandoah project in the Gulf of Mexico.

"The economic analysis is that it was likely the Firestone news that caused the price drop, not Shenandoah," Orsini said.

Orsini was referring to an April 2017 home explosion in the Colorado town of Firestone that was ultimately linked to the company, costing it around $140 million in regulatory expenses.

But Luke O. Brooks of Robbins Geller Rudman & Dowd LLP, counsel for Anadarko shareholders, said the facts of the explosion are "de minimis."

"We don't have the burden here to disentangle these two pieces of news," he said.

The shareholders first sued Anadarko in February 2020, alleging the company misrepresented the value of the Shenandoah project, which led to a decline in stock prices on May 3, 2017, a day after a disclosure that a well on the project was dry and that the company was taking a $902 million write-off for the project.

The proposed class acquired stock between Feb. 20, 2015, and May 2, 2017.

Judge Eskridge certified the class in September 2022. The Fifth Circuit reversed his decision in April 2024, when a panel ruled that the judge didn't allow the company to respond to a shareholder expert report that was presented for the first time in a reply brief on the issue. The report tied the 2017 price drop to the company's announcement about the multimillion dollar write-off.

Attorneys told Judge Eskridge on Monday that the Firestone news came out within hours of the after-hours disclosure on May 2, and that the change in stock price is likely attributed to the latter incident.

"It seems logical to me that both those [events] moved it," Judge Eskridge said during opening statements Monday.

Judge Eskridge said the key to the dispute would be whether the events could be disentangled in a way that allows him to calculate damages on the claims about the Shenandoah project.

Brooks countered that a "statistically significant" decline in price occurred on May 3, 2017, with a more than 99% confidence level, according to the shareholders' experts.

Economists presented by both sides were expected to testify throughout the day on Monday on the price decline issue.

The shareholders are represented by Hillary B. Stakem, Mark Solomon, Daniel Drosman, Luke O. Brooks, Francisco J. Mejia, Megan Allison Rossi and Nicole Q. Gilliland of Robbins Geller Rudman & Dowd LLP.

Anadarko is represented by Kevin J. Orsini and Lauren M. Rosenberg of Cravath Swaine & Moore LLP and George T. Shipley of Shipley Snell Montgomery LLP.

The case is In Re: Anadarko Petroleum Corporation Securities Litigation, case number 4:20-cv-00576, in the U.S. District Court for the Southern District of Texas.

--Editing by Nicole Bleier.

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Chancery Nixes Paramount-Skydance Books Suit Intervention

By **Jeff Montgomery**

Law360 (May 12, 2025, 9:50 PM EDT) -- Delaware's Chancellor on Monday denied a Paramount Global preferred shareholders' motion to intervene in a New York public pension fund group's suit for documents on Paramount's proposed $8 billion merger with Skydance Media, the latest development in a sprawling, potential post-closing deal challenge.

Chancellor Kathaleen St. J. McCormick issued the ruling after arguments on the intervention bid, supported by a Chicago public pension fund group but opposed by the New York pension fund coalition as well as Skydance and Paramount.

"I don't have total insight into the scope of what's been agreed" previously in exchange for removing a hearing on the issue in April, the chancellor said. "This is now effectively a post-closing case. Plaintiffs won't seek adjudication of claims before closing."

David Ellison's Skydance Media announced on July 7 that it would move forward with a Paramount takeover in a transaction to be preceded by Skydance's $2.4 billion cash acquisition of National Amusements, which owns ViacomCBS and, through Shari Redstone, controls Paramount. Redstone is nonexecutive chairwoman of Paramount and president of National Amusements.

The Skydance-Paramount merger would pay $4.5 billion to stockholders, plus $1.5 billion toward Paramount's balance sheet.

Chancellor McCormick said Paramount stockholder Scott Baker and a trustee for the Baerlocher Family Trust Group — joined by a Chicago pension fund group — argued that the New York City funds "are not capable of adequately representing their interests in this action."

The Chicago funds "also argued today that they're concerned about the New York plaintiffs striking a deal that includes an overly broad release of claims," the chancellor said.

Jacob M. Polakoff of Berger Montague PC, counsel to the Baker Group, argued that Baker and the Chicago funds "would like to be on an even playing field with the plaintiff in the New York action." He added that "we're in the dark about what's being produced, what depositions are being taken and what's being scheduled."

Vivek Upadhya of Grant & Eisenhofer PA, counsel to the New York funds, told the chancellor that the Baker funds chose to file a full complaint without a books and records investigation, and was seeking intervention after Paramount agreed to limited discovery to avoid being left behind in a future class leadership fight.

"Respectfully, that train left the station a long time ago," Upadhya said. "The Baker Group has explicitly and repeatedly represented that public information alone provides a more than adequate basis for their litigation."

Zach Rowen of Latham & Watkins LLP, counsel to Skydance, told Chancellor McCormick that the Baker and Chicago funds' request "is really just one to access discovery, as the intervention serves no other purpose" and "circumvents discovery rules."

Chancellor McCormick asked if Skydance's concern was with litigation information demands becoming "unwieldily," adding, "I understand not wanting to push out information far and wide. At the same time, I'm told that it's a really limited amount of information. Is that right?"

Rowen said Skydance had negotiated parameters with the New York funds and their books and records demands, and they are "relatively limited" as compared with plenary litigation, but also include email inquiries and production.

The Baker Group is represented by Russell D. Paul, Michael Dell'Angelo, Lawrence Deutsch, Jacob M. Polakoff and Radha Raghavan of Berger Montague PC.

The New York funds are represented by Michael J. Barry, Christine M. Mackintosh, Kelly L. Tucker, Vivek Upadhya, William G. Passannante II and Jonathan C. Millis of Grant & Eisenhofer PA.

Skydance is represented by David E. Ross, S. Michael Sirkin and Elizabeth M. Taylor of Ross Aronstam & Moritz LLP, and Blair Connelly, Zachary L. Rowen, Alexander L. Mills, Yan Birzu Chu and Matthew L. Strand of Latham & Watkins LLP.

The special committee of Paramount Global is represented by Blake Rohrbacher, Daniel E. Kaprow, Elizabeth J. Freud and Benjamin O. Allen of Richards Layton & Finger PA, and Daniel Slifkin, Gary A. Bornstein and Helam Gebremariam of Cravath Swaine & Moore LLP.

Paramount is represented by Jon E. Abramczyk, D. McKinley Measley, Alexandra M. Cumings and Louis F. Masi of Morris Nichols Arsht & Tunnell LLP, and Jonathan K. Youngwood and Meredith Karp of Simpson Thacher & Bartlett LLP.

The Redstone parties are represented by A. Thompson Baylis, Adam K. Schulman and Caleb R. Volz of Abrams & Bayliss LLP, and Peter Welsh, Martin J. Crisp and Ani-Rae Lovell of Ropes & Gray LLP.

The Chicago Pension Funds Group is represented by Daniel E. Meyer, Jeroen van Kwawegen, Christopher J. Orrico and Shiva Mohan of Bernstein Litowitz Berger & Grossmann LLP, Chad Johnson, Noam Mandel, Desiree Cummings and Jonathan Zweig of Robbins Geller Rudman & Dowd LLP, and Joel Fleming, Lauren Godles Milgroom and Amanda Crawford of Equity Litigation Group LLP.

The case is The New York City Employees' Retirement System et al. v. Byrne et al., case number 2025-0126, in the Court of Chancery of the State of Delaware.

--Editing by Adam LoBelia.

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Boeing Execs Say Cert. Appeal Warrants Stay Of 737 Max Suit

By **Tom Lotshaw**

Law360 (May 12, 2025, 9:03 PM EDT) -- Boeing executives have argued state pension fund litigation accusing them of putting profits over safety should be paused while the Fourth Circuit reviews the certification of a class of investors who are accusing the company and its leaders of making false statements about the 737 Max.

The individual defendants, including former CEO David L. Calhoun, said the **appeals court's review** of certification in a securities class action will likely touch on issues that overlap with derivative litigation brought by the Oklahoma Firefighters Pension and Retirement System, the Ohio Public Employees Retirement System and the State Teachers Retirement System of Ohio.

"There is no statement in this case involving a subject matter unique or different from the statements at issue in the securities action," the individual defendants said in a court filing on Friday. "In fact, this derivative action is far narrower in scope and is based on a small subset of the alleged misstatements at issue in the securities action."

The individual defendants noted that U.S. District Judge Leonie M. Brinkema has already stayed proceedings in the securities class action in light of the Fourth Circuit appeal, and had directed counsel in both cases to coordinate discovery to the extent they could to avoid duplication.

"Now that the court has stayed the securities action, staying this action on the same terms will continue to allow for maximum coordination and efficiency," the individual defendants told the court.

"By contrast, moving ahead with this action while the securities action is stayed would place unnecessary burdens on the witnesses and the parties by wasting their resources on duplicative discovery and risk inconsistent decisions," they added.

The Oklahoma and Ohio pension fund systems said they intend to oppose the motion to have the litigation put on hold.

"The class certification appeal in the securities action has no effect on this derivative action, which is not a class action and does not present the narrow issue on appeal in the securities action," the pension fund systems said in an initial response filed on Monday.

"Defendants will suffer no prejudice absent a stay," they added, "since the parties have already prosecuted this action to an advanced stage, and the securities action appeal has no bearing on this action or the remaining discovery."

In the securities class action, investors led by Rhode Island's largest public employee retirement fund **claim Boeing made false statements** about the safety of its 737 Max fleet before one of the planes had a panel blow out during a 2024 flight, an incident that led to multiple safety issues coming to light and allegedly causing the company's stock price to drop by more than 18%.

Judge Brinkema **in March** certified a class of individuals and entities that purchased or acquired Boeing common stock during a three-year class period.

The Oklahoma and Ohio pension funds accused Boeing executives and board members of **breaching securities laws and regulations** by failing to disclose persistent safety issues that led to several high-profile plane crashes and aviation incidents as well as the loss of millions of dollars for investors.

Representatives for the parties did not immediately respond to requests for comment on Monday.

The Oklahoma Firefighters Pension and Retirement System is represented by Geoffrey M. Johnson, Donald A. Broggi, Jing-Li Yu, Maxwell R. Huffman, Ora Laine Lupear and Justin O. Reliford of Scott + Scott Attorneys at Law LLP.

The Ohio Public Employees Retirement System and the State Teachers Retirement System of Ohio are represented by Derrick B. Farrell, Lesley E. Weaver, Joseph A. Fonti, Evan A. Kubota and Thayne Stoddard of Bleichmar Fonti & Auld LLP, Christine M. Mackintosh of Grant & Eisenhofer PA, and Susan R. Podolsky of Law Office of Susan R. Podolsky.

The individual defendants are represented by Andrew J. Ehrlich, Gregory Laufer and Alison R. Benedon of Paul Weiss Rifkind Wharton & Garrison LLP and Charles B. Molster III of Law Offices of Charles B. Molster III PLLC.

Boeing is represented by Benjamin L. Hatch of McGuireWoods LLP and Sharon L. Nelles, David M.J. Rein and Leonid Traps of Sullivan & Cromwell LLP.

The case is Oklahoma Firefighters Pension and Retirement System et al. v. David L. Calhoun et al., case number 1:24-cv-01200, in the U.S. District Court for the Eastern District of Virginia.

--Additional reporting by Ryan Harroff, Jared Foretek, Patrick Hoff and Linda Chiem. Editing by Philip Shea.

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Redfin Shareholder Sues To Block $1.75B Rocket Cos. Merger

By **Katryna Perera**

Law360 (May 12, 2025, 7:57 PM EDT) -- A shareholder has hit Redfin Corp. and several members of its top brass with a class action in Washington state federal court, seeking to block the real estate technology company's planned merger with Rocket Cos. by alleging the merger's proxy statement is false and misleading.

Jason Morano **filed a complaint** Friday against Redfin, Rocket, Redfin's CEO Glenn Kelman and several Redfin board members. The suit is on behalf of a proposed class of people holding Redfin common stock as of April 22, 2025, the record date to vote on the proposed merger.

Rocket and Redfin entered into a **$1.75 billion all-stock deal** on March 9, with Rocket agreeing to purchase Redfin for an equivalent of $12.50 per share, according to a statement.

Rocket is a fintech platform that includes mortgage, real estate and personal finance businesses. The company's digital platform has grown to provide home financing in all 50 states across 3,000 counties and parishes, according to the deal announcement.

Meanwhile, Redfin, which was founded in 2004, operates a home search platform with more than 1 million for-sale and rental listings and a "tech-powered brokerage" of more than 2,200 agents.

Morano said in his complaint that on May 5, to persuade Redfin stockholders to vote in favor of the merger at a special meeting scheduled for June 4, the defendants authorized the filing of a "materially incomplete and misleading definitive proxy statement" with the U.S. Securities and Exchange Commission.

Morano said the proxy statement had two material disclosure violations. First, he said, the proxy statement omitted information about a conflict faced by Redfin's financial adviser, Goldman Sachs & Co. LLC, due to a "concurrent lending relationship" between Goldman Sachs Bank USA and Rocket.

"The proxy vaguely discloses without any detail whatsoever that 'Goldman Sachs Investment Banking has an existing lending relationship with Rocket and/or its subsidiaries,'" Morano said. "The proxy also discloses that '[d]uring the two-year period ended March 9, 2025, Goldman Sachs Investment Banking has not been engaged by Rocket or its affiliates to provide financial advisory or underwriting services for which Goldman Sachs has recognized compensation.'"

Morano alleged it is unclear from this language how much Goldman Sachs has received and continues to receive in compensation from Rocket for lending services while also being compensated as Redfin's financial adviser in merger negotiations with Rocket.

The shareholder said that for Redfin investors to "contextualize" the potential conflict between Goldman Sachs and Rocket, the proxy statement must disclose the nature of the lending relationship between the parties and the sums Rocket paid Goldman in the two years prior to March 9 in connection with the relationship.

"Rocket's SEC filings show that Rocket entered into a revolving credit agreement dated July 2, 2024, which provided Rocket with access to a $1.15 billion revolving credit facility funded by Goldman Sachs and other lenders," Morano said. "The amount committed by Goldman Sachs to the facility is redacted from Schedule 2.01A of the public version of the revolver, and thus it is impossible to determine the magnitude of Goldman Sachs' lending commitment to Rocket."

According to the complaint, the revolver requires Rocket to pay interest to Goldman Sachs and the other lenders on outstanding balances, but Rocket's 2024 Form 10-K states there was no outstanding balance on the revolver as of Dec. 31, 2024.

However, the shareholder said, in such a circumstance, the revolver still requires Rocket to pay commitment fees to Goldman Sachs and other lenders for undrawn amounts.

"In order to enable Redfin stockholders to contextualize the potential conflict posed by Goldman Sachs' concurrent lending relationship with Rocket, the proxy must disclose the nature of the relationship (i.e., the revolver), the amount committed by Goldman Sachs to Rocket under the revolver, and the total aggregate amount paid by Rocket to Goldman Sachs under the revolver (including interest and fees) during the two years prior to March 9, 2025," Morano noted.

Morano further alleged the proxy statement fails to disclose "key inputs to a discounted cash flow analysis" prepared by Goldman Sachs in support of its fairness opinion that the exchange ratio of the merger is fair to Redfin stockholders.

"Because the [discounted cash flow] analysis supports the fairness opinion, the [Redfin] board relied on the fairness opinion to justify its recommendation to Redfin stockholders to approve the proposed merger, and Goldman Sachs concededly has a potential conflict, the inputs used to prepare the [discounted cash flow] analysis are material to Redfin stockholders," the shareholder said.

He added that these alleged disclosure violations will cause irreparable harm to class members because they will be unable to cast fully informed votes on the merger.

The stockholder vote is scheduled for June 4, and Morano has asked that the court enjoin the special meeting and the vote until the Redfin board fixes the disclosure violations in supplemental disclosures filed with the SEC at least five days in advance of the vote.

Representatives for the parties did not immediately respond to requests for comment on Monday.

Morano is represented by Roger M. Townsend of Townsend Legal Corp., Juan E. Monteverde and Jonathan T. Lerner of Monteverde & Associates PC, and Joshua E. Fruchter of Wohl & Fruchter LLP.

Counsel information for the defendants was not available Monday.

The case is Morano v. Redfin Corp. et al, case number 2:25-cv-00883, in the U.S. District Court for the Western District of Washington.

--Editing by Lakshna Mehta.

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Instacart Beats Investor Suit Over Pre-IPO Business

By **Katryna Perera**

Law360 (May 12, 2025, 9:53 PM EDT) -- A California federal judge tossed a shareholder class action accusing grocery delivery company Instacart of misrepresenting its potential in the lead-up to its initial public offering, finding, among other things, that the plaintiffs did not sufficiently plead any actionable misleading statements or that the defendants acted with a motive to deceive investors.

U.S. District Judge Edward J. Davila issued an **order** on Friday stating that the investors' complaint fails because it does not sufficiently plead their theories of falsity.

According to the order, the investors asserted two theories of falsity, with the first being that Instacart's brand awareness and market share were declining leading up to its IPO, which caused the company's positive statements about its brand and marketing efforts to be false or misleading.

The second theory, according to the order, is that Instacart used a deficient forecasting process, which led the company to issue false and misleading forecast-related statements.

To support their account of Instacart's alleged brand and marketing failures, the investors rely almost entirely on allegations from a single confidential witness, who is referred to as CW3 and described as the former "Manager of Market Research for Brand, Campaigns, & Sentiment."

But Judge Davila said Friday that while the confidential witness is credible, their allegations do not support the suit's falsity claims because the events described by the confidential witness all predate the challenged statements.

"The brand awareness data that CW3 discusses run from the third quarter of 2021 through the end of 2022. Instacart's IPO and the challenged statements did not come until nine months later in September 2023," the order states. "Much could have changed in those intervening months. For example, Instacart may have experienced a reversal of fortune on brand awareness trends."

Additionally, the judge noted that the complaint is "silent" about brand awareness trends in 2023 and in the weeks leading up to the IPO.

Regarding the forecasting and growth statements, the judge said the investors make a "stronger case" that Instacart's process for financial forecasting was flawed, but that their claims still fail because none of the statements challenged in this category actually have anything to do with forecasts.

According to the order, two of the challenged statements are about how customers who are satisfied with Instacart will continue to order on the platform, and other statements are backward-looking, rather than forecasts.

"These statements do not purport to make any forecasts, nor do they imply anything about Instacart's forecasts," the order states. "Many of the challenged statements are also better viewed as simply identifying the things that Instacart needs to do, or the benchmarks it needs to hit, to be successful."

Judge Davila noted that the complaint does challenge one specific forecast stating that Instacart expected to grow at a compound annual growth rate of 10 % to 18% over the next several years after its IPO, which is indicative of the company using sophisticated forecasting methods.

However, the judge said the problem with these statements is that they came before the proposed class period, rendering them inactionable.

The judge also found that many of the challenged statements in the complaint were either puffery or inactionable opinions.

The investors also failed to plead scienter adequately, the order states, since their motive arguments center around stock sales that were nondiscretionary sales to cover tax obligations. The judge said that such sales cannot be indicative of scienter, adding that the investors' "access-to-information" argument as company insiders also fails.

Finally, Judge Davila found that the investors failed to plead loss causation because there is no identified "relevant" link between Instacart's alleged fraud and its stock price decline.

Shareholder Andy Dean Stephens **launched the suit last year**, alleging Instacart downplayed the competition it faces in the online grocery shopping and delivery market when it filed its registration statement with the U.S. Securities and Exchange Commission before its **September 2023 IPO**.

The company went public on Sept. 19, 2023, when its shares began trading on the Nasdaq for $30 each. But the truth regarding Instacart's business prospects emerged a few days later, on Sept. 22, when a news article with analyst commentary revealed Instacart faced major competition from DoorDash and Uber in the "slowly expanding" grocery delivery market, according to the investors.

Instacart's shares gained slightly after its IPO. But following the article, share prices fell 65 cents, or about 2%, to close back to the IPO price of $30 per share on Sept. 22, according to the suit.

A couple of weeks later, on Oct. 2, investment research firm Gordon Haskett issued a "hold" rating for Instacart, saying decreased consumer spending and competition threatened the business, the investors noted.

Counsel for Instacart declined to comment on Monday, and counsel for the investors did not immediately respond to requests for comment.

The investors are represented by Adam M. Apton of Levi & Korsinsky LLP and Jennifer Pafiti, Jeremy A. Lieberman and Brian Calandra of Pomerantz LLP.

Instacart and the individual defendants are represented by Boris Feldman, Doru Gavril, Elise Lopez, Eunice Leong and Olivia Rosen of Freshfields US LLP.

The underwriter defendants are represented by Todd Cosenza, Charles Cording and Laura Geist of Willkie Farr & Gallagher LLP.

The case is Stephens v. Maplebear Inc. dba Instacart et al., case number 3:24-cv-00465, in the U.S. District Court for the Northern District of California.

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Bitcoin Miner Investor Sues Over Flawed Financial Reports

By **Emilie Ruscoe**

Law360 (May 12, 2025, 11:31 PM EDT) -- Bitcoin mining company Bitfarms Ltd. faces a proposed investor class action alleging it improperly accounted for certain capital-raising transactions, hurting investors when it announced it would restate its 2022 and 2023 financials.

In a complaint filed Friday in Brooklyn federal court, Bitfarms investor Bonito Olympio said the company's shares fell over 6% in December when the company announced that it was restating its earlier financial reporting due to an accounting error related to the redemption of derivatives known as warrants.

A bitcoin mining company, Bitfarms began raising capital in 2021 by issuing warrants that enabled holders to buy bitcoin at a certain price, quantity and time, Olympio said.

But in March 2024, the company disclosed accounting issues for its warrant sales, Olympio said. In particular, the company told investors that it should have classified those warrants as financial liabilities instead of as equity instruments — a key difference being that as liabilities, the warrants would have been "accounted for at fair value, through profit and loss."

Since it identified that weakness in its reporting, Olympio said, the company had "consistently represented" that its steps towards remediation included efforts to hire more accountants experienced in complex accounting, including the company's legal counsel in evaluating certain relevant financial agreements, and hiring third-party consultants to help with related accounting and financial statement review.

But the company "overstated the extent to which it had remediated, and/or its ability to remediate" the relevant material weaknesses in its reporting, Olympio said.

The truth emerged in December, when the company disclosed it was restating its 2022 and 2023 financials due to the warrant accounting, the complaint said. The disclosure sent shares down 13 cents to $2.01 a share, Olympio said.

In April, when the company issued its year-end reporting for its 2025 fiscal year, Olympio said, it became clear that the remediation process was still in the works.

Olympio accused Bitfarms of kicking the can down the road regarding its remediation efforts in its year-end report by telling investors that the remediation plan, which it previously said it would complete in 2024, was now "expected to be completed after review and testing of controls during 2025."

The proposed class would include those purchased Bitfarms between March 21, 2023, when the company allegedly lied when it told investors that it would "provide reasonable assurance regarding the reliability of financial reporting," and Dec. 8, 2023, the day before trading prices for its shares fell following its disclosure that it was restating its financials to adjust its warrant redemption accounting.

Representatives for the parties did not immediately respond to requests for comment Monday.

Olympio is represented by Jeremy A. Lieberman and J. Alexander Hood II of Pomerantz LLP.

Counsel information for the defendants wasn't immediately available Monday.

The case is Olympio v. Bitfarms Ltd. et al., case number 1:25-cv-02630, in the U.S. District Court for the Eastern District of New York.

--Editing by Jay Jackson Jr.

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Caitlyn Jenner Beats Crypto Investors' Suit, For Now

By **Bonnie Eslinger**

Law360 (May 12, 2025, 6:52 PM EDT) -- A proposed securities fraud class action against Caitlyn Jenner over cryptocurrency created and promoted by the Olympic gold medalist has been dismissed with leave to amend by a California federal judge who said the lawsuit doesn't show the lead plaintiff, a U.K. citizen, purchased his tokens in the U.S.

Lead plaintiff Lee Greenfield, who is identified in court filings as a citizen of the United Kingdom without specific reference to a country of residence, lost more than $40,000 investing in $JENNER, according to the operative complaint. Of the plaintiffs who filed suit, he is the investor with the largest losses, U.S. District Judge Stanley Blumenfeld Jr. noted in an order Thursday.

The suit claims Jenner, with the assistance of co-defendant Sophia Hutchins, defrauded investors in violation of federal and California securities laws with their marketing of $JENNER tokens, according to the complaint.

In his ruling, Judge Blumenfeld said the complaint failed to adequately plead any of its claims, so it had to be dismissed.

To start, the suit's claims alleging fraud and other violations of the U.S. Securities Exchange Act were tossed because the securities laws apply only to domestic transactions, and Greenfield didn't allege that any of his transactions occurred within the United States, the judge said.

The operative complaint "provides scant details about Greenfield's purchases," the judge said, adding that Greenfield only alleged he "accumulated" the tokens. Greenfield paid for them with cryptocurrency used by the Ethereum and Solana blockchains, and the tokens could be purchased on the trading platform Pump.Fun and certain cryptocurrency exchanges, according to the order.

In addition, "although the [first amended complaint] describes how transactions in cryptocurrency assets occur ... it fails to allege facts establishing how the transactions in this case have a sufficient nexus to the United States to support the application of U.S. securities laws," Judge Blumenfeld said.

Specifically, the complaint doesn't state which method Greenfield actually used, the judge noted.

Greenfield had argued that liability within the U.S. is established by Jenner as a California resident, who provided the "initial liquidity" for trading the token.

The judge disagreed, pointing to the 2024 ruling in California federal court in Baylor v. Honda Motor Co. , rejecting the argument that a transaction always qualifies as a "domestic transaction" whenever the purchaser or seller resides in the United States.

Greenfield also failed to show Jenner offered or sold a security through communications relating to a prospectus that included an "untrue statement of a material fact or misleading omission" because the $JENNER tokens were not sold through a prospectus, Judge Blumenfeld said.

The suit's attempt at holding Hutchins liable as a controlling person under the Securities Act also failed because there are only conclusory allegations in the complaint against Jenner's co-defendant — that Hutchins assisted Jenner in managing the "$JENNER project" — the judge said.

The securities claims against Jenner under California law fail because Greenfield hadn't shown he'd purchased the securities directly from the defendant, the judge added.

"Liability under California law is narrower than under federal law; it does not extend to a defendant who 'actively solicits the sale of the securities with a motive of benefiting himself financially' but does not directly sell the securities to the plaintiff," the judge said, citing the 2007 California Court of Appeal ruling in Apollo Cap. Fund, LLC v. Roth Cap. Partners, LLC.

Greenfield had argued there is privity because Jenner provided the initial liquidity to allow for the tokens to be traded on two exchanges, but Greenfield has not provided evidence he purchased token on those direct exchanges or any others, the judge said.

With regard to the suit's common law fraud cause of action against Jenner, the complaint doesn't say why statements made by Jenner were false at the time they were made, according to Judge Blumenfeld.

While the suit includes allegations of omitted information and screenshots of numerous posts by Jenner on X, stating that she would support the tokens, the suit doesn't specifically identify which of those statements gave rise to the suit's fraud claim, Judge Blumenfeld said.

The "'bare fact of a broken promise' does not show that a statement was false when made," the judge said, citing the 2017 Ninth Circuit ruling in Hampton v. Pac. Inv. Mgmt. Co. LLC.

Judge Blumenfeld granted leave to amend the suit, but said he wouldn't allow the plaintiffs to add or swap in a new lead plaintiff. A suggestion made to the court by their counsel that Greenfield may be unable to state a claim, but that other class members could, "raises the possibility that Greenfield may not be a lead plaintiff who can adequately represent the class — assuming class treatment is even appropriate," Judge Blumenfeld said.

If the plaintiffs determine Greenfield no longer is not the most adequate lead plaintiff, they should meet with defendants "to attempt to reach agreement on how best to proceed," the judge said, adding he would want a status report on any such conversation by May 16.

Judge Blumenfeld noted in his ruling that the defendants disputed whether the $JENNER tokens constitute securities, but said that didn't need to be resolved at this point in the litigation.

"Because Greenfield's securities claims fail on other grounds, and because the determination of whether the tokens are securities is fact-dependent and may be affected by an amended pleading, the court declines to resolve that issue at this stage and instead assumes without deciding that the tokens are securities subject to the federal securities laws," the judge said in a footnote.

U.K. citizen Naeem Azad and Romanian citizen Mihai Caluseru **first launched** the litigation in November, claiming Jenner's promotions misled them and omitted key information they would have considered before purchasing her so-called memecoin on the Solana and Ethereum blockchains. In total, they claim to have lost more than $50,000 by dealing in the token.

The suit asserts Jenner touted price and market capitalization targets, and the token quickly eclipsed $250 million in trading volume with the help of 20,000 investors. However, the price dropped precipitously when social sentiment turned, in part because Jenner and Hutchins allegedly employed Sahil Arora, a controversial figure who has been accused of running scams, to create the project.

After parting ways with Arora, Jenner relaunched the project on Ethereum, further driving down the value of the original project on Solana. She went on to benefit from a 3% "tax" on each Ethereum-based $JENNER transaction, the buyers alleged.

They argued Jenner offended securities laws by selling the asset and soliciting investors through social media and other public statements. Greenfield joined the litigation in an amended complaint in February.

A lawyer for Jenner and Hutchins, Jeffrey Steinfeld of Winston & Strawn LLP, told Law360 on Monday it would be futile to try and amend the case.

"If lead plaintiff and his counsel continue to pursue the case despite the court's warnings, defendants will continue to vigorously defend the action and reserve all rights," Steinfeld said in an email.

Representatives for the plaintiffs did not immediately respond to requests for comment Monday.

Azad and Caluseru are represented by Jack Fitzgerald, Peter Grazul, Melanie R. Monroe, Trevor M. Flynn and Allison Ferraro of Fitzgerald Monroe Flynn PC.

Jenner and Hutchins are represented by Jeffrey L. Steinfeld, John E. Schreiber and George E. Mastoris of Winston & Strawn LLP.

The case is Azad et al. v. Jenner et al., case number 2:24-cv-09768, in the U.S. District Court for the Central District of California.

--Additional reporting by Aislinn Keely. Editing by Lakshna Mehta.

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Coinbase Inks $2.25M Deal In Dogecoin Sweepstakes Suit

By **Hailey Konnath**

Law360 (May 12, 2025, 10:36 PM EDT) -- Coinbase Inc. and promoter Marden-Kane have agreed to pay $2.25 million to put to rest a proposed class action over a Dogecoin cryptocurrency sweepstakes, a deal that follows a trip to the U.S. Supreme Court, according to a motion filed in California federal court Friday.

The settlement, if approved, applies to everyone in the U.S. who opted into the $1.2 million sweepstakes and, as part of the event, bought, sold or traded Dogecoin on the Coinbase platform for an aggregate of at least $100, the plaintiffs said in their **motion**. Under the agreement, hundreds of thousands of participants could get back what they paid for transaction fees and spreads for their first $100 in Dogecoin trades, they said.

"Plaintiffs and their counsel believe in the strength of their claims, and in the potential for a recovery greater than the cash settlement amount in contested proceedings," they said. "At the same time, plaintiffs and the class face numerous risks to winning a contested judgment more favorable than this settlement."

Class representatives David Suski, Jaimee Martin, Jonas Calsbeek and Thomas Maher could each come away with a service award of up to $7,000, according to their motion for preliminary approval of the deal. Meanwhile, their attorneys at Harris LLP plan to request up to $750,000 in attorney fees, the filing states.

Suski and the other named plaintiffs alleged that both Coinbase and Marden-Kane bogusly told "millions of consumers that they were required" to purchase Dogecoin — a cryptocurrency that takes its name from a Shiba Inu meme — in order to enter a seven-figure sweepstakes. In reality, the consumers could've entered for free, they claimed.

Specifically, Suski said he received emails from Coinbase — and designed substantially by Marden-Kane — that were accompanied by colorful graphics featuring Dogecoin's Shiba Inu mascot with the words, "Trade Doge, Win Doge." According to the complaint, prompts on Coinbase's website told users they needed to buy or sell $100 of Dogecoin for a chance to win, and it was only made clear on a separate rules page that users did not need to buy or sell the cryptocurrency to enter the sweepstakes.

Last year, the Supreme Court agreed with the plaintiffs that **it's up to judges**, not arbitrators, to figure out whether contracts between businesses and consumers have subtly superseded earlier agreements to hash out disputes in arbitration rather than litigation.

The parties had sparred over competing contracts: one that clearly required arbitration and a second that sent certain matters to courts.

"Basic legal principles establish the answer," Justice Ketanji Brown Jackson wrote at the time on behalf of the high court. "Arbitration is a matter of contract and consent, and we have long held that disputes are subject to arbitration if, and only if, the parties actually agreed to arbitrate those disputes. Here … a court needs to decide what the parties have agreed to."

The parties attended mediation a few months after the Supreme Court's ruling, according to Friday's filing. The in-person mediation session wasn't successful, but the parties continued to negotiate via phone and email while the litigation was ongoing, they said.

A Coinbase spokesperson said in a statement Monday, "We are pleased to have reached an agreement to resolve the case, subject to the court's approval."

Marden-Kane and counsel for the plaintiffs didn't immediately respond to requests for comment late Monday.

The plaintiffs are represented by David J. Harris Jr. and Gerilyn R. Harris of Harris LLP.

Coinbase is represented by Kathleen R. Hartnett of Cooley LLP and Mark R. Conrad, Grace Yu-Ting Yang and Madison Bower of Conrad Metlitzky Kane.

Marden-Kane Inc. is represented by Laura A. Wytsma of Orrick Herrington & Sutcliffe LLP.

The case is David Suski et al. v. Coinbase Inc. et al., case number 3:21-cv-04539, in the U.S. District Court for the Northern District of California.

–Additional reporting by Jeff Overley. Editing by Michael Watanabe.

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Eric Trump-Backed Crypto Miner Merges With Gryphon Digital

By **Katryna Perera**

Law360 (May 12, 2025, 10:06 PM EDT) -- A new bitcoin miner backed by President Donald Trump's two eldest sons said Monday that it will go public through an all-stock merger with Gryphon Digital Mining Inc. and will list on the Nasdaq under the ticker symbol ABTC.

American Bitcoin announced the merger in a press release and stated that upon completion of the merger, the combined company will operate under the American Bitcoin brand and will be led by the company's management and board of directors, which will include Eric Trump as its chief strategy officer.

American Bitcoin describes itself as "a bitcoin accumulation platform focused on building America's Bitcoin infrastructure backbone."

Eric Trump, his brother Donald Trump Jr. and crypto miner Hut 8 Corp. — all existing shareholders of American Bitcoin — will retain 98% ownership of the newly formed entity, according to the announcement.

The announcement states that Hut 8, in partnership with Eric Trump, launched American Bitcoin earlier this year "with the goal of building the world's largest, most efficient pure-play bitcoin miner alongside a robust strategic bitcoin reserve."

"American Bitcoin is purpose-built to enable Bitcoin accumulation at scale through low-cost Bitcoin mining and other complementary strategies," the release further states.

In a statement, Eric Trump said the vision for American Bitcoin is to "create the most investable Bitcoin accumulation platform in the market."

"Today's announcement marks an important milestone in that journey, bringing us closer to offering every investor access to a purpose-built platform engineered for scale and long-term value creation in what we believe is one of the most important asset classes of our time," he added.

The deal is expected to close in the third quarter of 2025.

Asher Genoot, board member of American Bitcoin and CEO of Hut 8, said taking American Bitcoin public is a "critical step toward scaling the business at the pace and magnitude we envision."

"Time-to-market was a critical factor, and this transaction enables an efficient path to public markets by combining with an entity that is structurally aligned with American Bitcoin's mining-focused launch strategy," he further stated.

The Trump family has been launching crypto ventures since the start of the year, including the $TRUMP meme coin, and backs the crypto firm World Liberty Financial, into which the founder of blockchain network Tron invested $30 million.

Counsel information for the parties was not immediately available Monday.

--Editing by Andrew Cohen.

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W.Va. High Court Declines 4th Circ. Request For Opioid Input

By **Rae Ann Varona**

Law360 (May 12, 2025, 11:30 PM EDT) -- The West Virginia Supreme Court of Appeals on Monday declined the Fourth Circuit's request to answer whether the state's public nuisance law applies to the distribution of opioids, saying disputed facts in litigation between local governments and drug distribution companies must first be resolved.

Justice C. Haley Bunn said in a 3-2 opinion that the state's high court needed an undisputed factual record to answer the certified question sent by the federal appellate court.

But the city of Huntington, West Virginia, and the Cabell County Commission, which accuse three drug distributors of flooding Huntington and the city's home county of Cabell with pills, had contested a federal judge's factual findings and legal conclusions before the Fourth Circuit, Justice Bunn said.

"The tragic effects of the opioid epidemic in Huntington and Cabell County are well-known and accepted by the parties," Justice Bunn stated in the opinion. "Yet, we resolve that we cannot, at this juncture, answer the question certified to this court from the Fourth Circuit due to the disputed factual findings, and related legal conclusions resting on those factual findings, on appeal from the federal district court in this case."

Huntington and the Cabell County Commission are pushing to hold AmerisourceBergen Corp., Cardinal Health Inc. and McKesson Corp. — the United States' three largest drug distributors — liable for the opioid epidemic. The city and county argue that the distributors created a public nuisance by supplying pharmacies with far more opioids than medically justified.

But the local governments lost the first federal bellwether trial in a multidistrict opioid litigation when U.S. District Judge David Faber **ruled** in favor of the companies in July 2022.

In a 184-page opinion, Judge Faber acknowledged that the West Virginia Supreme Court of Appeals hadn't ruled on whether the state's public nuisance law affords a remedy in cases like Huntington and Cabell County's. The state's high court had only applied public nuisance law in the context of conduct that interferes with public property or resources, he noted.

Judge Faber also said, however, that the "extension of the law of nuisance to cover the marketing and sale of opioids is inconsistent with the history and traditional notions of nuisance."

But the Fourth Circuit said in a March order it wasn't clear how the West Virginia Supreme Court of Appeals would rule on the question.

In its order, the Fourth Circuit, which had previously **questioned** why no one sought help from West Virginia's high court, sent the court **two related questions**: whether conditions caused by the distribution of a controlled substance can constitute a public nuisance under West Virginia common law and, if so, what the elements are of such a claim.

In declining to answer, Judge Bunn said Monday that the Fourth Circuit was essentially asking it to answer the certified question "in a vacuum" and "ignore the district court's factual findings and legal conclusions — particularly those findings relating to reasonableness, causation, and whether the defendants violated their statutory duties."

She said any answer would be "advisory."

But Chief Justice William R. Wooton, joined by state Circuit Judge Tera Salango, penned a dissenting opinion, saying that "nothing in our law compels the conclusion that a certified question must be dispositive of an entire case."

"We may never have a better opportunity than the one we are squandering today," Justice Wooton said. "The certified question in this case is one of great importance to our state, which has been ravaged by a flood of epic proportions: a flood of opioids which has, over the course of decades, overtaken the capacity of state, county, and municipal institutions and programs to remediate the damage caused in its wake."

Justice Wooton said the court has a "duty and responsibility" to answer the certified question, the first part of which he said he would have answered in the affirmative.

He said that, in his opinion, the distribution of a controlled substance, as defined under state law, is "actionable under a public nuisance theory if it causes a condition of widespread harm, meaning that it causes hurt or inconvenience to an indefinite number of persons."

In 2023, the Sixth Circuit similarly **asked** the Ohio Supreme Court to determine whether the opioid epidemic could be considered a public nuisance.

In December 2024, the state court **held** in a 5-2 opinion that the state's product liability law doesn't allow for public nuisance claims to be brought over the opioid crisis.

Attorneys for the parties did not immediately respond to requests for comment late Monday.

Chief Justice William R. Wooton, Justices C. Haley Bunn and Elizabeth D. Walker, and West Virginia Circuit Judges Andrew Dimlich and Tera L. Salango sat on the panel for the West Virginia Supreme Court of Appeals.

Justices Tim Armstead and Charles S. Trump IV deemed themselves disqualified and did not participate.

The city of Huntington and Cabell County Commission are represented by Paul T. Farrell Jr. of Farrell & Fuller LC, and David Frederick, Lillian V. Smith, Ariela M. Migdal and Kathleen W. Hickey of Kellogg Hansen Todd Figel & Frederick PLLC.

Huntington is also represented by Anne McGinness Kearse of Motley Rice LLC.

The Cabell County Commission is also represented by Anthony Majestro and Christina L. Smith of Powell & Majestro PLLC and Michael A. Woelfel and Matthew J. Woelfel of Woelfel & Woelfel LLP.

Cardinal Health Inc. is represented by Steven R. Ruby and Raymond S. Franks II of Carey Douglas Kessler & Ruby PLLC and Enu Mainigi, F. Lane Heard III, George Borden and Ashley Hardin of Williams & Connolly LLP.

AmerisourceBergen Drug Corp. is represented by Gretchen M. Callas and Albert F. Sebok of Jackson Kelly PLLC, Robert A. Nicholas, Joseph J. Mahady, Anne Rollins Bohnet and Kim M. Watterson of Reed Smith LLP.

McKesson Corp. is represented by Jeffrey M. Wakefield of Flaherty Sensabaugh Bonasso PLLC and Paul W. Schmidt, Timothy C. Hester, Christian J. Pistilli and Nicole M. Antoine of Covington & Burling LLP.

The cases are City of Huntington, West Virginia, et al. v. AmerisourceBergen Drug Corp. et al., case number 24-166, in the Supreme Court of Appeals of West Virginia, and City of Huntington, West Virginia, et al. v. AmerisourceBergen Drug Corp. et al., case numbers 22-1819 & 22-1822, in the U.S. Court of Appeals for the Fourth Circuit.

The MDL is In Re National Prescription Opiate Litigation, case number 1:17-md-2804, in the U.S.

District Court for the Northern District of Ohio.

--Additional reporting by Emily Field and Dan McKay. Editing by Kristen Becker.