

Class Action

May 15, 2025, 6:06 AM PDT; Updated: May 15, 2025, 8:11 AM PDT

Dexcom Beats Investor Claims Over Growth Potential for Now (1)

- Judge said complaint's a puzzle pleading; letting plaintiff fix
- Suit says Dexcom overhyped monitoring device growth potential

Dexcom Inc. defeated investor allegations the glucose monitor maker exaggerated its ability to tap into the market of patients who use a long-acting insulin before its revised guidance prompted a record stock drop.

The lead plaintiff's consolidated complaint didn't make clear "which 'statements' it alleges are false and misleading" in relation to company's sales force and its monitoring device's market growth potential for Type 2 diabetes patients who rely on basal insulin, said Judge Robert S. Huie. The US District Court for the Southern District of California judge called the complaint a "puzzle pleading" in his Wednesday order dismissing the case against Dexcom and its current and former executives.

Huie also granted the lead plaintiff, the National Elevator Industry Pension Fund, permission to file an amended complaint within 14 days of his order.

Among other issues, the judge said, the pension fund used multi-paragraph statements that were partially bolded and italicized, but sometimes without providing a full explanation of why some parts were highlighted, leaving him uncertain as to which statements were allegedly misleading and why. Thus, the fund failed to set forth its claims in compliance with certain pleading standards, he said.

Dexcom had allegedly painted an unduly rosy picture of the success of its sales force and durable medical equipment suppliers' relationships for growing its share of the Type 2 basal insulin patient market after the US Centers for Medicare & Medicaid Services expanded coverage for continuous glucose monitoring to those individuals in April 2023.

But the company and top executives hid that its sales force lacked established connections with primary care physicians, the pension fund said. And Dexcom didn't have a rebate program like competitor Abbott Laboratories' before the Medicare expansion, thus lacking the same brand loyalty to boost its potential, the fund said.

Dexcom reorganized its sales force in late 2023, while continuing to tout its market share potential, the complaint said.

Stock Slide

The company in July lowered its full-year 2024 revenue guidance by \$300 million while releasing second fiscal quarter results, conceding it wasn't doing as well as it previously projected in that space, according to the pension fund. Shares fell almost 41% the next day—the stock's steepest one-day fall since its 2005 market debut, according to data compiled by Bloomberg.

A shareholder derivative action filed against current and former Dexcom executives and board members is pending in the same court.

Robbins Geller Rudman & Dowd LLP is lead counsel for the elevator industry fund, which seeks to represent a class of investors who got Dexcom stock from April 28, 2023, through July 25, 2024. That law firm didn't immediately respond to an email seeking comment. O'Donoghue & O'Donoghue LLP is the pension fund's additional counsel.

Cooley LLP represents the defendants—Dexcom, its CEO Kevin Sayer, chief financial officer Jereme Sylvain, and former chief commercial officer Teri Lawver. The law firm didn't immediately respond to an email seeking comment.

The case is In re: Dexcom, Inc. Class Action Sec. Litig. , S.D. Cal., No. 24-CV-1485, dismissed 5/14/25 .

(Updates with additional details throughout.)

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Litigation

May 14, 2025, 12:11 PM PDT

Defamation Claim Against US Attorney Revived by Appeals Court

- **Assistant US attorney improperly shielded from intern's suit**
- **Sending documents to media falls outside scope of employment**

A Florida-based assistant US attorney must again face a lawsuit alleging that she defamed a former intern and law school student by sharing his alleged misconduct with media outlets, the Eleventh Circuit said Wednesday.

A Florida federal district court that dismissed the suit in 2021 must reconsider whether Assistant US Attorney Alison W. Lehr has immunity from liability for alleged acts that don't appear to further her federal office's interests, the US Court of Appeals for the Eleventh Circuit's three-judge panel said in a nonprecedential opinion. The court reversed the dismissal in part and remanded to the district court.

The alleged act of "sending the press documents" about plaintiff Jonathan Mullane is outside the scope of Lehr's employment, the appeals court said.

Mullane interned for the US Attorney's Office for the Southern District of Florida while he was a second-year law student at the University of Miami. During this period, Mullane filed a civil action against Barclays Bank, a case ultimately assigned to Judge Federico A. Moreno of the US District Court for the Southern District of Florida.

Mullane said he and Lehr clashed over a potential conflict of interest involving his assignment to a case, and that Lehr and acting US Attorney Benjamin Greenberg worked together to terminate his employment. Lehr and Greenberg then allegedly worked with Judge Moreno to falsely accuse Mullane of misconduct in his personal civil action, Mullane said.

According to Mullane, Judge Moreno critiqued Mullane's conduct during a scheduled hearing in the civil action and ultimately sent a letter to the law school about Mullane. The plaintiff also said Lehr forwarded a copy of the hearing transcript with Judge Moreno to two media outlets from a personal email address.

Mullane sued Moreno, Lehr, and others over allegations of defamation, tortious interference, intentional infliction of emotional distress, and other claims.

The district court correctly dismissed most of Mullane's claims, the appeals court said. But Lehr allegedly emailing the press a transcript concerning an intern's alleged misconduct in an unrelated civil pro se matter appears to have a connection to a personal motive and doesn't seem to further the US Attorney's Office's interests, the appeals court said.

Moreno, however, is entitled to judicial immunity from any liability associated with sending a letter to the law school, the opinion said.

The judge's "observations of Mullane stemmed from a judicial proceeding over which he presided, and Judge Moreno acted to report what he deemed an intentional misrepresentation by a litigant who was seeking to become a lawyer," the appeals court said.

Judge Sarah E. Geraghty, sitting by designation for the the Northern District of Georgia, wrote the opinion for the appeals court. Judges Adalberto Jordan and Andrew L. Brasher joined in the decision.

Mullane represented himself. Robbins Geller Rudman & Dowd LLP represented Moreno.

The case is Mullane v. Moreno , 11th Cir., No. 21-13468, unpublished 5/14/25 .

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Integra Bosses Misled on FDA Warning Fix, Shareholder Suit Says

- **COURT:** D.N.J.
- **TRACK DOCKET:** No. [3:25-cv-04214](#) (Bloomberg Law subscription)

Integra LifeSciences Holdings Corp. brass oversold fixes to its manufacturing practices to meet Food and Drug Administration standards before it shared updates to its compliance improvement program, a shareholder lawsuit said.

Share prices slid multiple times in 2024 as investors learned about issues spurring a shutdown at its Boston plant and the medical device maker's abilities to meet FDA manufacturing protocol, said the complaint filed in the US District Court for the District of New Jersey Tuesday.

On July 29, Integra reduced its full-year 2024 financial guidance to account for shipping holds and compliance improvement across the company, said the shareholder derivative action, a lawsuit filed on behalf of a company against its corporate overseers. The stock price fell more than 19% that day.

Corporate leaders harmed Integra's reputation and wallet in causing it to rosily tout improvements since the FDA sent it a warning letter in 2019 about not fixing issues found while inspecting its Boston facility, plaintiff Edward Leverett said. Meanwhile, six defendants reaped a combined tens of millions of dollars by insider trading while the stock price was allegedly inflated, he said.

On May 6, 2024, the company released disappointing financial results and former CEO Jan De Witte said the Boston facility shutdown that began in 2023 would need to go on for another seven months, Leverett said. Share prices collapsed almost 20% to close at \$23.14 that day—the stock's biggest one-day drop in almost a year, according to data compiled by Bloomberg.

This came a year after Integra's stock price saw its steepest single-day fall since 1996, when share prices plummeted more than 20% on May 23, 2023, according to Bloomberg data. That day, Integra said it was voluntarily recalling products manufactured at the Boston facility between March 2018 and May 2023 after finding deviations in its endotoxin testing and lowered its second fiscal quarter financial guidance.

A consolidated proposed class action against the company and eight of its current and former executives containing similar allegations is pending in the same court.

Leverett's lawsuit landed about a week after a new record one-day Integra stock drop. Share prices slid more than 21% on May 5—its new steepest single-day selloff since 1996—the day Integra released first quarter of 2025 financial results that included disappointing earnings per diluted share and cut its 2025 adjusted EPS outlook, citing tariffs.

Rigrodsky Law PA and Grabar Law Office represent Leverett, who claimed wrongdoing by 19 current and former executives and board members from at least March 11, 2019, through July 28, 2024. Leverett alleged securities law violations, breach of fiduciary duties, aiding and abetting of breaches, unjust enrichment, and waste of corporate assets. He seeks damages for Integra, among other relief.

Integra didn't immediately respond to an email seeking comment. Nor did the law firms representing it in the proposed class action, Wilson Sonsini Goodrich & Rosati and Reed Smith LLP.

The case is *Leverett v. Anderson*, D.N.J., No. 3:25-cv-04214, complaint filed 5/13/25 .

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Sage Therapeutics Shareholder Sues Over Drug Prospect Claims

- **COURT:** S.D.N.Y.
- **TRACK DOCKET:** [1:25-cv-04017](#) (Bloomberg Law subscription)

Sage Therapeutics Inc. leadership overhyped prospects for three neurological and psychiatric treatments, harming the biopharmaceutical company's reputation and wallet, a shareholder lawsuit said.

Share prices for Sage fell almost 54% over a three-day period to close at \$16.75 on Aug. 7, 2023, following the company's Aug. 4 announcement that the US Food and Drug Administration only approved its flagship drug for postpartum depression and needed more data for major depressive disorder, a stockholder told the US District Court for the Southern District of New York Tuesday. Since that period included the weekend, it was then the stock's biggest one-trading-day drop since December 2019, according to data compiled by Bloomberg.

Current and former executives and board members hurt Sage by causing it to conceal clinical trial issues and overstate drugs' FDA approval odds—including for postpartum depression medicine zuranolone, which it developed with Biogen Inc.—said the shareholder derivative action, a lawsuit that's filed on behalf of a company against its corporate overseers.

Sage announced a 40% workforce reduction in August 2023, plaintiff Jurgen Matton said. Then Sage revealed disappointing results that led it to stop pursuing potential uses of two other treatments, with subsequent stock drops in April and July 2024, he said.

Sage's 2021, 2022, 2023, and 2024 proxies contained misstatements on its primary drug candidates, regulatory compliance, and adequacy of internal controls, Matton said. These statements "misleadingly induced shareholders" to support board members' elections and performance-based pay for executives, he said.

The company said in April 2024 that it would stop developing SAGE-718, a therapy for various cognitive disorders, to treat Parkinson's disease. It said it would stop studying SAGE-324 to target essential tremor in July 2024 and announced the end of its collaboration with Biogen on it in September. In October 2024, Sage said it would lay off another 33% of its workers, with five senior executives departing.

Another shareholder derivative action alleging similar issues was filed in the Southern District of New York in March. A proposed class action against the company, two current, and five former executives is pending in the same court.

Sage said in January its board rejected an proposal from Biogen to acquire its outstanding shares, but it was exploring strategic options, “including but not limited to a potential strategic transaction, business combination or sale.” That review was ongoing as of April 29.

The Rosen Law Firm PA represents Matton, who alleged wrongdoing between April 12, 2021, through July 23, 2024, by more than a dozen current and former officers and directors.

Matton alleged securities law violations, breach of fiduciary duties, aiding and abetting of breaches, unjust enrichment, and waste of corporate assets. He seeks an award of damages sustained, or disgorgement or restitution, and corporate governance reform for Sage, among other relief.

Sage didn't immediately respond to an email seeking comment. Nor did the firms representing it in the previously filed derivative action and related proposed class suit, Choate Hall & Stewart LLP and Baughman Kroup Bosse PLLC.

The case is Matton v. Greene , S.D.N.Y., No. 1:25-cv-04017, complaint filed 5/13/25 .

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Coleman, who took the case over after former Attorney General Daniel Cameron left office in early 2023. The \$227.5 million set to be sent to Kentucky's pension funds included \$145 million in state money that one of the hedge funds had held in reserve as the case progressed, along with an additional \$82.5 million. The hedge funds have continued to deny liability.

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Wingate's order did rule the \$145 million in state funds should not be considered "settlement recovery" for the purpose of determining attorney's fees once a deal is reached.

Lawyers who opposed the deal had noted outside attorneys working with Coleman's office are entitled to 20% of the gross recovery's first \$250 million and would likely have been in line to collect \$45.5 million if the settlement were to be approved, leaving Kentucky's retirement systems with about \$37 million in "new money."

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Kevin Grout, Coleman's chief of staff, said in a Monday statement the attorney general's office is "reviewing the court's order and discussing with Kentucky's pension board leaders" to determine the next steps.

Meanwhile, Michelle Ciccarelli Lerach and others who had urged the judge to reject the settlement, as it would have closed the door on a separate lawsuit they filed in 2021 against the hedge funds, celebrated Wingate's ruling as a win. Lerach represents "Tier 3" employees — state workers whose retirement plans rely on the pension system's financial success.

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"This opinion highlights the many flaws in the proposed settlement offered by the Defendants and the Attorney General, and approved by the pension authority — not the least of which is it would extinguish the valuable claims of the Tier 3 plaintiffs," Lerach, lead attorney in that case, said Tuesday in a statement.

"We will continue to prosecute our case with the full intention of garnering a result more in line with the actual losses sustained in order to provide significant benefit for the plan and its beneficiaries," she added.

DIG DEEPER

More from Lucas Aulbach

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- As Andy Barr announces Senate run, first Kentucky candidate to replace him speaks up

Don Kelly, a Louisville-based attorney representing The Blackstone Group, one of the hedge funds at the center of the lawsuits, noted Wingate's ruling "did not opine on the settlement agreement" and urged the parties to "put an end to this long running expensive and distracting litigation."

"The settlement is clearly in the best interests of the Commonwealth and its pensioners and will result in significant assets being paid to the pension plans," he said Monday in an email.

The ruling came after lawyers representing the retirement systems made their case in Wingate's court for the settlement to be approved, while attorneys in a separate lawsuit filed against the hedge funds — Blackstone, KKR & Co., Prisma Capital Partners and Pacific Alternative Asset Management — argued approving the deal would result in a huge underpay for the state and would put an end to their own case.

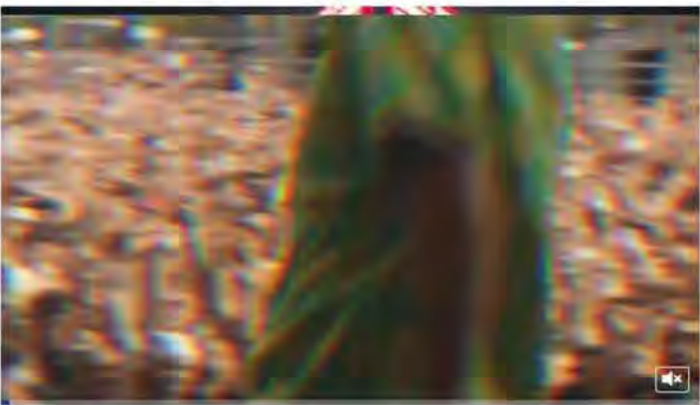
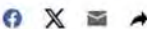
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Lawyers from the attorney general's office have argued they're the only ones who can represent all pensioners in a lawsuit — they [picked the case up in 2020](#) under Cameron, about three years after it was [filed](#) — and that the settlement would put a close to a dozen separate lawsuits in other states that are associated with the ongoing litigation.

Denying the deal would cause more state money and resources to be poured into the issue, with state attorney Justin Clark calling the proposal "our best opportunity to try to resolve this case."

But Lerach and other attorneys on her side have argued the deal amounts to pennies on the dollar and would prevent them from pursuing a better deal. Wingate had previously [delayed a hearing in February](#) to review the deal, allowing Lerach's lawsuit to proceed to mediation, which was ultimately unsuccessful.

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Musk-Delaware Feud Spurs New Texas Minority Shareholder Law (1)

- Companies got block challenges from minority shareholders
- New law exempts stock exchanges from certain tax liabilities

The type of minority shareholder challenge that pushed Elon Musk and Tesla out of Delaware is now illegal in Texas.

“Business decisions are to be made by the elected officers and their shareholders, not by unelected judges,” Gov. Greg Abbott (R) said during a bill signing ceremony Wednesday.

Abbott’s penstroke to SB 29 comes a week after the Texas Senate gave it final approval on May 7. The law became effective immediately.

Abbott prioritized the bill as part of a broader business-friendly legislative bid to attract companies to Texas and threaten Delaware’s status as the dominant state for incorporation. On Wednesday, he also signed a related piece of legislation, SB 1058, which exempts stock exchanges operating in Texas from certain franchise tax liabilities.

Texas is on track to open its own stock exchange in February 2026.

A third bill that received Abbott’s signature Wednesday would ban new taxes on securities transfers and financial transaction through a constitutional amendment. The proposal, known as HJR 4, now goes before voters in November.

The Musk-related law, which had just seven no votes in the House and one no vote in the Senate, is a direct response to the billionaire’s public feud with the Delaware Chancery Court.

Last year, Musk moved Tesla’s incorporation to Texas after a judge blew up his record \$56 billion pay package, which was opposed by an investor with just nine Tesla shares when he sued in 2018.

The Abbott-signed law allows companies to stop a shareholder from bringing a derivative action unless they own more than 3% of a corporation’s shares.

The three bills “will make Texas the most competitive state for stock exchange and bringing big business to Texas,” House Speaker Dustin Burrows (R) said.

“It’s only a matter of time before we leave Delaware in the dust when it comes to reincorporations and incorporations,” said Glenn Hamer, president of Texas Association of Business.

The bills are the first major legislation Abbott has signed related to business development this session, but more could be following.

SB 1057, which passed both chambers and awaits Abbott’s signature, says shareholders must own shares equal to at least \$1 million or three percent of the corporation’s voting shares to submit a proposal. Abbott didn’t address the bill Wednesday.

HB 40, which passed the House on Tuesday, seeks to attract more litigation to the state’s fledgling business courts by lowering the minimum amount-in-controversy threshold from \$10 million to \$5 million. As it stands, only certain disputes can be brought at the \$5 million threshold. It would also add a third judge in the Houston and Dallas divisions. The Senate is considering a similar plan, SB 2883, which resembles the House bill.

The proposal “can obviously still be improved upon,” Abbott said, but “it continues to build upon what we were able to put into effect last session.”

The legislative session ends June 2. Abbott has until June 22 to sign or veto bills.

(Updates third paragraph to show the law is effective immediately)

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Class Action

May 15, 2025, 8:08 AM PDT

Cigna Group Accused of Using 401(k) Forfeitures for Own Benefit

- **COURT:** E.D. Pa.
- **TRACK DOCKET:** [No. 2:25-cv-02465](#) (Bloomberg Law subscription)

The Cigna Group is the latest multinational accused of violating its duties to its retirement plan participants by using forfeited funds to reduce employer contributions to its plan, a new proposed class action says.

Cigna's 401(k) plan also allegedly invested in contracts that provided "significantly lower rates of return" than comparable funds the healthcare insurer could have made available to retirement plan participants, according to the complaint filed Wednesday in the US District Court for the Eastern District of Pennsylvania.

Cigna allegedly breached the duties it owed to plan participants by failing to defray "reasonable" plan administration expenses, say the two named plaintiffs, Ohio and Indiana residents who worked for Cigna and contributed to the plan, on behalf of a proposed class.

By 2023, Cigna's massive 401(k) plan had about 88,000 participants, with almost \$13 billion in assets under management, according to the complaint.

The claims that Cigna's actions ran afoul of the Employee Retirement Income Security Act of 1974 through its use of forfeited funds are similar to those made in recent months against Clorox Co., Qualcomm Inc. and Intuit Inc., each of which have advanced. Other suits against HP Inc., BAE Systems Inc., and other large companies have been rejected.

Cigna's alleged failure stems from its use of participants' forfeited funds to reduce employer contributions instead of reducing or eliminating amounts charged to plan participants for administrative costs, the former employees say.

"This action by the Defendant was a clear breach of the duties of prudence and loyalty to Plan participants and cost Plan participants millions of dollars," the complaint says.

Representatives for Cigna didn't immediately respond to a request for comment.

The former employees are seeking to represent a proposed class of participants in or beneficiaries of Cigna's 401(k) plan during a class period that would run from May 14, 2019, to the date of judgment.

They're asking the court for a declaration that Cigna has breached its fiduciary duties under ERISA, and an order compelling the company to "make good" to the plan on all losses resulting from Cigna's alleged breaches of its fiduciary duties, including losses resulting from "imprudent investment" of the plan's assets.

The former employees also seek disgorgement of profits Cigna allegedly received from the plan, and/or an accounting for profits and imposition of a constructive trust, "to prevent the Company's unjust enrichment"; damages in the amount of the losses the plan suffered "to be allocated among the participants' individual accounts in proportion to the accounts' losses"; and attorneys' fees and costs.

Capozzi Adler PC represents the employees and the proposed class.

The case is *Reven v. The Cigna Group 401(k) Plan Ret. Plan Comm.*, E.D. Pa., No. 2:25-cv-02465, complaint 5/14/25 .

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Judge Approves Rare Privacy Settlement Awarding Class Members 23% Stake in Clearview AI

 [law.com/2025/05/14/judge-approves-rare-privacy-settlement-awarding-class-members-23-stake-in-clearview-ai/](https://www.law.com/2025/05/14/judge-approves-rare-privacy-settlement-awarding-class-members-23-stake-in-clearview-ai/)

Amanda Bronstad

May 15, 2025

- Attorneys general from 22 states, as well as individual objectors, some represented by Public Citizen, had objected to the settlement.
- Class counsel insisted that, given Clearview AI's market valuation in 2023, the value of the 23% share could be about \$51.75 million.
- Class counsel had raised concerns that a cash settlement would put Clearview AI out of business.

A federal judge approved a controversial privacy settlement that gives class members a 23% equity stake in facial recognition software firm Clearview AI Inc.

The settlement, reached last year, drew objections from 22 state attorneys general, including California, Connecticut, Delaware, New Jersey, New York and the District of Columbia, as well as individual objectors, some represented by Public Citizen. But, in a Monday order, U.S. District Judge Sharon Johnson Coleman, of the Northern District of Illinois, agreed with class counsel that the 23% stake was preferable to monetary relief under Illinois' Biometric Information Privacy Act that could put Clearview AI out of business.

"Just as necessity is the mother of invention, the decision to premise monetary relief on a 23% equity stake in Clearview was driven by the practical realities of the case," Coleman wrote. "The choice was clear: secure the settlement class monetary relief in the form of an equity stake in Clearview, or risk leaving litigation victorious, but empty-handed."

Coleman cited class counsel's estimation that, given Clearview AI's market valuation in 2023, the value of the 23% share could be about \$51.75 million. Class members, numbering between 65,000 to 125,000, would receive payments through four possible means: an initial public offering, a sale or merger, a future payment or sale of the stake.

Coleman also approved attorney fees equal to 39.1% of the settlement fund. Objectors also challenged those fees.

Coleman had granted final approval on March 20, but she amended her order this week to grant a proposed allocation of fees that guaranteed 20% to class counsel Loevy & Loevy, 8% to Bursor & Fisher and Hedin Hall, and 12% to Drury Legal, whose founder, former Illinois state representative Scott Drury, fought over leadership of the Clearview AI case after resigning from Loevy & Loevy in 2022.

Clearview AI, with a database of 20 billion images from the Internet, primarily works with law enforcement and government agencies. The settlement, reached through JAMS mediator Wayne Andersen, a retired U.S. District Judge of the District of Illinois, provides a 23% stake to five separate classes: A national class and state classes of residents in Illinois, California, New York and Virginia.

Although similar privacy class actions have settled for \$650 million with Meta Platforms-owned Facebook and \$100 million with Google, Clearview AI, a startup, did not have the financial means to pay those amounts, class counsel argued in court filings.

Objectors, including the states, raised concerns that class members were giving up injunctive relief, which would prevent Clearview AI from obtaining their biometric face images without consent. Also, the states insisted the monetary relief was unknown and speculative.

“This is a highly consequential settlement that would profoundly impact nearly every American’s ability to protect their privacy,” the states wrote in their Dec. 12 amicus brief. “It demands thorough and searching judicial scrutiny.”

Michael Kanovitz of Chicago’s Loevy
& Loevy. HANDOUT.

But class counsel insisted that another District of Illinois judge, retired U.S. Magistrate Judge Sidney Schenkier, now at JAMS, would act as special master to oversee the settlement and that having Clearview AI remain in business was in everyone’s best interest.

In Monday’s order, Coleman sidestepped the policy arguments over whether Clearview AI’s technology should be allowed.

“These concerns regarding the dangers of the use—and misuse—of biometric information are not wholly without merit,” Coleman wrote. “But on the other side, supporters of facial recognition technology point to its ability to help solve crimes, including in underserved areas, and exonerate those who have been wrongfully accused.”

Clearview and class counsel at Chicago’s Loevy & Loevy—founding partner Jon Loevy, partner Michael Kanovitz and attorney Tom Hanson—did not respond to requests for comment.

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Class Action

May 15, 2025, 10:41 AM PDT

Globe Life Customers End Proposed Class Action Over Data Breach

Globe Life Inc. will escape, at least for now, a proposed class action over a data breach impacting 850,000 customers, after the plaintiffs voluntarily dismissed the case without prejudice.

Barbara Buford had sued the insurer after learning someone attempted to use her confidential information to apply for a line of credit, according to her proposed class action filed in the US District Court for the Eastern District of Texas.

- Buford and others sought to represent a class of data breach victims through a consolidated case, saying the company failed to take adequate steps to safeguard their personal information
- The plaintiffs informed Judge Amos L. Mazzant III they were withdrawing their claims Wednesday while reserving their right, and that of the uncertified class, to reassert them
- Counsel for the parties didn't immediately respond to a request for comment

Shamis & Gentile PA and Kopelowitz Ostrow PA were appointed interim class counsel last month. King & Spalding LLP represented Globe Life.

The case is *In re Globe Life Data Breach Litig.*, E.D. Tex., No. 4:25-cv-00187, notice of dismissal 5/14/25.

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Litigation

May 15, 2025, 10:45 AM PDT

Mark Zuckerberg Must Testify in Meta Pixel Health Data Lawsuit

- **Plaintiffs have sufficiently exhausted other discovery methods**
- **Deposition can't ask about general Pixel development**

Meta Platforms Inc. CEO Mark Zuckerberg will have to testify in a suit challenging the company's collection of personal health information via its tracking Pixel about how he addressed privacy-related decisions at the company.

The plaintiffs in the suit sufficiently demonstrated that they've exhausted other methods to get information about the implementation of a privacy-related FTC consent order, among other things, Magistrate Judge Virginia K. DeMarchi said Wednesday for the US District Court for the Northern District of California.

The deposition is limited to asking Zuckerberg about the FTC consent order, which stemmed from an investigation into whether Facebook deceived users about their ability to control the privacy of their personal information. That order required Facebook, now Meta, to restructure its approach to privacy and apply sufficient oversight to those decisions.

That consent order required Zuckerberg specifically to certify that the social media platform created a sufficient privacy regime and was in compliance with it.

The deposition may also ask about Zuckerberg's role as "a decision maker regarding certain privacy-related matters at issue in this case."

Meta's bid for reconsideration suggested that other executives are aware about its "efforts to prevent receipt of potentially sensitive data" through tools like the Pixel and changes in the company's policy towards targeted advertisements.

Other Meta officials might know a lot about those privacy issues, but may only be able to speculate on matters where Zuckerberg was the final decisionmaker, the court said.

Plaintiffs had already "made several attempts to obtain discovery through other means regarding Meta's privacy practices," DeMarchi said. And testimony has already identified Zuckerberg as the decisionmaker on certain matters, she said.

But the deposition can't wander into general questions about the Pixel's development, DeMarchi said. There are other executives who can testify to that and "what data it obtained, how it used the data, and how it implemented privacy protections."

Cohen Milstein Sellers & Toll PLLC, Simmons Hanly Conroy LLP, Terrell Marshall Law Group PLLC, Kiesel Law LLP, and Gibbs Mura LLP represented the plaintiffs.

Gibson Dunn & Crutcher LLP represented Meta.

The case is In re Meta Pixel Healthcare Litig. , N.D. Cal., No. 3:22-cv-03580, 5/14/25 .

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Class Action

May 15, 2025, 2:05 AM PDT

Novel Case Aims to Make Ultra-Processed Food the New Tobacco

Deep Dive

- **Lawsuit filed last year expected to spur mass tort litigation**
- **Addictiveness potential unsettled, creating causation issues**

Kraft Heinz Co., Coca-Cola Co., and General Mills Inc. are among the targets of an anticipated wave of lawsuits portraying Big Food as the next Big Tobacco by likening the addictiveness of ultra-processed food to that of cigarettes.

A first-of-its-kind case filed against the food giants last year accuses the packaged food industry of using the same neuroscience research and marketing tactics as the tobacco industry to get children hooked on dangerous and unhealthy products.

To date it's the only one pending, but plaintiffs' firms are preparing to file similar complaints centered on the link between ultra-processed foods and children's health.

Rene Rocha of Morgan & Morgan PA, who's representing plaintiff Bryce Martinez in the case, said the team kept the potential for a mass tort in mind when drafting the complaint.

"There's thousands of kids out there who are dealing with these types of health problems and have been wronged by these companies," Rocha said. "I think you are going to see a lot of people going to the courts to demand justice for what has been a profoundly unjust situation that our country and our children have had to confront."

Martinez's complaint mentioned Jell-O, Oreos, Pop Tarts, Rice Krispies Treats, Fritos, and Lucky Charms among a lengthy list of products made by the food companies.

Mike Papantonio of Levin, Papantonio, Proctor, Buchanan, O'Brien, Barr & Mougey PA called the forthcoming legal battle "the next tobacco, the next opioid, the next PFAS" during an April plaintiffs' attorney conference.

Diandra "Fu" Debrosse of Dicello Levitt LLP, said her firm is planning to getting involved and referred to the litigation as "one of the most significant of our times."

"It's about Big Tobacco hijacking our food supply, quite simply," she said.

But public health experts and law professors are skeptical that the science on the effects of processed foods –and the law–is developed enough to make such comparisons.

There's a fine line between wanting people to love a product and want more of it and wanting people to be addicted to something, said Erin Meyers, an assistant professor at the Antonin Scalia Law School at George Mason University.

'Mostly a Distraction'

Martinez's complaint alleges that food companies deliberately designed their products to have addictive qualities and that he developed type 2 diabetes and fatty liver disease after consuming them.

He argues that after the tobacco giants Philip Morris and R.J. Reynolds bought companies like Kraft and Nabisco in the 1980s, the industries developed a shared approach to formulate and sell their products to children. The tobacco companies mostly spun off the food entities by the 2000s.

The phrase "ultra-processed foods" comes from researchers' efforts to group foods by their nature and the extent of the industrial processes they undergo, in what's known as the NOVA classification system.

Walter Willett, a professor of epidemiology and nutrition at Harvard University, said the system is "mostly a distraction" and "off-target." Even though the ultra-processed category includes a variety of unhealthy foods, it doesn't account for other factors like nutrient fortification, he said.

Willett noted that many dairy and meat alternatives would be considered ultra-processed under this scheme despite having nutritional benefits.

There's a misconception about food processing in general, said Anna Rosales, senior director of government affairs and nutrition for the Institute of Food Technologists.

"We started processing our foods to make them safe," she said. "We processed to ensure that we had a safe food supply, that we got rid of contaminants, that we ensured that things weren't going to have microbial growth."

But the Martinez case says ultra-processed foods meet the same criteria for addictiveness that the surgeon general used for tobacco in 1988: the ability to cause compulsive use, psychoactive effects, and reinforce behavior.

"The deliberate manipulation of a consumer by the same industry just under different cover is incredible," said Alyson Petrick, also with Levin Papantonio.

Petrick said her firm is planning to file similar cases.

Addictiveness in Question

Compared to research on nicotine, the science on the addictiveness of ultra-processed foods is less settled.

Earlier this year, the National Institutes of Health published a study that found UPFs might be less addictive than predicted.

Kevin Hall, a former researcher for the NIH and one of the authors of the study, announced on X that he was resigning out of concern that agency leadership wanted to downplay its findings because the research didn't line up with preconceived notions.

GMU's Meyers believes causation issues will make ultra-processed food lawsuits "an uphill battle."

Unlike tobacco, where many users typically can point to one brand that they used consistently for years, "here there are so many different types of processed foods and it's not as though a plaintiff is just eating products from Kraft," she said.

Still, it's notable that the food companies in their motion to dismiss didn't outright say their products aren't addictive, Meyers said. Instead, they said Martinez failed to allege that he was addicted to their products or specify which ones caused his injuries.

Petrick said the thrust of the legal fight is marketing to children.

The products are formulated with addictiveness in mind, but then the companies "push that with marketing that you can't escape," she said.

Much like the cigarette companies, food companies use cartoon characters and media tie-ins to shape children's brand preferences, "which they then carry into adulthood," Petrick said.

A 2012 Federal Trade Commission report found that food companies allocated nearly \$1.8 billion on marketing for children between ages two and 17.

"I'm hopeful that we're realizing that more and we can hold companies who do behave that way towards us accountable for what they're doing to us as a society, whether that's craving unhealthy food products and unhealthy apps or even smoking," Petrick said.

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Trump nixed a key civil rights enforcement tool. This FTC case shows what that looks like.

 [reuters.com/legal/government/trump-nixed-key-civil-rights-enforcement-tool-this-ftc-case-shows-what-that-2025-05-15](https://www.reuters.com/legal/government/trump-nixed-key-civil-rights-enforcement-tool-this-ftc-case-shows-what-that-2025-05-15)

Jenna Greene

May 15, 2025

A view of signage at the Federal Trade Commission (FTC) headquarters in Washington, D.C., U.S., November 24, 2024. REUTERS/Benoit Tessier/File Photo Purchase Licensing Rights, opens new tab

May 15 (Reuters) - Wondering what civil rights enforcement — or lack thereof — might look like for the next four years? The U.S. Federal Trade Commission offers a glimpse.

In a little-noticed court filing, opens new tab, the agency last week moved to amend its administrative complaint against a large automotive dealership group, dropping allegations that car salespeople in Texas charged Black and Latino buyers hundreds of dollars more than white customers for the same add-on products such as extended warranties or special paint coatings.

In abandoning the claims, the agency in court papers said it was acting out of “an abundance of caution” to comply with an executive order issued by President Donald Trump halting federal enforcement of cases involving disparate impact liability.

A longstanding tool for combatting discrimination, disparate impact actions target policies that may appear neutral but disproportionately hurt a protected group.

As my Reuters colleague Daniel Wiessner explained, such claims often arise in the employment context, where, for example, women and older or disabled workers have challenged employers’ physical fitness tests. Employers can counter that a policy with a disparate impact is legal when it’s necessary to operate a business.

ere, the FTC’s case against three dealerships owned by Asbury Automotive Group (ABG.N), opens new tab , a publicly traded company that reported \$17 billion in revenue last year, pleaded a disparate-impact theory of liability under the Equal Credit Opportunity Act.

The company did not respond to a request for comment, nor did its outside counsel from Foley & Lardner. It has counter-sued, opens new tab the FTC in federal court in Fort Worth, Texas, challenging the constitutionality of the agency’s in-house administrative forum. The case remains pending.

According to the FTC’s lawsuit filed in August, opens new tab, one Asbury dealership charged Black consumers on average \$298 more than white customers for the same add-ons, while Latino consumers paid an average of \$214 more.

Charging higher prices to consumers based on their race runs afoul of the equal credit law, which prohibits creditors from discriminating against credit applicants based on factors including race, color and national origin, the FTC argued at the time.

In backpedaling now, the FTC, which did not respond to requests for comment, said in court papers that it was acting “in light of Executive Order No. 14281.”

Titled “Restoring Equality of Opportunity and Meritocracy, opens new tab,” Trump’s order directs federal agencies to deprioritize enforcement of all statutes and regulations that include disparate-impact liability, which he said “undermines our national values” and runs contrary to equal protection under the law.

It strikes me that charging different prices based on the color of one’s skin would also run contrary to equal protection, but apparently that’s no longer an allegation the FTC wants to litigate.

Asbury in court papers, opens new tab vigorously denied the FTC’s claims, which include still-pending allegations that the dealerships hit customers of all races with hidden fees for unwanted add-ons, calling the accusations “scurrilous and false.”

Asbury also said in the filing that the FTC refused to provide details about customers, vehicles or transactions to support the (now-abandoned) race discrimination claims. The company, which owns 152 dealerships across 14 states, said its own review of sales data did not show the alleged racial disparity.

The FTC’s investigation of Asbury began in 2022, according to disclosures, opens new tab filed by the company with the U.S. Securities and Exchange Commission and brought the enforcement action in August 2024.

“The FTC unanimously charged Asbury with overcharging Black and Latino consumers,” Samuel Levine, the former director of the FTC’s Bureau of Consumer Protection who is now a senior fellow at the Berkeley Center for Consumer Law and Economic Justice, said via email. All five then-commissioners voted in favor of the action.

Reversing course “sends a dangerous message that companies can discriminate with impunity,” Levine told me.

Now-FTC chairman Andrew Ferguson issued a concurring statement, opens new tab at the time to explain why he supported the complaint. Ferguson said he had “some reservations” about whether the Equal Credit Opportunity Act satisfies the statutory requirements for disparate-impact liability in instances where discrimination may be unintentional. But he also noted that the FTC and courts have previously interpreted the credit law as doing so. The three Democratic commissioners went further, writing, opens new tab that “Every district and appellate court to face the issue—and there have been many—has accepted that disparate impact is a cognizable basis” for liability.

The case law hasn’t changed. What’s different is who occupies the White House.

Still, Amalea Smirniotopoulos, senior policy counsel and co-manager of Legal Defense Fund's equal protection initiative, said companies shouldn't take the FTC's retreat as a free pass to discriminate. The Trump administration, she said via email, "cannot change federal civil rights laws or the duty they impose not to discriminate."

(The views expressed here are those of the author, a columnist for Reuters.)

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Jenna Greene writes about legal business and culture, taking a broad look at trends in the profession, faces behind the cases, and quirky courtroom dramas. A longtime chronicler of the legal industry and high-profile litigation, she lives in Northern California. Reach Greene at jenna.greene@thomsonreuters.com

Litigation

May 14, 2025, 11:32 AM PDT

Zillow Settles Class Claims Over Charging for Hidden Listings

Zillow Inc. has settled a proposed class action over claims it charged realtors a fee for posting listings on its StreetEasy online platform before hiding them from public view while continuing to charge the fee.

The parties reached a “full and final” settlement agreement and agreed to dismiss the case with prejudice if the terms of the settlement are carried out, according to the joint notice filed Tuesday to Judge James L. Robart with the US District Court for the Western District of Washington. The settlement’s terms weren’t disclosed.

- Dakis Group LLC and realtor George T. Spyridakis sued Zillow Feb. 11, alleging breach of contract and unjust enrichment under Washington state law
- Plaintiffs sought to represent a class of anyone who paid a daily rate to Zillow to list a property for sale or rent on StreetEasy, later to have the listing masked or otherwise removed while still being charged
- Scott D. Owens of Hollywood, Fla., an attorney for Dakis Group, declined comment. Zillow didn’t immediately respond to requests for comment

Owens and The Harbor Law Group represent Dakis Group. Fennemore Craig PC represents Zillow.

The case is Dakis Grp. LLP v. Zillow Inc. , W.D. Wash., No. 2:25-cv-00270, notice 5/13/25 .

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Law Firms Use Artificial Intelligence To Earn Very Real \$31K Sanction!

A abovethelaw.com/2025/05/law-firms-use-artificial-intelligence-to-earn-very-real-31k-sanction

Joe Patrice

May 14, 2025



“If ChatGPT told you to jump off a cliff, would you do that too?!?” screams my internal scolding voice. Because despite an ever increasing number of cautionary tales about lawyers ill-advisedly letting *G(PT)sus* take the wheel, another pair of law firms have bumbled their way into sanctions.

This time, it’s Ellis George and K&L Gates starring in the reboot of *ChatGPT Presents: Fantasy Legal Filings*, and in a nod to Hollywood’s lack of creativity, once again the plot hinges on lawyers submitting fake cases to a federal court. It’s not a sequel anyone asked for, but this is how we ended up with J.J. Abrams making Star Wars movies.

The filing in *Lacey v. State Farm* only involved 27 citations, but the Special Master in the case, former C.D. California Magistrate Judge Michael R. Wilner, determined that NINE of them were wrong in some way. No one went to law school because they were good at math, but that’s one-third of the total citations.

From Legaltech News:

In the ruling issued May 6, Wilner said that after consulting online database and legal research service Westlaw, he discovered that “nine of the 27 legal citations” were “incorrect in some way,” “[at] least two of the authorities cited do not exist at all” and “several quotations attributed to the cited judicial opinions were phony and did not accurately represent those materials.”

Hey, if the Department of Justice can make up fake quotes, why can't the private sector get in on the fun!

Seriously, though there's no good reason for this to be happening at this point. The *Avianca* case was almost two years ago and while a lot of the coverage at the time tried to blame generative AI for hallucinating cases, a second-wave of coverage stressed that this isn't a technology problem, but a lawyer laziness problem. Trump fixer Michael Cohen's lawyer submitted a brief citing fake cases a year and a half ago. But in every instance, the error — as the IT people say — is between the keyboard and the chair. All they needed was a lawyer doing the job *they should be doing anyway* and citechecking the cases. "Even with recent advances, no reasonably competent attorney should out-source research and writing to this technology — particularly without any attempt to verify the accuracy of that material," wrote the Special Master.

Maybe K&L Gates could've spent more time editing and less time shadow purging all references to diversity off their website.

"Directly put, Plaintiff's use of AI affirmatively misled me," he wrote. "I read their brief, was persuaded (or at least intrigued) by the authorities that they cited, and looked up the decisions to learn more about them—only to find that they didn't exist. That's scary. It almost led to the scarier outcome (from my perspective) of including those bogus materials in a judicial order. Strong deterrence is needed to make sure that attorneys don't succumb to this easy shortcut."

Hopefully it did not "almost" lead to a scarier outcome. I'd like to think the Special Master planned to check the cases before issuing an order regardless.

Wilner sanctioned the firms for the defense's share of his 30-day fee and an additional \$5,000 to reflect a share of the defense's costs preparing their response brief — Wilner did not think sticking them with the full amount was necessary for deterrence.

But... isn't it, though? We've been writing about lawyers doing this for two years now! When the judge hit the *Avianca* lawyers for \$5K the technology was new and the mistake was novel. No one can make that claim today. And the *Avianca* lawyers were a small shop working on their own — this is two firms, including one in the Am Law 50. How many hands did this filing pass through? None of them checked the cites? How does that happen?

It's not about AI hallucinating. Hallucinating is what it does. Blaming the AI for this is like blaming a vending machine for not giving you steakhouse dinner. But what makes AI a powerful tool is that it can deliver that clutch fix of Mountain Dew and Twinkies that you need to fuel a long night of *actually editing briefs*.

This sanction might be enough to deter these firms from doing it again, though the public humiliation probably did that already. Sanctions aren't needed for specific deterrence, they're needed to put the fear back into practitioners that they can't farm out their professional responsibilities to AI.



is a senior editor at Above the Law and co-host of Thinking Like A Lawyer. Feel free to email any tips, questions, or comments. Follow him on Twitter or Bluesky if you're interested in law, politics, and a healthy dose of college sports news. Joe also serves as a Managing Director at RPN Executive Search.

Securities Law

May 15, 2025, 10:48 AM PDT

Matt Levine's Money Stuff: Coinbase Got Hacked a Little
Opinion

Coinbase

Banks face various cybersecurity risks, of which the main ones might be:

1. If criminals gain access to a bank's computer systems and steal customer personal information – names, Social Security numbers, account balances, email addresses – that is very bad. The hackers can use that information in various nefarious ways. They can send the customers emails to [promote frauds](#). They can do social engineering attacks on the customers to try to get them to hand over money. They can threaten to publish the information if the bank doesn't pay them a ransom. They can – [I swear this is a real thing](#) – file a whistleblower complaint with the US Securities and Exchange Commission if the bank fails to promptly disclose the hack.

- 2. If criminals gain access to a bank's computer systems and steal *the money*, that is very, very, very, very, very, very, very bad. Like, really quite a lot worse than stealing the email addresses! The bank has a very important obligation to guard its customers' email addresses, but it has an absolutely existential obligation to guard the *money*.

There [are](#) a few cases of hackers getting into the bank and stealing the money, but not many, and not that much of the money. I used to [joke](#) that it is weird that hackers keep breaking into banks to steal email addresses, when *the banks also have money*, but of course it isn't. It's not that the hackers don't *want* to steal the money; it's that they *can't*. The banks guard the money much much much much much more carefully than they guard the email addresses. They guard the email addresses very carefully! But the money is a whole different level.

Meanwhile, historically, cryptocurrency exchanges faced their own cybersecurity risks, of which the main ones were probably :

1. Hackers were constantly stealing all of their crypto,
- 2. Unless the executives of the crypto exchange stole it first.

It used to be that the way you hacked a crypto exchange is that you walked up to the chief executive officer of the exchange at a crypto conference, and you said "hi I am the wallet inspector, I need to inspect your crypto wallet," and he would say "sure we keep it all in one online wallet and our password is password123," and you would send all of the crypto from the exchange's wallet to yourself, unless, as sometimes happened, the CEO had already emptied the wallet. The idea of hacking into a crypto exchange to steal *email addresses* was insane: There was all that crypto there!

Obviously guarding the crypto is pretty existential for a crypto exchange too but, you know. Young industry, lightly regulated, move fast and break things, etc.; some exchanges were not particularly good at it. I [used to joke](#) that the [fate](#) of all [crypto exchanges](#) was to be hacked and lose all their customers' money.

But those days are long gone, and now big crypto exchanges are mature and regulated and careful and much more attuned to the existential risk of losing all the customers' money. And so [Coinbase Global Inc. was hacked](#) , but in the normal, stealing-email-addresses way:

Coinbase Global Inc. said hackers bribed contractors or employees outside the US to steal sensitive customer data and demanded a \$20 million ransom, in one of the most high-profile security breaches of a crypto trading platform.

The largest US crypto exchange said it won't pay the ransom and estimated the incident could cost the San Francisco-based firm up to \$400 million to remedy.

Criminals had offered cash to Coinbase customer support agents to copy customer data like names, addresses, account data and government ID images, the exchange said in a statement on Thursday. The attackers planned to use this data to pretend to be Coinbase and convince users to hand over their crypto, while demanding ransom from the exchange to cover it up.

Here is Coinbase's SEC filing, which reports that "the Incident did not involve the compromise of passwords or private keys, and at no time were any of the targeted contractors or employees able to access customer funds." Instead, they took identifying data, and the risk is "that the compromised information could be used in social-engineering attempts" and that "retail customers [might have] previously sent funds to the threat actor as a direct result of this Incident," which Coinbase says it will reimburse.

Good for Coinbase! The lesson here is that if you are really dedicated to hacking Coinbase, you can bribe a customer service employee, get some customer email addresses and use them for scams and social engineering projects. But you can't bribe the person with the keys to give you Coinbase's crypto. The crypto industry has grown up.

Hypothetical Buffett

One reason to make a lot of money is to get a good spot on the league table of rich people. How important is this reason? I cannot speak from personal experience, and it is possibly less important than considerations like "\$100 billion buys a lot of goods and services," but I get the sense that it's pretty important. The people who make billions of dollars tend to be very competitive, and surely at least some of them care about their precise spot in the rankings. Being the richest person in the world does seem cooler than being the second-richest person on the world, though I doubt that your consumption basket changes much between those two spots.

And so you might imagine that the design of the league tables could motivate behavior. We have [talked](#) a few [times](#) around [here](#) about the [concept](#) of a " [billionaire](#) ," which is (1) widely desirable and (2) somewhat imprecise. A billionaire includes someone with \$1 billion of cash, but it also includes a lot of people who own a stream of cash flows with an expected present value of more than \$1 billion. But not *all* of those people. If you make \$80 million a year podcasting, your expected future earnings are arguably worth \$1 billion today, but that won't get you on the billionaire lists. But if you sell a 10% stake of your podcast for \$100 million, that *will* get you on the list. There are various tax and diversification advantages to selling that 10% stake, but there is also the fact that saying "I'm a billionaire" is cooler than saying "I make \$80 million a year," cool though the latter is. Presumably some people are motivated to sell stakes in their businesses by that somewhat arbitrary feature of the rankings.

And so, if you are designing the league tables, you might take this into consideration, and try to construct the league tables using rules that (1) are defensibly *accurate*, in the sense that your list of 50 Richest People plausibly reflects the 50 richest people (and in the right order), but also (2) motivate socially desirable behavior. I don't know precisely what that looks like, but here's [one suggestion from Bloomberg's Devon Pendleton and Jack Witzig](#) :

To understand just how successful Warren Buffett has been during his six-decade run atop Berkshire Hathaway Inc., consider this: Even his \$167 billion fortune doesn't come close to capturing his wealth and influence.

Over the course of nearly 20 years, Buffett, 94, has gifted Berkshire shares worth more than \$60 billion at the time of donation. That stock would now be worth some \$230 billion, according to Bloomberg calculations.

Put another way: Had the Oracle of Omaha held onto his stake through the years, he'd have a net worth of almost \$400 billion as of April 30, according to the Bloomberg Billionaires Index. That's \$67 billion more than the fortune of Elon Musk, the world's richest person.

Charity-adjusted billionaire rankings! Why not? Generally speaking your spot on the billionaire rankings is based on your net worth, which is to say (1) how much money you have made minus (2) how much money you have lost and/or spent. When your stock goes up, your ranking goes up. When your stock goes down, your ranking goes down. When you spend money on a sandwich, your ranking goes down (infinitesimally). When you spend money buying Twitter, your ranking might [go up](#) (if Twitter is worth more than you paid for it) or down (if it's worth less than you paid for it), and the people doing the rankings will have to use some judgment.

When you put a bunch of stock into a revocable trust, your ranking does not change at all: Elon Musk doesn't own any shares of Tesla, for instance (his trust does), but everyone understands that that is a minor technicality and those shares count toward his wealth. When you title your stock in the name of your spouse or children, the rankings might or might not look through that and say "ehhh that counts toward how rich you are."

When you irrevocably donate your stock to charity, you no longer own it in any legal or practical or economic sense, but should you still own it *for league table purposes*? Would that incentivize more donations? "You can give away all your money and still be rich (in our rankings)"? For consumption purposes that is not as good as *actually* being rich, but for competitive purposes it might be. And "you can give away *half* your money and still be just as rich (in our rankings)" is really good: You get all of the consumption benefits of having \$167 billion, which is all you probably need, and all the competitive benefits of having \$400 billion, which is even better.

Money laundering arbitrage

The US dollar is the global reserve currency, and a lot of people around the world want to hold dollars for various reasons. The market for dollars is mostly pretty efficient, though, so the price that all those people will pay for one dollar is generally right around one dollar. If I offered you a dollar bill, you'd probably pay me about a dollar for it. If you live in London, perhaps you'd pay me £0.75 for it, but that's not a particularly great opportunity for me; £0.75 is worth about a dollar.

There are, however, some people who have dollars that are worth less than \$1. These people are most classically drug dealers : You get some drugs, you sell them to users for cash, you have a lot of cash, you put a million dollars in a big sack and go to a bank to deposit it, the bank teller says "where did you get this cash," you say "dru—I mean it was in my grandmother's attic," the teller says "hmm it smells like drugs," you say "huh that's weird I put it in a different bag from my drugs," the teller says "wait right here for a minute," and you are tackled by six cops and go to prison. The \$1 million in your sack was worth considerably less than \$1 million to you: Rather than buying a Lamborghini (good), it bought you a long prison sentence (bad).

You can, if you are a drug dealer, generally do better than that. Instead of your cash having significant negative value, you can find someone to “launder” it into the sort of money that won’t get you arrested. The basic idea is that you take \$100 of drug cash and turn it into \$X of legitimate income from, classically, a laundromat or nail salon or restaurant or lucky day at the casino or [online media company](#). And then you can keep \$X in a normal bank account and spend it on normal stuff – a house, a Lamborghini – without getting in trouble. The drug money has been turned into legitimate money. X is considerably less than 100, though. Your drug dollars can be turned into regular dollars, but each drug dollar buys only 50 or 70 or 80 regular cents.

And there are people who specialize in money laundering: They don’t deal drugs or steal crypto or otherwise commit the underlying crimes; they just help the criminals launder money. Some of them probably do this on an agency basis: They work for a drug cartel, clean up its money and get paid a fee. Others do it on a principal basis: They pay, say, 70 cents on the dollar for the criminal’s money, and then tackle the problem of turning it into clean money for themselves. If they can buy \$1 of crime money for \$0.70 and turn it into \$0.80 of clean money, their profit is \$0.10.

Meanwhile, there are some people who would pay more than \$1 for a dollar. These people are most classically citizens of countries with currency controls that prevent them from buying dollars freely. For instance, notes the Wall Street Journal:

China restricts its citizens from buying more than \$50,000 a year in foreign currency. As a result, many Chinese turn to black-market money exchanges to move the equivalent of tens of billions of dollars out of China, according to estimates.

If you are a money launderer, *obviously you should find them*: If you can buy a dollar for \$0.70 (from a drug dealer), and sell it for \$1.25 (in yuan, to someone evading Chinese currency controls), that is strictly better than turning it into \$0.80 or even \$1 of clean money. It’s possible that you have to clean it as an intermediate step – like, buy a dirty dollar for \$0.70, turn it into \$0.80 of clean money, and then sell that \$0.80 to a Chinese national for \$1 – but you might not (the Chinese citizens might be fine with drug cash), and even if you do, that is still much better than you would do without the Chinese citizens on the other side of the trade. You are doing money crimes anyway; you might as well capture the entire money crime bid/ask spread.

Anyway that quote is from a terrific Journal article about people allegedly doing it:

Sai Zhang, who left China for the U.S. on a student visa, took up the money-exchange business in Southern California, federal prosecutors allege. Zhang, who has denied wrongdoing, allegedly tapped into the surplus of American dollars held by the Sinaloa cartel to meet the cash demand of local Chinese nationals—making money on both sides of the trade.

And:

Chinese money-laundering operatives in some cases open dozens of bank accounts at multiple banks, using counterfeit passports to disguise their identity or recruiting local business owners and students. They charge traffickers 1% to 2% on the dollar, undercutting competitors.

One or two percent! I cannot really claim to be an expert in the money laundering market, but my impression is that the normal commission percentage is in the double digits: This is risky difficult illegal work, and nobody is going to do it for 1%. But these guys are "making money on both sides of the trade," which means that they can charge much less than people only doing one side of it.

Sports, gambling

I feel like this is increasingly a sports gambling newsletter? Like a decade ago, you might have thought "sports gambling is one thing, and capital markets are another thing, and those things are very different," but that seems a bit silly now. There is a ton of overlap in skills and techniques and personnel between sports gambling and "traditional finance," and there are things (event contracts, meme stocks, memecoins, crypto generally) that somewhat blur the lines between them, and for like 20 minutes this year it looked like you could bet on the Super Bowl in your Robinhood brokerage account. "An emerging asset class," Robinhood called sports betting at the time, and [I wrote](#) :

The link between finance and real economic activity was always indirect and imperfect – lots of financial markets activity has always been speculative and irrational – and it is increasingly inessential.

All of it is betting on sports. Sports are sports, and entertainment is sports, and politics is sports, and crypto is sports, and stocks are sports.

That last sentence was a bit imprecise. "Stocks are sports," I wrote, but of course what I meant was "stocks are sports *betting*." Similarly, I wrote that "sports are sports," but that is also not quite right. Sports were sports back when stocks were the present value of future earnings. Now sports are sports *betting*; the games are now the substrate for a gambling economy more than they are straightforward athletic competition and entertainment.

Anyway two extremely famous baseball players – Pete Rose and Shoeless Joe Jackson – were banned for life from baseball, and have been kept out of baseball's Hall of Fame even after their deaths, for their involvement in gambling. As baseball has gotten more into encouraging gambling, this ban has become [increasingly weird](#) , and this Tuesday it more or less ended, as the commissioner of Major League Baseball "removed Pete Rose and other deceased players from MLB's permanently ineligible list." Here's a Wall Street Journal article quoting some objectors, including the son of Bart Giamatti (the former commissioner who banned Rose) and John Dowd (a lawyer who wrote the report finding that Rose bet on his team's games):

"If this happens, baseball will never be the same," said [Marcus] Giamatti, an actor best known for his role on the TV legal drama "Judging Amy." "How can any fan ever trust in the purity of the game again if you're never sure if the integrity is there? That's what troubles me the most—and I know that's what my father adamantly fought for." ...

"Bart knew that the game of baseball was precious to America at all levels," Dowd said. "It is in the bone marrow of the American people. Thus, the need, dead or alive, to protect its integrity. Without the integrity of the game and its processes, free of loopholes, there is no game."

Yes but without gambling on the game ... is there a game? I suppose that, to the extent baseball games exist mainly as subjects for gambling, it is even more important that players don't bet on baseball, but that is less about "the purity of the game" and more about the integrity of the betting. Gambling on sports is a big business, and *insider trading* on sports undermines that.

My readers have ideas for Elon Musk

I [wrote yesterday](#) about the problem facing Tesla Inc., which is that it wants to give Elon Musk back the giant slug of executive stock options that it gave him in 2018 and that a Delaware judge took away last year, but giving him the same options today – when they are worth something like \$94 billion – would have horrific accounting consequences for Tesla and horrific tax consequences for Musk. I half-jokingly suggested one way to fix this problem, which is to drive the stock price back down to 2018 levels and then give him the options to incentivize him to fix it. This is, to be clear, a terrible idea, but also, uh, like, a partially accurate description of what seems to be happening?

There is probably a better solution, which reader Thomas Clay emailed me to propose. The two essential elements of this solution are:

1. *Giving an executive stock as compensation for his services* has various bad tax and accounting consequences, but *paying stock in a corporate finance transaction* is generally nicer. For instance you can generally structure an all-stock merger in such a way that (1) the transaction is not immediately taxable to the recipients of the stock and (2) the cost of the stock is not an expense on the issuer's income statement.
- 2. Elon Musk starts lots of new companies, and has a history of having some of the companies he controls buy other companies he controls at prices that, let's say, he has some influence over.

I think that sufficiently describes the solution, but just in case here's Clay's email:

Is there a legal or tax reason why Tesla couldn't buy a private company owned 100% by Musk through issuing \$94b of TSLA stock in order to secure his future services as CEO? I assume the board and shareholders would wave it through. I assume it could be done as a tax-free share exchange, and Tesla would book essentially all of the acquisition price to goodwill.

The main objection to this approach a year ago would have been "someone will sue, and a Delaware court might have questions about the entire fairness of that acquisition." But now Tesla is incorporated in Texas so who knows!

I say "who knows," but actually yesterday the governor of Texas signed a new state law making it harder to sue a company or its board for breaches of fiduciary duty, including by requiring proof of "fraud, intentional misconduct, an ultra vires act, or a knowing violation of law" and requiring at least 3% share ownership for derivative lawsuits. So in practice if Elon Musk incorporated a new company to play Path of Exile 2 for him, and then sold it to Tesla for \$94 billion in stock, that would be ... fine ... ? ... ??? ... ? Something to think about.

Things happen

401(k) Giant to Allow Private Markets Investments in Its Retirement Portfolios. Partners Group Will Urge Trump Officials to Bless Private Equity in 401(k)s . Saks Bond Suffers \$1 Billion Loss Before a Single Payment Is Made. US poised to dial back bank rules imposed in wake of 2008 crisis. German regulator 'bewildered' by US plan to scrap audit overseer. Can Bill Ackman create a 'modern-day' Berkshire Hathaway? Commerzbank Says UniCredit Didn't Register to Vote at Meeting. UnitedHealth Group Is Under Criminal Investigation for Possible Medicare Fraud. Extortion Gangs Overrun Colombia's Biggest Oil-Producing Region. 'Reverse Yankee' deals hit record as US companies flock to euro debt market. Terrorists Continue to Pay for Check Marks on X, Report Says. Elon Musk's AI chatbot shared 'white genocide' tropes on X. Promoters of \$100 Million NJ Deli Get Prison Time for Fraud. (Earlier .) Ben & Jerry's Founder Arrested at Senate Hearing After Protesting War in Gaza.

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- 1. A less important, but funnier, third risk is that the exchange forgets its private keys and thus loses access to its customers' crypto. This apparently happened to QuadrigaCX, which lost its private keys when its founder, the only one who knew the passwords, died mysteriously , but he had allegedly already stolen all the crypto himself first.
- 2. Similarly I have written half-jokingly that one reason not to convert your hedge fund into a family office is that you want to stay on the league tables of top-earning hedge fund managers. So you *almost* convert to a family office, to get most of the benefits of converting but stay on the lists.
- 3. By "goes up" I mean "improves," like, you go from No. 11 to No. 10 or whatever. The number goes down.
- 4. Also cryptocurrency thieves , though that's a slightly different sort of laundering.
- 5. This is a slightly fanciful scenario but I am basing it on a sting operation that I once wrote about in which police busted an art gallerist for money laundering, in which an agent brought cash to the gallery and told the gallerist that the cash "smelled of drugs ... because she kept it with her marijuana stash." Outside of sting operations, though, money launderers don't normally tell their bankers that.

- 6. I hope it goes without saying that none of this is any sort of advice.

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[Securities Law](#)

May 15, 2025, 10:32 AM PDT

Coinbase Shares Drop on Report of SEC Probe of Its User Numbers

Coinbase Global Inc. shares extend declines to as much as 8.9% after the *New York Times* reported that the US Securities and Exchange Commission has been investigating whether the company misstated its user numbers in past disclosures.

- The probe began during Joe Biden's administration and has continued under President Donald Trump, NYT says, citing four people familiar

To view the source of this information click [here](#)

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Securities Law

May 15, 2025, 6:56 AM PDT

Coinbase Workers Leaked Data to Hacker Seeking \$20 Million (2)

Coinbase Global Inc.said hackers bribed contractors or employees outside the US to steal sensitive customer data and demanded a \$20 million ransom, in one of the most high-profile security breaches of a crypto trading platform.

The largest US crypto exchange said it won't pay the ransom and estimated the incident could cost the San Francisco-based firm up to \$400 million to remedy.

Criminals had offered cash to Coinbase customer support agents to copy customer data like names, addresses, account data and government ID images, the exchange said in a statement on Thursday. The attackers planned to use this data to pretend to be Coinbase and convince users to hand over their crypto, while demanding ransom from the exchange to cover it up.

Less than 1% of the exchange's monthly transacting users were affected, Coinbase said. In addition to ramping up security controls for those affected, Coinbase said it would reimburse in full anyone who lost money. The exchange also said it is offering a \$20 million bounty to anyone with information leading to the attackers' arrest and conviction.

Coinbase said preliminary estimates suggested it would face between \$180 million to \$400 million in "remediation costs and voluntary customer reimbursements" relating to the incident, according to a regulatory filing also released Thursday. A further review of potential losses, indemnification claims and potential recoveries could meaningfully increase or decrease this estimate, it added.

Hacks have long plagued the crypto industry, thanks to its heavy reliance on user anonymity and complex digital software. Around \$2.2 billion was lost to such incidents in 2024, according to researcher Chainalysis. Operating under the threat of attack has been particularly painful for crypto exchanges, which are often major targets and face high ongoing costs to maintain tight security.

"Unfortunately as our nascent industry grows rapidly, it draws the eye of bad actors, who are becoming increasingly sophisticated in the scope of their attacks and harnessing new AI tools and techniques to bypass fraud prevention measures," said Nick Jones, founder and CEO at crypto technology platform Zumo. "This is understandably a huge blow for a company that has had a pivotal few weeks."

The incident comes as Coinbase is set to join the S&P 500 index [next week](#) . Inclusion in the benchmark is becoming more important for companies in a world increasingly dominated by passive investment funds, wrapping Coinbase's stock into numerous trackers following the index. Coinbase shares slipped more than 5% to \$249.34 as of 9:52 a.m. in New York.

Coinbase's hackers deployed what's called a social engineering attack – where criminals use people to gain unauthorized access to data, rather than exploiting flaws in computer code. This type of threat has become increasingly popular in crypto, resulting in recent major incidents like the \$1.5 billion hack of crypto exchange Bybit in February.

Read More: [North Korea's \\$1.5 Billion Heist Puts the Crypto World on Notice](#)

On May 11, an unknown attacker emailed Coinbase to say it had obtained customer information and some internal Coinbase documentation, the exchange said in the filing. They demanded \$20 million in Bitcoin in order not to go public with the fact that they'd got their hands on such data, Coinbase Chief Executive Officer Brian Armstrong added, speaking in a video posted on social media.

In the months leading up to that email, Coinbase had already detected instances of customer support agents collecting information about internal Coinbase systems without needing it for their job. Upon discovery, those workers were immediately terminated and Coinbase said it warned customers who may have been affected. When the May 11 email appeared, Coinbase determined these workers had been part of a single campaign orchestrated by the hacker to steal that data.

"These attackers have been approaching our overseas customer support agents, looking for a weak link, someone who would accept a bribe in exchange for sharing some customer information with them," Armstrong said in the video. "Unfortunately, they were able to find a few bad apples."

(Adds additional comment in the seventh paragraph.)

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<https://www.wsj.com/finance/currencies/coinbase-global-says-customer-data-stolen-held-for-ransom-e5108336>

MARKETS & FINANCE | CURRENCIES

Coinbase Says Cybercriminals Stole Customer Data, Sought Ransom

Cryptocurrency exchange estimates preliminary expenses of \$180 million to \$400 million for remediation costs, voluntary customer reimbursements

By [Colin Kellaher](#) [Follow](#) and [Vicky Ge Huang](#) [Follow](#)

Updated May 15, 2025 11:09 am ET



Coinbase said the stolen data include names, addresses, phone numbers and email addresses. PHOTO: MICHAEL NAGLE/BLOOMBERG NEWS

[Coinbase Global](#) COIN **-3.96%** ▼ said Thursday that it has refused to pay a \$20 million ransom demand from cybercriminals who bribed the company's overseas customer support agents to steal sensitive user data.

The cryptocurrency exchange estimated that the incident could cost from \$180 million to \$400 million, between fixing the underlying issues and reimbursing customers, according to a regulatory filing.

The disclosure sent the company's stock down more than 7% on Thursday morning. The data breach is a setback for the [largest U.S. crypto exchange](#), which has cultivated

a reputation for safety and largely avoided the type of [attacks and thefts](#) that have crippled many overseas exchanges.

The company said it received an email on Sunday from an unknown party who claimed to have obtained information about certain customer accounts, adding that the threat actor appears to have obtained the information by paying multiple contractors or employees working in support roles outside the U.S.

Coinbase said it determined that the email was credible, and that while customer funds weren't accessed, the stolen data included personal information such as names, addresses, phone numbers and email addresses; masked Social Security and bank-account numbers; government-ID images such as driver's licenses and passports; and account data such as balance snapshots and transaction histories.

Tens of thousands of users were potentially affected. The company said less than 1% of Coinbase's monthly transacting users had their data pulled. That could be as many as 97,000 customers, based on Coinbase's latest usage disclosures.

Coinbase said it is working with law enforcement to investigate the incident, adding that it is opening a new support hub in the U.S. and taking other measures to harden its defenses. It pledged to reimburse users who were tricked into sending funds to the attackers. The company also said it fired the insiders who cooperated with the hackers and will press criminal charges against them.

In a video, Coinbase CEO Brian Armstrong said the company was refusing to pay the \$20 million bitcoin ransom demand and setting up a \$20 million reward fund for information that could lead to the arrest and conviction of the attackers.

"For these would-be extortionists or anyone seeking to harm Coinbase customers, know that we will prosecute you and bring you to justice," Armstrong said in the [video](#).

The breach came as Coinbase is slated to join the S&P 500 next week, a development celebrated by crypto proponents as a key step toward the [mainstream adoption](#) of digital assets. Coinbase stock surged 24% on Tuesday after news of the coming index inclusion.

Write to Colin Kellaher at colin.kellaher@wsj.com and Vicky Ge Huang at vicky.huang@wsj.com

Coinbase says hackers bribed staff to steal customer data and are demanding \$20 million ransom

 [cnbc.com/amp/2025/05/15/coinbase-says-hackers-bribed-staff-to-steal-customer-data-and-are-demanding-20-million-ransom.html](https://www.cnbc.com/amp/2025/05/15/coinbase-says-hackers-bribed-staff-to-steal-customer-data-and-are-demanding-20-million-ransom.html)

Tanaya Macheel

May 15, 2025

Jakub Porzycki | Nurphoto | Getty Images

Coinbase on Thursday reported that cybercriminals bribed overseas support agents to steal customer data to use in social engineering attacks. The incident may cost Coinbase up to \$400 million to fix, the company estimated.

The crypto exchange operator received an email on May 11 from someone claiming they obtained information about certain Coinbase customer accounts as well as other internal Coinbase documentation, including materials relating to customer service and account management systems, Coinbase reported in a Securities and Exchange Commission filing.

The company's shares were down more than 6% in morning trading.

The email demanded money in exchange for not publicly disclosing the information, but Coinbase says it has not paid the demand and is cooperating with law enforcement on the investigation of the incident.

Although passwords and private keys were not compromised, affected data included sensitive data such as names, addresses, phone numbers and emails; masked bank account numbers and identifiers as well as the last four digits of Social Security numbers; government ID images and account balances, the company said.

"Cyber criminals bribed and recruited a group of rogue overseas support agents to steal Coinbase customer data to facilitate social engineering attacks," the company said in a blog post. "These insiders abused their access to customer support systems to steal the account data for a small subset of customers. No passwords, private keys, or funds were exposed and Coinbase Prime accounts are untouched. We will reimburse customers who were tricked into sending funds to the attacker."

Coinbase had detected the breach independently in previous months, per the filing. It immediately terminated the employees involved, warned customers whose information may have been accessed and enhanced its fraud monitoring protections.

The threat actor paid overseas contractors and employees in support rolls to obtain the information, it said.

"We're cooperating closely with law enforcement to pursue the harshest penalties possible and will not pay the \$20 million ransom demand we received," the company said in the blog. "Instead we are establishing a \$20 million reward fund for information leading to the arrest and conviction of the criminals responsible for this attack."

Coinbase operates the largest crypto exchange in the U.S. In the past week it announced an acquisition that is expected to help it expand its global reach and gained entry to the benchmark S&P 500 stock index, which will take effect next week. On the earnings call last week, CEO Brian Armstrong discussed his ambition to make Coinbase "the No. 1 financial services app in the world" in the next five to 10 years.

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<https://www.wsj.com/us-news/unitedhealth-medicare-fraud-investigation-df80667f>

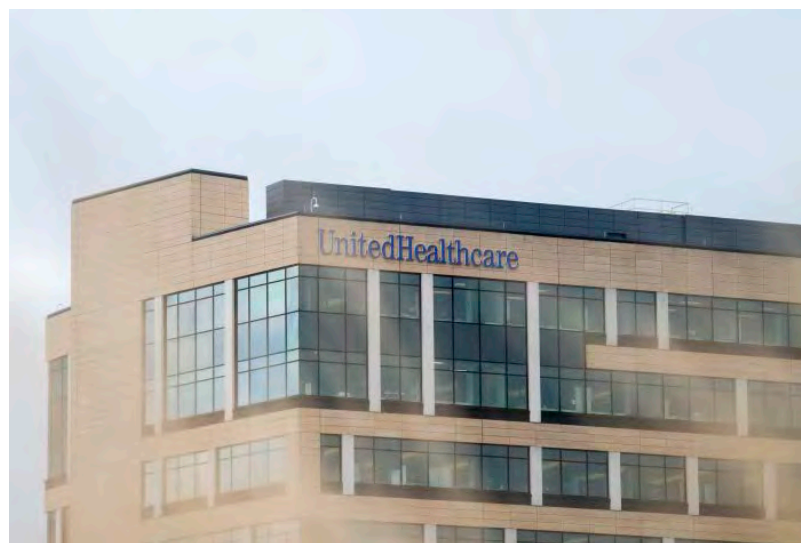
EXCLUSIVE U.S.

UnitedHealth Group Is Under Criminal Investigation for Possible Medicare Fraud

Company's stock has declined over financial performance and sudden replacement of CEO

By [Christopher Weaver](#) and [Anna Wilde Mathews](#)

Updated May 15, 2025 10:08 am ET



The probe of UnitedHealth adds to a list of government inquiries the company is facing. PHOTO: STEPHEN MATUREN/GETTY IMAGES

The Justice Department is investigating [UnitedHealth Group](#) for possible criminal Medicare fraud, people familiar with the matter said.

The healthcare-fraud unit of the Justice Department's criminal division is overseeing the investigation, the people said, and it has been an active probe since at least last summer.

While the exact nature of the potential criminal allegations against UnitedHealth is unclear, the people said the federal investigation is focusing on the company's

Medicare Advantage business practices.

UnitedHealth said in a statement it hadn't been notified by the Justice Department of the criminal investigation. The statement said the company stands "by the integrity of our Medicare Advantage program."

A DOJ spokesman declined to comment.

The criminal probe adds to a list of government inquiries into the company, including investigations of [potential antitrust violations](#) and a [civil investigation](#) of its Medicare billing practices, including at its doctors offices, that The Wall Street Journal first reported in February.

UnitedHealth is seeking to recover from a meltdown of its stock over its financial performance and the sudden replacement this week of its chief executive officer, Andrew Witty, with its chairman and former CEO, Stephen Hemsley. UnitedHealth's stock has declined by more than 50% over the past month. Thursday, it fell 16% and was poised for its lowest closing price since 2020.

Last year, the company faced a hack of a technology unit that disrupted payments to many U.S. health providers for months, and the killing of its top insurance-arm executive.

All of this comes as the Trump administration and Congress look to cut federal health spending, a key source of UnitedHealth's success. In March, U.S. senators grilled Mehmet Oz, now the Medicare and Medicaid agency head, during his confirmation hearing on the findings of a Wall Street Journal investigation of practices of [Medicare Advantage insurers](#) such as UnitedHealth. Oz [pledged a crackdown](#).

The criminal investigation could pose an additional challenge to UnitedHealth in the midst of a deep deficit of trust among shareholders, regulators and customers.

The Justice Department's criminal healthcare-fraud unit focuses on crimes such as kickbacks that trigger higher Medicare or Medicaid payments.

The fraud unit has offices in more than a dozen cities, but is managed from DOJ's headquarters in Washington, D.C. Prosecutors are working on the criminal investigation of UnitedHealth from the fraud unit's office in New York, the people familiar with the investigation said.

For years, the unit focused on busting doctors, laboratories and other service providers who overbill government health programs and insurers.

But the unit has turned its focus to insurers in the Medicare Advantage system, where they now oversee taxpayer-funded benefits for more than half the seniors and disabled people in the broader Medicare program, people familiar with the matter said.

Medicare Advantage insurers are paid extra for covering sicker patients, creating an incentive to document diagnoses for patients they cover. In some cases, the Journal's reporting has shown, questionable diagnoses by UnitedHealth added billions to

Andrew Witty, then CEO of UnitedHealth, testified in May 2024 before a Senate committee looking into hacking. PHOTO: KENT NISHIMURA/GETTY IMAGES

taxpayers' costs.

The company disputed the Journal's findings, saying that its analysis was "inaccurate and biased," and that Medicare Advantage "provides better health outcomes and more affordable healthcare for millions of seniors" than traditional Medicare.

UnitedHealth's latest annual securities filing says the company "has been involved or is currently involved in various governmental investigations, audits and reviews," and flags involved agencies including the Justice Department. It doesn't specifically mention the criminal, civil and antitrust probes on which the Journal has reported.

UnitedHealth dismissed the Journal report in February revealing the [civil Medicare fraud investigation](#) into the company as "misinformation" and said that it wasn't aware of a "new" probe.

A March 11 email, revealed in a lawsuit by a UnitedHealth investor, shows a company lawyer acknowledging that "the government has asked us some questions regarding Optum's coding practices," referring to the Medicare billing practices of UnitedHealth's healthcare services arm, which includes its doctor groups.

The email, cautioning a former UnitedHealth employee on the possibility of being contacted by the government, described the investigation as "in the early stages."

A UnitedHealth spokesman said last week that the company stood by its February statement and declined to comment on the email.

The DOJ has struggled to make its case in fraud claims against UnitedHealth in the past. In March, a court-appointed special master recommended that a judge effectively dismiss a whistleblower case against UnitedHealth after concluding the government hadn't presented evidence that patient diagnoses submitted for payment were inaccurate. The judge in the case hasn't yet ruled on the recommendation.

That civil case, brought by a former UnitedHealth employee turned whistleblower in 2011 and joined by the government in 2017, concerned claims that UnitedHealth submitted \$2 billion worth of diagnoses recorded by doctors that its own reviewers determined weren't supported by patients' medical charts.

The DOJ asked the judge to reject the special master's recommendation. UnitedHealth said the finding showed "there was no evidence to support the DOJ's claims we were overpaid or that we did anything wrong."

President Trump and Mehmet Oz, the Medicare and Medicaid agency head, this week. PHOTO: ANDREW HARNIK/GETTY IMAGES

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

Appeared in the May 15, 2025, print edition as 'Health Insurer Faces Criminal Probe'.

Videos

UnitedHealth tumbles as criminal probe report adds to investor fears

 [reuters.com/business/healthcare-pharmaceuticals/unitedhealth-shares-drop-after-report-criminal-probe-2025-05-15](https://www.reuters.com/business/healthcare-pharmaceuticals/unitedhealth-shares-drop-after-report-criminal-probe-2025-05-15)

Sneha K

May 15, 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
Purchase Licensing Rights, opens new tab

- UnitedHealth's market cap halved since November peak
- Worst-performing Dow component this year
- Not notified about the probe, company says

May 15 (Reuters) - UnitedHealth Group (UNH.N), opens new tab shares plunged nearly 13% on Thursday after a Wall Street Journal report that the U.S. Department of Justice had begun a criminal investigation into the company for potential Medicare fraud.

The reported probe adds to a string of recent setbacks for the healthcare conglomerate that has erased more than half, or over \$300 billion, from its market value since November, when shares were trading at record highs.

UnitedHealth's shares dropped to \$267 in midday trade, near five-year lows. The stock is the worst-performing Dow <.DJI> component so far this year.

"The stock is already in the doghouse with investors, and additional uncertainty will only pile on," said James Harlow, senior vice president at Novare Capital Management, which owns shares in UnitedHealth.

The news of the probe follows CEO Andrew Witty's abrupt departure and the withdrawal of its 2025 forecast, which triggered an 18% drop in shares to a four-year low on Tuesday.

"UnitedHealth Group is mired in a crisis seemingly without end. Investors are bracing for another big bout of turbulence given reports of the DoJ investigation," said Susannah Streeter, head of money and markets at Hargreaves Lansdown.

UnitedHealth said it had not been notified of the investigation by the DoJ. The WSJ in February also reported a civil fraud investigation into UnitedHealth's Medicare practices, which the company had at that time said it was not aware of.

The health insurance industry, as well as drug middlemen known as pharmacy benefit managers, has increasingly come under government and public scrutiny.

For decades, the company has flourished by leveraging its dominance in insurance and growth in the Medicare market, the U.S. government program that covers medical costs for the elderly. The focus now turns to its next steps.

The company has tapped former CEO Stephen Hemsley to replace Witty, becoming the latest company to turn to an experienced executive to take the helm, in the hopes of quelling investor concerns amid economic uncertainty.

Despite recent adversities, Oppenheimer analyst Michael Wiederhorn maintained that the company's fundamentals are solid, though he acknowledged that "it may take time to win back the marketplace's confidence."

Reporting by Sneha S K, Joel Jose and Siddarth S in Bengaluru; Editing by Anil D'Silva

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<https://www.wsj.com/health/healthcare/why-unitedhealths-blowup-may-be-more-isolated-than-investors-think-ab28cbb8>

HEALTH | HEALTHCARE | HEARD ON THE STREET

Why UnitedHealth's Blowup May Be More Isolated Than Investors Think

Surging medical costs and regulatory changes hit UnitedHealth, but rivals like Humana and CVS look better positioned

By *David Wainer*

May 14, 2025 5:30 am ET



Shares of health insurers, including CVS Health, were pulled down by news of UnitedHealth's problems.

PHOTO: MICHELLE GUSTAFSON FOR WSJ

[UnitedHealth Group](#) UNH **-14.71%** ▼ is the nation's largest health insurer and is often seen as a bellwether for the managed-care industry, shaping how investors view the whole sector. But this time around, its problems may be its own.

For the past few years, [rising medical costs](#) in the Medicare Advantage business have been an issue for health insurers generally, causing many to underperform their own outlooks. So when UnitedHealth pulled its 2025 earnings guidance and announced the [sudden departure](#) of Chief Executive Andrew Witty, investors didn't wait to hear the details—they sold off the entire sector.

UnitedHealth shares plunged 18% on Tuesday, erasing roughly \$60 billion in market value. [Humana](#) HUM -3.70% ▼, [Elevance](#) and [CVS Health](#) CVS -0.80% ▼ tumbled as well, falling 9.5%, 9.9% and 6.7%, respectively.

However, the evidence so far suggests a UnitedHealth-specific problem—tied to its aggressive growth, greater exposure to regulatory shifts and mounting challenges inside its Optum arm, its health-services unit.

There is no question that medical costs are elevated—particularly among seniors. This might have something to do with patients still catching up on care deferred during the pandemic era. Whatever the case, the cost pressure has weighed on the entire Medicare Advantage sector. Over the past three years through Monday's close, shares in Humana were down 39%, UnitedHealth declined 17% and CVS lost 27%.

But this year, a divergence has emerged—and UnitedHealth's surprise move to bring back longtime Chairman Stephen Hemsley as CEO may reflect problems unique to the industry giant rather than a broader worsening of the crisis.

One key distinction: After being hit by higher-than-expected costs, both Humana and CVS took [steps to shrink](#) their Medicare Advantage enrollment for 2025.

UnitedHealthcare, by contrast, expanded aggressively—with the biggest absolute gain in covered individuals in the industry. Now, the costs tied to that growth are starting to show up in ways that are unique to UnitedHealth's insurance arm.

That shift in fortunes was on full display last month, when [UnitedHealth's stock plunged](#) after reporting an earnings miss while slashing its guidance. In contrast, peers sounded a more optimistic tone, [delivering earnings beats](#). Regarding Medicare Advantage, Elevance said costs were elevated but manageable, Humana said trends were in line with expectations, and CVS reported that its cost trend was actually slightly better than expected.

“The natural conclusion from some investors is that there will be incremental pressure to the broader group,” wrote JPMorgan analyst Lisa Gill. “However, we highlight that throughout the earnings cycle UNH’s commentary stood out on utilization pressure.”

Beyond its aggressive growth, UnitedHealth is also feeling the impact of a phased-in crackdown on how insurers code patient conditions. In Medicare Advantage, insurers receive lump-sum payments from the government to manage care, with higher payments for sicker patients—creating strong incentives to document more diagnoses. [A Wall Street Journal investigation](#) last year found that UnitedHealth collected billions in extra payments tied to questionable diagnoses.

The Biden administration rolled out a new coding system, known as V28, that removes or down-weights certain conditions. Many insurers have complained about this new coding system and are taking a financial hit from the changes. For instance, Humana expects a 1.6 percentage point revenue hit in 2025 from the rule changes. But TD Cowen’s Ryan Langston notes that UnitedHealth’s risk-adjusted scores—industry lingo for how insurers code for patient sickness—had been much higher than Humana’s, which might explain why it is now seeing a bigger impact.

UnitedHealth has also been the most aggressive in expanding vertically through Optum. In recent decades, UnitedHealth pivoted to becoming a [major healthcare provider](#), a move that fueled faster growth than its peers. But with medical costs surging, that strategy is cutting the other way. On Tuesday’s analyst call, UnitedHealth acknowledged that Optum’s medical-services division is also feeling the squeeze, as many new patients are arriving with complex conditions and requiring more intensive care.

Medical cost pressure is real across the board, and could still prove to be an accelerating issue for insurers generally. But the panic selling sparked by UnitedHealth in its rivals may have gone too far.

Write to David Wainer at david.wainer@wsj.com

Appeared in the May 15, 2025, print edition as 'UnitedHealth Blowup May Be Isolated'.

Videos

Matt Levine's Money Stuff: Elon Musk Needs More Options

The Elon Musk pay problem

I have to say, I do feel for Tesla Inc.'s board of directors, and Elon Musk, as they try to design a new pay package for him. Here is the problem:

1. Tesla's board, with shareholder approval, gave Elon Musk a huge pile of contingent out-of-the-money stock options in 2018. These options would give Musk the option to buy about 304 million Tesla shares for \$23.34 each, which was the trading price of Tesla's stock at the time. The options would only be valuable if the stock price went up, and Musk would only get them if he hit a series of ambitious market-value and operational milestones. To get all the options, Musk would need to grow Tesla from about a \$59 billion market capitalization to a \$650 billion market capitalization, but if he did that the options would be worth tens of billions of dollars.
- 2. He hit the milestones, he got all the options, and at their peak — when Tesla's market cap was about \$1.5 trillion — the options were worth \$138.8 billion. (The stock closed yesterday at \$334.07, for a market cap of about \$1.1 trillion and about a \$94 billion value for the option package.)
- 3. Then, for complicated and somewhat unsatisfying reasons, a Delaware court took them away from him. After the ruling, Tesla's shareholders voted to let him keep the options, but the Delaware court ruled that that didn't work. Tesla is still appealing the decision, and who knows what will happen, but as of now, no options.
- 4. Musk, and Tesla's board, and Tesla's shareholders, all want him to get his options back.
- 5. At some level, Tesla can probably just give him the options back: After the original decision invalidating his options, Tesla moved its incorporation to Texas, which everyone expects will be more Musk-friendly than Delaware was. If the board voted tomorrow to give him another \$94 billion of options, and shareholders voted to approve that, and a shareholder sued to stop it, it seems unlikely that a Texas court would stop it, though really who knows.
- 6. But giving Musk the same options now would be much worse, for Musk and for Tesla, than giving him those options in 2018 was. (That is, re-granting him the options would be worse than just having the 2018 grant spring back to life.) In 2018, those options were contingent and at-the-money (the exercise price of the options was the then-current stock price), so they weren't worth very much. In 2025, those options are non-contingent (the contingencies have been met) and very in-the-money (the stock has gone up), so they are hugely valuable. Giving a chief executive officer a big pile of risky contingent options to motivate him to increase the value of the company in the future is good corporate governance, and encouraged by the tax code and

accounting rules. Giving a CEO a big pile of *valuable non-contingent options* to reward him for *previously increasing the value of the company* is discouraged.

So the Financial Times reports:

Tesla's board faces a dilemma over how to deliver more shares to its CEO if his 2018 package is not restored on appeal. ... Reissuing the options would trigger a \$50bn-plus accounting charge for Tesla and a punitive 57 per cent tax rate for Musk, since the options would be awarded "in the money", with the financial targets already exceeded.

But it has to do something:

Tesla's board has formed a special committee to explore Elon Musk's pay which could lead to the electric-vehicle maker's chief being offered a fresh package of stock options as it seeks to resolve uncertainty over his future.

The committee comprises just the chair Robyn Denholm and Kathleen Wilson-Thompson, according to several people familiar with the matter. As well as Musk's pay package it will also explore alternative ways to compensate him for past work should Tesla fail to reinstate his record 2018 pay deal via an appeal at the Delaware Supreme Court this year. ...

Musk, already the world's richest man, has threatened to leave the electric-car maker he co-founded unless he is awarded greater control over the company. ...

The committee is still in the early stages of deliberation and neither a new package nor any decision on how Musk's new pay would be structured is guaranteed, the people said. Any stock options would be contingent on Tesla hitting financial, operational and share price targets.

From a tax and accounting perspective, the cleanest approach is to award him a huge new pile of options struck at the current stock price and contingent on future targets, but the problems with that are:

It seems unfair to him: He was promised all those options for hitting various targets, and he was motivated, and he hit the targets; making him hit new targets to get back the shares he was already promised is rough. Growing Tesla from a \$59 billion company to a \$650 billion company was pretty ambitious, but he did it; growing Tesla from a \$1.1 trillion company to, you know, a \$10 trillion company seems less realistic.

- If you really make him whole for the lost value, it's expensive: Giving him new at-the-money options worth \$94 billion would require giving him options on a lot more than 304 million shares.

How do you solve this problem? Well! I will tell you one approach that is very simple and that works in theory, but that would be insane to actually propose to a board of directors. The essential problem is that you want to award Musk a bunch of options with (1) a *low* strike price but (2) an *at-the-money* strike price. That is, the problem is that Tesla's current stock price is *too high*, because Musk has *already* accomplished what Tesla wanted him to accomplish in 2018. A related problem is that you want to award Musk a bunch of options that are *contingent*, but you also want to reward him for hitting the targets he already achieved. Again, the essential problem is that he has accomplished too much already.

Describing the problem that way makes the solution clear. The solution is to *undo* the work he has already done, so you can award him new options that are contingent on redoing that work. Like:

If you drive Tesla's stock price back to \$23.34, you can give him 304 million new options struck at \$23.34. Those will have no tax or accounting problems, and then you quickly drive the stock price back up to \$334.07 and his options are worth \$94 billion.

- If Musk goes off and spends most of his time on other endeavors — SpaceX, XAI Holdings, the government — then Tesla can offer him new options contingent on meeting new operational goals like “come back to the office” and “start selling cars again.”

Obviously I am kidding, but also Tesla's stock price *did* fall more than 50% from its peak last December to its trough last month, as Musk has been distracted from Tesla and has alienated customers with his extracurricular activities. I am not saying that he did any of this to solve the problem of pricing a new options award. It's just, you know, it did kind of help with that problem.

Tariff derivatives

If you are a business that imports Chinese goods into the US, and you know that US tariffs on China are currently 30% but will soon go up to 145%, you should probably import as much stuff as possible now, before the tariffs go up, and just put it in a warehouse to sell over time. Pay 30% tariffs now on stuff you plan to sell in 2026, because if you import it in 2026 you'll pay more.

Conversely, if you knew last week that tariffs on China were 145%, but would soon go down to 30%, you should have held off on importing stuff until the tariffs went down. If you had stuff on a ship, you should have left it on the ship for an extra week so as not to pay the tariff; then, when the tariffs went down, you could dock the ship and unload it and pay the lower tariffs.

That is not particularly practical advice, though. For one thing, predicting the path of tariffs seems risky. But also, most importers do not *control the ship*, so if tariffs go up while the ship is sailing from China to the US, you just have to pay the extra tariffs. Here's a Bloomberg News story about a ship that left China when tariffs were 20% and arrived in California when they were 145%, which is a risk that importers take now. If the ship had arrived 3 weeks later, the tariffs would have been 30%. But who can plan on that?

There is, however, an abstract version of “leave it on the ship,” which is roughly “bring it into a warehouse in the US that is, for legal purposes, still the ship.” The Wall Street Journal reports:

[SKU Distribution's Mesa, Ariz., warehouse] is the ultimate U.S.-based tariff refuge. The 110,000-square-foot building sits in a foreign-trade zone, meaning companies can import products tariff-free while they are stored or used to assemble other goods at the warehouse. That allows companies to avoid paying duties until the products are shipped out to U.S. buyers.

"Everyone is getting educated on it now," said James Peacock, SKU's chief executive. "We're growing like mad."

When President Trump's "Liberation Day" tariffs hit, New York-based gun-safe seller Securelt Tactical had safes moving through different stages of its supply chain. Safes were sitting in shipping containers in China, traversing the Pacific Ocean and inching through the Port of Los Angeles. Directing the safes to the Mesa facility bought Securelt time to help weather the cost of the Trump administration's tariffs, said Tom Kubiniec, the company's CEO.

Actually the foreign-trade zones are not perfect substitutes for leaving stuff on a ship, because importing stuff into the trade zone defers the *payment* of the tariff, but locks in the *rate*:

The facilities can't solve all tariff challenges. If Trump lowers duties—as he agreed Monday to do on Chinese imports while trade negotiations continue—companies will still be on the hook for the amount assessed when their goods entered a foreign-trade zone.

The president could change that rule—but that, customs broker Julie Pettit said, is "a false hope that I wouldn't plan my business on."

Ah well. Leaving the stuff in the warehouse until tariffs fall doesn't work, because you lock in the old higher tariffs. Leaving the stuff in the warehouse until that rule changes might work, but only if the rule changes. Betting on tariff volatility seems safe; betting on that rule change seems riskier.

Still it feels like there is a financial product to be built here? You build a huge warehouse at some port in the US, you build a similarly huge floating warehouse on a barge 100 feet offshore, you ship all your products from China to the floating warehouse, they get there, and then you make a tariff call. If you think tariffs will go down next week, you keep them in the offshore warehouse until next week; if you think they'll go up next week, you move them into the onshore warehouse pronto. (This is extremely not any sort of advice, and I'm sure I'll get emails saying, like, "no 100 feet offshore doesn't work.") And then there's some rent differential between the two warehouses that serves as an indication of market expectations about the future path of tariffs: The more you think tariffs will go up (down), the more you will pay to stash your stuff onshore (offshore). Build out a whole tariff futures curve from warehouse rents.

Anyway this is dumb but the point is that that there is a ton of tariff *volatility*, and when there is a lot of volatility, there is money to be made as a derivatives structurer. If you can shift your tariff payments in time, you can hedge or speculate on tariff risk. There was not a lot of demand for that a year ago, but now there is.

Tariff court

We have talked a couple of times about what I once called “in some ways the simplest solution to the tariff problem,” which is that (1) the US Constitution really quite clearly says that only Congress can impose tariffs, (2) the various high recent tariffs have been imposed unilaterally by President Donald Trump, not Congress, so (3) a court could tell him to knock it off. In some other ways that is the least simple solution, of course. What if a court tells him to knock it off and he refuses?

Various people have brought court cases on this theory, and yesterday the US Court of International Trade had a hearing on one of the lawsuits. The Wall Street Journal reports:

Justice Department lawyer Eric Hamilton ... argued the panel didn't have the authority to question the basis of Trump's emergency declaration at all. That was a political question to be handled by the executive and legislative branches, he said. Hamilton said IEEPA establishes a process for Congress to review the president's decision.

Judge Gary Katzmann said that view would eliminate the judiciary's traditional role in deciding whether the executive branch had acted in a way consistent with the law. Under the administration's argument, there are “three branches of government but the judiciary is somehow omitted or deleted from that government structure,” Katzmann said.

Restani posed a scenario in which there was a national shortage of peanut butter. “Can the president declare a national emergency?” she asked. “Peanut butter becomes a political question.”

Hamilton disagreed, saying Congress set clear boundaries in IEEPA for exercising presidential power.

When we have previously discussed this, I suggested that *either* Congress set clear boundaries and the current tariffs go beyond those boundaries, *or* Congress didn't set clear boundaries and so the current tariffs are an unconstitutional delegation of power from Congress to the president: Either way, the claim that the president gets to set whatever tariff rates he wants on every country forever seems to undermine the constitutional requirement that only Congress can set tariffs. But I'm not sure how much that matters.

Credit Suisse bonuses

The approximate traditional rule of thumb in the financial industry is that your bonus depends on (1) your performance, (2) your group's performance and (3) your firm's performance. If you don't make any money for the firm, you won't get much in the way of a bonus. If you're the top equities salesperson but the equities division has a bad year, you'll get a big share of a small pot. If you have an absolutely lights-out year and bring in tens of millions of dollars of revenue, but a rogue trader in another group loses all the money and the firm goes bankrupt, you get nothing. Bad luck for you.

This is only a very approximate traditional rule, though; it's not *true*. Often a bank will have a terrible year, but will need to pay up for the good employees in the in-demand groups, because otherwise they'll all leave for rivals and next year will be even worse. Even when a firm goes bankrupt, its first order of business will often be to pay big retention bonuses to the useful employees. You will maximize your pay by doing a good job in a hot group at a successful firm, but one out of three will often get you something.

Anyway Credit Suisse Group AG had a pretty bad start to 2023, in that it collapsed and was bought by UBS Group AG in a fire sale arranged by the Swiss government at a 99% discount to its peak stock price. But lots of *individual bankers* at Credit Suisse were doing just fine and apparently earned their bonuses:

A dozen former Credit Suisse bankers were unlawfully stripped of their bonuses when UBS Group AG bought its collapsing rival, a Swiss court said in a verdict that could pave the way for fresh lawsuits from hundreds more employees over unpaid compensation.

The country's finance ministry issued an order following the bank's rescue by rival UBS Group AG in March 2023, telling Credit Suisse to cut bonuses altogether for its executive board members, reduce them by 50% for managers one level lower, and by 25% for employees two levels down.

The provision of state guaranteed aid had been the justification for the bonus ban. On Wednesday the Federal Administrative Court ruled in a "pilot judgment" for a group of 12 that the government's decision was wrong. The decision could potentially affect about 1,000 people it said.

From the court's announcement:

The [Swiss Federal Department of Finance] and UBS, which took over Credit Suisse, argued across the board that the reductions and cancellations were justified because the employees concerned had belonged to the three upper management levels of Credit Suisse and were therefore responsible for its strategy and complete failure. However, neither the FDF nor UBS could demonstrate that even a single one of the twelve managers concerned had caused excessive risks and jeopardised the financial situation of Credit Suisse through their wrongful actions or omissions. None of the managers concerned by this Judgment belonged to the top management level of Credit Suisse.

There is a crude sense in which, if a giant investment bank collapses over a weekend, somebody probably messed up somewhere. But it can be hard to figure out who, or to prove it: A bank failure is an emergent property of lots of individual decisions, and you can rarely point to one person and say "it's that guy, he did it." At a failed bank, most employees — at least below the top management level — will be able to say either "I actually had a great year" or else "well I was doing the best I could in a rough environment." Why shouldn't they get their bonuses?

One rationale for the rough traditional rule of thumb is that it creates a good partnership culture: If the senior managers of the investment banking division know that their bonuses are contingent on the good work of the trading division, they will do their best to monitor the risks that the trading division takes. They will push upper management to get good responsible traders put in charge of the trading division; they will pay attention to trading risks when they sit on firmwide committees; they will go out for casual drinks with senior traders and say "you're not doing anything stupid are you?" Every banker will feel some sense of responsibility, not just for her own performance and her group's, but for the performance of the firm as a whole. At some scale, though, perhaps that is unrealistic. No individual banker can entirely control or even monitor her bank's performance, so you might as well just pay everyone what they earned.

Stochastic diversification

We talked yesterday about leveraging up your retirement accounts. Unsurprisingly I got a lot of reader feedback; "doing counterintuitive financial engineering in your personal account" is maybe the single topic that most interests Money Stuff readers. I want to mention a few things.

First of all, I wrote about *why* you might leverage up your retirement accounts, particularly as a young professional. I made two points:

Most of your economic net worth as a young professional consists of your future income from your job, and buying a lot of stocks gives you an appropriate amount of diversification.

- Another big chunk of your net worth as a young professional probably consists of your house, which is very levered, so buying a lot of stocks also diversifies that.

A couple of people pointed out a third, subtler advantage, which is that leveraging up your retirement account offers *time* diversification. When you are a young professional you probably do not own a lot of stocks, but when you are near retirement you probably do own a lot of stocks, because you keep buying more stocks each year. Therefore, the amount of money you have in retirement will depend a lot on your investment returns when you are in your 60s, and much less on your investment returns when you are in your 20s: A high percentage return on your small pot of money in your 20s won't make you much money, but a big percentage *loss* on your large pot of money in your 60s will cost you a lot of money. By investing a little when you are young and broke, and a lot more when you are at the peak of your career, you end up taking a lot more market risk later than earlier. Your dollar-weighted returns depend largely on how the market does late in your career.

And you can diversify away from *that* by taking more risk earlier in your career, by borrowing to invest. Here's a 2008 paper by Ian Ayres and Barry Nalebuff on the idea:

By employing leverage to gain more exposure to stocks when young, individuals can achieve better diversification across time. Using stock data going back to 1871, we show that buying stock on margin when young combined with more conservative investments when older stochastically dominates standard investment strategies - both traditional life-cycle investments and 100%-stock investments.

And:

Investors use mutual funds to diversify over stocks and over geographies. What is missing is diversification over time. The problem for most investors is that they have too much invested late in their life and not enough early on. ...

This leads to our simple advice: *buy stocks using leverage when young.*

Ayres and Nalebuff recommended 2 to 1 leverage early on, achieved with broker margin, stock index futures or ideally with “the purchase of deep-in-the-money LEAP call options.” (That is, buy a one-year call option on the S&P 500 index with a strike price of roughly 50% of the current index level and a premium only slightly higher than the other 50%; there’s very little time value to that option, so you are essentially just paying a cheap interest rate to borrow half the price of the index.)

But here in 2025 a couple of readers argued for a different roll-your-own approach, which is, you guessed it, levered exchange-traded funds. You can pretty easily go buy an ETF that offers twice the daily return of the S&P 500 index. As we have discussed, holding a daily 2x S&P ETF for 30 years probably will not give you twice the 30-year performance of the S&P: These funds rebalance every day, creating “volatility drag” that can reduce returns. But, you know, maybe? The 10-year total return of the ProShares 2x S&P 500 fund is about 18.3% per year; the equivalent for an unlevered S&P 500 fund is about 12.4%: You’re not exactly getting 2x exposure, but you’re getting more than 1x.

This is extremely not investing advice but I am passing it along because these ETFs are all plastered with warnings saying “this is intended to be held for one day and will get real weird after that,” and putting them in a 401(k) to hold for decades is among the more counterintuitive things that my readers have found to do with their personal accounts.

Things happen

DeepSeek’s ‘Tech Madman’ Founder Is Threatening US Dominance in AI Race. Trump Tax Plan Gains Momentum in House as It Heads to Floor Vote. Milan’s ‘Empty London’ Tax Bet Pays Off as UK Wealth Exits Soar. Josh Kushner’s Thrive Capital Gains \$522 Million From Carvana Trade. A Buffett-Backed College Faces GOP Tax Threats After Investment Success. Moët Hennessy’s crisis: dubious deals, soaring prices and hubris. United Adds Caviar Service and Luxe Jammies in Race for Superpremium Travelers. The man behind the rise of ‘golden passports.’ The Unraveling of the King of Davos.

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- 1. Adjusted for subsequent stock splits. (There were two, a 5-for-1 split in 2020 and a 3-for-1 split in 2022, so the number of shares was multiplied by 15 and the strike price was divided by 15.) See the descriptions of the award in the 2018 proxy and on page 45 of the 2023 proxy.
- 2. That's 303,960,630 shares times (the high closing price of the stock of \$479.86 on Dec. 17, 2024 minus the \$23.34 strike price). That high closing price was after the court ruling on his compensation package, so I suppose you could argue something like "the price of the stock was higher in December 2024 because the fully diluted shares outstanding were lower, so using that price to value the options is wrong," but I don't think that's particularly interesting. Tesla's fully diluted share count is currently a matter of quantum uncertainty, but my guess is that the people paying up for those shares also want Musk to get his money.

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Exclusive: Musk took leased cars back so Tesla could use them as "robotaxis." Instead, Tesla sold them

 [reuters.com/sustainability/boards-policy-regulation/musk-took-leased-cars-back-so-tesla-could-use-them-robotaxis-instead-tesla-sold-2025-05-15](https://www.reuters.com/sustainability/boards-policy-regulation/musk-took-leased-cars-back-so-tesla-could-use-them-robotaxis-instead-tesla-sold-2025-05-15)

Chris Kirkham, Abhirup Roy

May 15, 2025

The logo of Tesla is seen on a Tesla car in Brussels, Belgium April 24, 2025. REUTERS/Yves Herman//File Photo Purchase Licensing Rights, opens new tab

- Tesla added software upgrades to increase resale value of leased cars
- Lease buyout policy reversal follows declining demand for used Teslas
- Tesla's no-buy policy suited post-pandemic inventory shortages

May 15 (REUTERS) - Tesla last November ended an unusual policy that prohibited U.S. leasing customers from buying their cars at lease-end.

The policy started in 2019, when Tesla announced that customers could lease its mass-market Model 3 sedans but would have to return them, at the end of the lease, for use in Tesla's planned "robotaxi" network.

"You don't have the option of buying," Chief Executive Elon Musk said at an investor gathering in California in April 2019. "We want them back."

"Next year, for sure," he added, "we'll have over 1 million robotaxis on the road."

None of that would prove true. Despite repeated promises, the robotaxis never came. Tesla instead found an unusually lucrative way to make money by flipping many of the off-lease cars to new buyers, according to four people familiar with Tesla's retail operations.

Rather than storing the used cars – a fast-depreciating asset – Tesla started adding features to them through software upgrades. It then sold the vehicles to new customers who would pay thousands more than lease-end buyers would have, the people said.

The practice was an easy way to "jack up the price" of the used vehicles, said one of the people, who asked not to be identified.

Tesla and Musk didn't respond to requests for comment for this story.

Although counter to what Musk said publicly – and descriptions Tesla gave on its website, opens new tab regarding lease terms – the tactic appears to have been legal. Still, the practice denied lessees the industry-standard option of buying their vehicles and misled them for years about why.

It also perpetuated the myth among investors that Tesla was near fully autonomous driving technology. That belief has helped buoy Tesla stock, whose value has far outpaced current earnings and made it the world's most valuable automaker.

Throughout the industry, lease contracts typically allow customers to pay monthly to drive a new car for a specified period of time, often between two and four years. The lessee doesn't own the vehicle and must return it to the dealer when the lease expires. In almost all cases, customers can choose to buy the vehicle at lease-end or earlier.

Since 2019, Tesla financial statements show, the company has leased to customers worldwide more than 314,000 vehicles, or 4.4% of its total deliveries. It isn't clear whether the no-buy policy applied anywhere outside the United States.

The policy was well suited for the years after the onset of the COVID-19 pandemic, when vehicle inventories tightened and car prices spiked. More recently, as demand has plummeted – in part because of some consumers' distaste for Musk's right-wing political activities – buyers aren't as enthusiastic for used Teslas.

In making upgrades to its off-lease vehicles, the people familiar with Tesla's retail operations told Reuters, the company often added "Full Self-Driving" software, which it has sold separately for up to \$15,000 and now sells for \$8,000. It also added "acceleration boost," an update that can make the car speed up faster, which it sells separately for \$2,000.

After starting the no-purchase policy with Model 3 leases, Tesla expanded it to leases for all models. Until the recent reversal, its web site said Tesla vehicles delivered after April 15, 2022 "are not eligible for purchase," and that "Model 3 and Model Y leases are not eligible for purchase regardless of delivery date."

Then, last November 27, Tesla's North America account posted on X, Musk's social media platform: "Lease buyout now available" for new contracts. The company also updated its leasing webpage to say leased vehicles "may be eligible for purchase."

For some former lessees, the discovery has been disappointing.

At the start and end of his three-year Model Y lease, Joe Mendenhall told Reuters, Tesla staff said they needed the car back for the robotaxi fleet. But last year he learned Tesla sold the car once he returned it.

"Lies about not being able to buy out my lease," the Indianapolis marketing entrepreneur wrote on X. "The car gets sold at auction, not turned into a robotaxi like I was told. Slow clap @elonmusk."

"CAUGHT HOLDING THE BAG"

Tesla's story about keeping used cars for robotaxis fits a long pattern of unfulfilled promises to deploy self-driving vehicles – most recently announced for June in Austin, Texas.

Every year since 2016, Musk has promised self-driving Teslas would arrive no later than the following year. In 2019, when Tesla first offered leasing for the Model 3, Musk told podcast host Lex Fridman that the ability to add autonomous-driving software would make every used Tesla an "appreciating asset."

Some investors have referenced the alleged inventory of leased vehicles as a promising strategy. As recently as October – ahead of a Hollywood event where Tesla displayed a concept "Cybercab" robotaxi – Ark Investment Management, long bullish on Tesla stock, said the off-lease inventory could help quickly ramp-up an autonomous ride-hailing service.

"To jumpstart the service, it could deploy a fleet of existing Model 3 and Model Y vehicles, including those coming off lease," Ark said in a research note at the time. Sam Korus, a director of research at Ark, this week said that Tesla, even without the off-lease cars, could still have other options, including new or third-party vehicles.

Others have long had doubts. When Tesla in 2019 announced it was prohibiting lease purchases because of its robotaxi plans, Evercore ISI analysts reacted in a research note: "uhmmm, what??" The announcement "is an indication that Tesla believes their ride-hailing network is going to be a viable business in three years," the analysts added. "Put us in the extremely skeptical camp."

As a rule, auto dealers avoid holding used inventory because used cars generally depreciate rapidly. Michael Minick, a former Tesla sales representative and one of the people familiar with the sale of formerly leased cars, told Reuters the company wouldn't allow cars to "just sit on lots and lose value."

"I knew that wasn't true," added Minick, who was among thousands of Tesla employees laid off during a restructuring last year.

For most car companies, offering lease buyouts is a "no-brainer" because dealers don't have to find a new buyer when a lease ends, said Joseph Yoon, consumer insights analyst at automotive data provider Edmunds. Now that used Tesla values are "kind of tanking," Yoon said, the company most likely ended the lease-end-purchase ban to avoid being "caught holding the bag."

As Tesla models age and face rising competition from other electric vehicle makers, the cars now lose value faster than almost any other vehicle. An analysis by CarGurus, a used-car sales and data service, found average selling prices of used Teslas have fallen 7.6% over

During Tesla's January earnings call, Vaibhav Taneja, the company's chief financial officer, blamed "lower profit from used car business" as a reason for declining margins at one of its units. Unlike almost all other automakers with U.S. sales, Tesla owns and operates its own dealerships.

For those seeking leases, they continued saying the cars would be used for robotaxis at lease-end. The explanation never changed, the person added, because until November the company never deviated from it.

Now, he has no interest in buying anything from Musk, whose high-profile activities as an advisor to U.S. President Donald Trump have alienated some consumers. "I love the car, I just don't like what has been going on at the top with the CEO," Distel said. "I don't want to be associated with that any more."

[Our Standards: The Thomson Reuters Trust Principles.](#), opens new tab

Chris Kirkham is a business reporter in Los Angeles who writes about Tesla, electric vehicles and the wider automotive industry. He previously worked at The Wall Street Journal and the Los Angeles Times, and has covered topics including tobacco, worker safety, gambling, and the economy over a two-decade career. Contact him at chris.kirkham@thomsonreuters.com or on Signal at [chris_kirkham.51](https://signal.me/#x11-2024-07-17T14:00:00Z)

Musk's election PAC sued over alleged failure to pay \$100 to petition signers

 [reuters.com/world/us/musks-election-pac-sued-over-alleged-failure-pay-100-petition-signers-2025-05-14](https://www.reuters.com/world/us/musks-election-pac-sued-over-alleged-failure-pay-100-petition-signers-2025-05-14)

Tom Hals

May 14, 2025

Tesla CEO Elon Musk attends the Saudi-U.S. Investment Forum, in Riyadh, Saudi Arabia, May 13, 2025. REUTERS/Hamad I Mohammed/File Photo Purchase Licensing Rights, opens new tab

WILMINGTON, Delaware, May 14 (Reuters) - Elon Musk's political action committee failed to pay registered swing state voters as promised during last year's U.S. election in return for signing a petition or referring other voters, according to a proposed federal class action lawsuit.

Musk's America PAC helped Republican President Donald Trump beat Democratic challenger Vice President Kamala Harris.

The Reuters Tariff Watch newsletter is your daily guide to the latest global trade and tariff news. Sign up here.

In the lead-up to the November election, Musk offered voters in seven states that were considered key to the election \$47 and later \$100 for signing a petition supporting the U.S. Constitution. Registered voters were also promised payments for referring voters in the seven states who signed the petition.

The three plaintiffs, residents of Pennsylvania, Nevada and Georgia, claim that America PAC breached a contract by failing to pay in full. The lawsuit, filed on May 8 in Philadelphia, seeks to represent a class of everyone who signed or referred someone to sign the petition and was not paid in full.

Musk, the chief executive of Tesla (TSLA.O), opens new tab and the world's richest person, did not immediately respond to a request for comment.

His PAC also pledged to give away \$1 million daily to someone who signed the petition in support of Constitutional guarantees to freedom of speech and the right to bear arms. A separate proposed class action has claimed the giveaway was a fraud.

Reporting by Tom Hals in Wilmington, Delaware; Editing by Nia Williams

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

Attorney General Pam Bondi Discloses Sale of Trump Media Shares

- Bondi held stock in Truth Social owner ahead of AG selection
- New disclosure says sale worth between \$1-\$5 million

Attorney General Pam Bondi has sold her shares in Trump Media & Technology Group Corp., the company that owns Truth Social, according to a public disclosure.

Bondi's shares and warrants, or rights to purchase shares in the future, were worth between \$1 million and \$5.5 million at the time of the April 2 sale, the Office of Government Ethics document showed on Wednesday.

Bondi previously disclosed she held stock and warrants that in December were worth nearly \$4 million in the Trump-associated media company. Trump, while president-elect, tapped her in November to be the nation's chief law enforcement officer. She was confirmed in February.

She said she received the shares as compensation for consulting services after Trump Media made its Wall Street debut in March 2024 through a blank-check merger.

Shares in Trump Media traded as high as \$42 in January but the stock has seen a steady slump in following months, trading at just under \$19 on April 2.

Under an ethics agreement, Bondi said she would divest her stake in Trump Media within 90 days of her confirmation and that she wouldn't participate in any matter that has a direct effect on the company's financial interests until that divestment.

The Justice Department didn't immediately return a request for comment.

Bondi became attorney general on Feb. 5 following a career that included a stint as Florida attorney general. After leaving that role, she became a partner at the powerful lobbying firm Ballard Partners and worked on several Trump-associated ventures.

The OGE disclosure covers purchases, sales, or exchanges of securities in excess of \$1,000 made on behalf of the filer, the filer's spouse, or dependent child.

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Memecoin Speculator Says Trump Dinner Is Costing Him Just \$1,200

Morten Christensen says he and four crypto-loving friends will be attending the dinner next week being held for the top holders of President Donald Trump's memecoin for just about \$1,200 each.

The five were among the 220 people with the highest time-weighted holdings of the memecoin in the last three weeks on a special leaderboard used to keep track of the biggest buyers of the cryptocurrency. While it took at least \$54,500 or so in time-weighted holdings during that period to secure a spot at the event on May 22, the actual amount Christensen and his friends spent basically boils down to trading fees.

Their strategy was to buy the Trump memecoin and to short the exact same amount. Then they sold their Trump tokens and closed their short positions right after winners of the dinner were announced Monday, according to Christensen, who runs a site called AirdropAlert.com that tracks token giveaways used to encourage engagement.

"I didn't even think it was in the possibility I'd go in to meet the president of the United States," the 39-year-old Christensen said in an interview from Mexico. "We figured it won't cost us that much to compete, we gave it a shot and we made it."

The dinner with the president is taking place at Trump National Golf Club in Potomac Falls, Virginia. Trump will talk about the future of crypto at the event, according to the organizers. The top 25 holders will be eligible for a tour of the White House.

Trump's plan to host the event has drawn much criticism, with Democratic Senators Elizabeth Warren and Adam Schiff demanding a federal ethics investigation into what they called "pay to play" scheme of "corruption and foreign influence," since many of the traders in the coin appear to be from other countries. The Democrats also stalled legislation to regulate stablecoins due to concern about the Trump family's expanding crypto businesses.

Freight Technologies Inc., a tiny logistics company, said earlier this month it may raise up to \$20 million to buy the memecoin to establish a Trump token treasury to promote commerce between the US and Mexico. Meanwhile, a Chinese-linked firm named GD Culture Group said Monday it plans to line up to \$300 million in funding to create a reserve made up of Bitcoin and Trump tokens.

Christensen said he first bought the token in January, one hour after it was announced. He then sold it that same weekend for 30 times more than what he paid, making several hundred thousand dollars, he claimed. The coin's market value ballooned to nearly \$15 billion after its debut before crashing to about \$2.7 billion currently, according to data compiled by CoinMarketCap.com.

"Then he announced the dinner, I ignored it at the start, I thought it would be very competitive," Christensen said. "Then eight days before it ends, I saw the leaderboard. And it doesn't take that much, I thought it would take \$60,000 to \$70,000." A couple of days in, the group created a software program that would look at holdings changes on the leaderboard and try to predict which amount of holdings would ensure a placement in the top 220, Christensen said.

As additional large wallets came into the picture in the final few days, the friends bought more tokens on Friday, "just to be sure," Christensen said. He held about \$250,000 worth the weekend the competition ended, he said.

Under the name "aird," he ended up being No. 188 on the leaderboard, ensuring his spot at the dinner, Christensen said. On Monday, he received a notification that he won a seat at the dinner, and filled out a form, providing his information for a security check, according to emails reviewed by Bloomberg. He's already booked his flight, he said.

Christensen said he knows about 20 other people coming to the dinner, so he might be doing some networking, "but mostly just have a good time."

"It's more like a fun trip with your friends to meet the president," he said. "If we'll get to meet Barron, it will be amazing."

--With assistance from **Ryan Weeks**.

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<https://www.wsj.com/politics/policy/an-ethics-nightmare-trumps-memecoin-dinner-to-draw-crypto-high-rollers-f1864ffc>

POLITICS | POLICY

'An Ethics Nightmare': Trump's Memecoin Dinner to Draw Crypto High Rollers

An eclectic group of crypto luminaries, MAGA fans and speculators bought enough \$TRUMP to win entry to May 22 gala

By [Alexander Osipovich](#) [Follow](#) and [Amrith Ramkumar](#) [Follow](#)

May 15, 2025 12:26 pm ET



PHOTO: EMIL LENDOF/WSJ, ISTOCK

A few weeks ago, President Trump's memecoin looked moribund, its price tumbling toward zero. Then it was suddenly imbued with something of real value: access to the president.

The cryptocurrency's creators invited the 220 biggest holders of the coin, known as \$TRUMP, to [a gala dinner](#) with him next week. The top 25 will have a chance to hobnob with Trump at a special VIP reception.

The news set off a frenzy of buying, and the winners—an eclectic group of crypto luminaries, MAGA fans and speculators—are now set.

One attendee plans to fly in from Asia to promote a blockchain startup that aspires to “power the next generation of meme culture.” Another one, from New York, is a supporter of the president who has used crypto to buy Trump-branded watches. Yet another is a masked sleuth who tracks down digital assets stolen by hackers.

Blockchain data suggests that many of the attendees of the VIP reception will be foreigners.

Government-watchdog groups have condemned the dinner, saying it potentially violates federal rules that bar officials from soliciting gifts. If any attendees are linked to foreign states, the dinner could also violate the Constitution's emoluments clause, which bars federal officials from accepting gifts from foreign governments, they say.

“It's an ethics nightmare,” said Norm Eisen, a former White House special counsel for ethics and government reform under the Obama administration.

Four months into Trump's second term, he and his family have promoted their private business interests in unprecedented ways. Beyond the meme coin, their forays into crypto include a bitcoin-mining company and World Liberty Financial, a venture promoted by Trump's sons. Such efforts pose conflicts of interest, critics say, given that the president has [reined in crypto regulation](#).

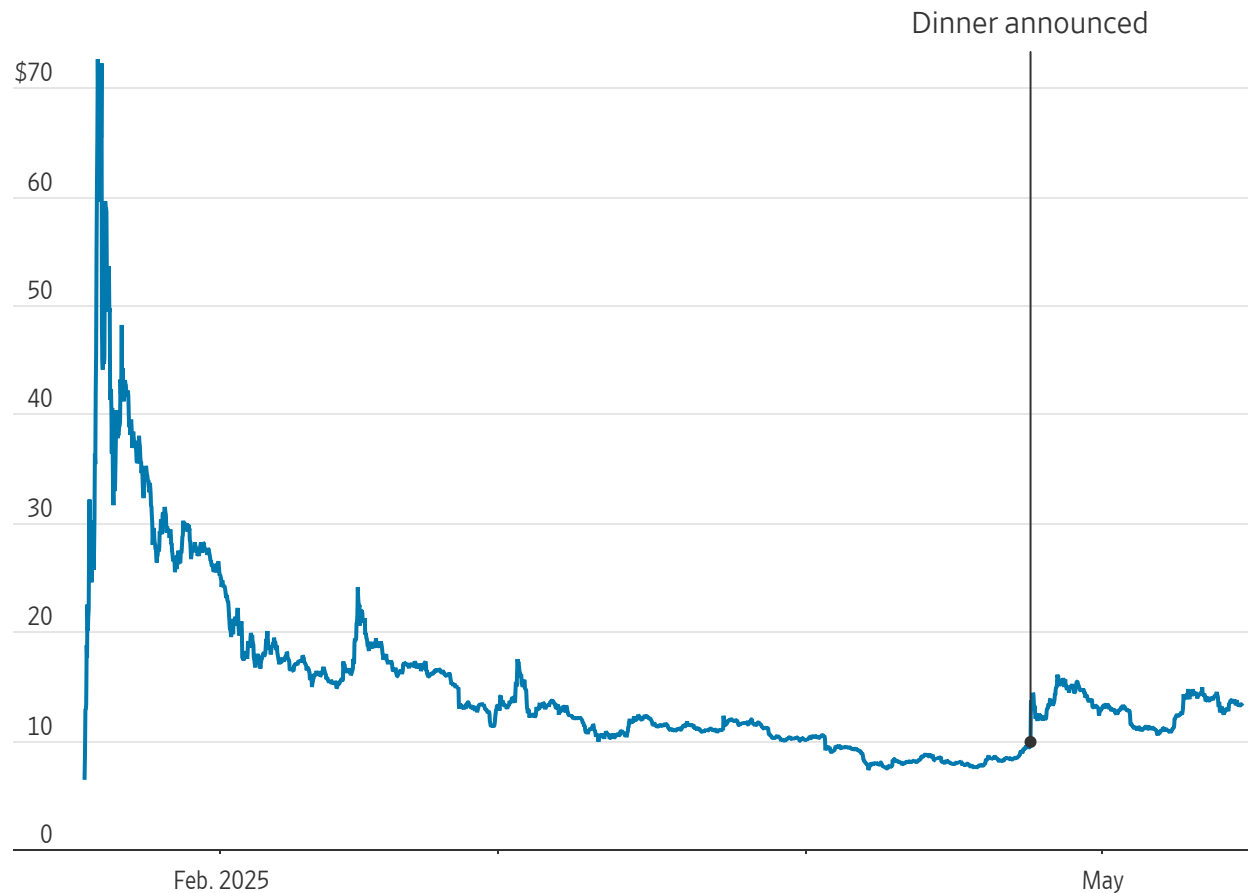
“President Trump only acts in the best interests of the American public—which is why they overwhelmingly re-elected him to this office,” White House spokeswoman Anna Kelly said. Administration officials have previously denied any conflict of interest, saying the meme coin dinner is an outside business engagement, not an official White House event.

Meme coins are novelty tokens typically associated with celebrities or internet memes. They often enrich insiders or savvy traders who buy early and sell before the inevitable crash.

The price of \$TRUMP soared after its Jan. 17 debut, then collapsed. Fifty-eight investors in the coin made profits in excess of \$10 million each, while some 764,000

digital wallets that held \$TRUMP lost money, many of them likely belonging to small investors, according to blockchain forensics firm Chainalysis.

Price of \$TRUMP since launch



Source: CoinGecko

Insiders close to Trump are sitting on a stash of \$TRUMP worth around \$10 billion. Some 80% of the coin's supply is held by an affiliate of the Trump Organization, the president's family business, and by a Delaware LLC registered by entrepreneur Bill Zanker, who previously launched Trump-themed digital trading cards. Insiders also make money by collecting fees when \$TRUMP coins are traded.

The Trump Organization and Zanker didn't respond to requests for comment. A spokeswoman for World Liberty Financial said the venture had "zero conflicts of interest" and no connection to the \$TRUMP dinner.

Since the dinner announcement, [the price of \\$TRUMP](#) is up about 30%, although at about \$12.50 in recent trading, it is still far below its January peak.

The May 22 event will take place at the Trump National Golf Club outside Washington. Initially, the coin's website said the top 25 coin holders would get a

White House tour, but the reference to the White House later disappeared from the site.

This week, organizers asked prospective guests to take part in background checks, according to messages seen by The Wall Street Journal.

“If he goes ahead with it, it will be one of the most outrageous uses of the office for self-enrichment in American history,” Sen. Richard Blumenthal (D., Conn.) said of the meme coin dinner in an interview.



Trump National Golf Club outside Washington. PHOTO: SHAWN THEW/SHUTTERSTOCK

Out of the 25 wallets eligible for the reception, at least 17 have received funds from non-U. S. crypto exchanges that are off-limits to Americans, according to data from Inca Digital, a blockchain analysis firm.

Crypto circles have been abuzz with speculation that a wallet labeled “Sun” containing \$17.9 million of \$TRUMP—the most of anyone registered for the dinner—belongs to Chinese-born crypto entrepreneur [Justin Sun](#).

Sun drew attention last year when he paid \$6.2 million for “Comedian,” an art project consisting of a banana taped to a wall. After the election, he invested \$75 million in World Liberty Financial. In February, U.S. regulators took steps to resolve a Biden-era lawsuit against Sun accusing him of market manipulation. Sun has denied the allegations.

Blockchain analysts say the “Sun” wallet is part of HTX, a crypto exchange with close ties to Sun. The wallet also contains \$18 million worth of Comedian, a meme coin

inspired by the banana artwork. Representatives of Sun and HTX didn't respond to requests for comment.

MemeCore, a Singapore-based startup developing a platform for memecoin creators, registered for the dinner with a wallet containing \$17.4 million worth of \$TRUMP. The startup is seeking to "build bridges" with the U.S. memecoin community, said Cherry Hsu, its chief business development officer.

As the company piled up coins, it posted on X: "TRUMP! TRUMP! TRUMP!" Hsu denied that the startup was endorsing Trump. She said one of MemeCore's co-founders would attend the dinner.

One attendee planning to attend the VIP reception is a cybersecurity specialist known by the pseudonym "Ogle," who is an adviser to World Liberty Financial. Ogle, who gives video interviews with a bandanna and sunglasses covering his face, says he hides his identity to protect himself from cybercriminals.

Blockchain data shows he amassed \$3.1 million worth of \$TRUMP to notch his spot at the reception. In an interview, Ogle pushed back against the dinner's critics. "This is open to people who are willing to pay, rather than some kind of self-appointed elite," Ogle said.

Vincent Deriu, a 27-year-old consultant and crypto enthusiast in New York, earned the right to attend the dinner by buying some \$116,000 worth of \$TRUMP coins.

Deriu voted for the president and often wears Trump watches. He said the coming dinner was a more democratic way to allow access to the president than traditional big-money fundraisers.

"When else is a young guy like me going to have a chance to meet the president? This could be my only chance," Deriu said.

Write to Alexander Osipovich at alexo@wsj.com and Amrith Ramkumar at amrith.ramkumar@wsj.com

Videos

Securities Law

May 15, 2025, 9:30 AM PDT

Trump's Air Force One Deal Sets Bad Example for Corporate Leaders

Column

Columnist Rob Chesnut looks at the Trump administration's ethical justifications for the president's plan to accept a luxury Qatari jumbo jet as Air Force One and says it sets a tone for business leaders to act unscrupulously.

Buckle up, attorneys. It's time for some plane talk about bribery and conflicts of interest. Expect heavy turbulence.

Recently, President Donald Trump confirmed that his administration is preparing to accept a Boeing super luxury 747-8 jumbo jet as a gift from the royal family of Qatar. The 13-year-old plane, estimated to be worth \$400 million dollars, has been referred to as a "palace in the sky."

Plans are already in place to retrofit the plane for use as a temporary Air Force One. It seems that the two existing 35-year-old Air Force One aircraft are getting a bit shabby, and the replacement aircraft being built by Boeing (already delayed and over budget) aren't scheduled to come into service until 2027 at the earliest, and possibly in 2029, after Trump leaves office.

Let's dive into the ethics questions and examine Trump's public justifications for accepting the largest gift (by an order of magnitude) ever given to a president.

Trump Is No Fool

"Only a fool would not accept this gift on behalf of our Country!"

Well, I've been called worse. I sure wouldn't accept it, and I'm guessing that a lot of other business and political leaders wouldn't either, in part because it will inevitably influence whoever gets the gift or, at a minimum, create the appearance of improper influence.

Will Qatar get special treatment for its \$400 million gift? Well, it isn't giving the plane to you and me—it's giving it to the most powerful person on earth, someone who makes decisions that could alter the course of the country's economy and existence. If it doesn't get special treatment for a gift like this, it still would call into question the impartiality of any decision the US makes that could affect Qatar.

And of course, a "fool" might point to Article 1, Section 9 of the Constitution, which specifically prohibits any person holding an office of trust from accepting any present "of any kind whatever" from any foreign king or foreign state, without approval from Congress. House Speaker Mike Johnson said he saw no problem with it, but I don't think this media statement is the kind of congressional approval the founders contemplated.

And this isn't something buried in a federal regulation or Justice Department memo—it's in our most important document. The fact that our Founding Fathers put this broad provision into the Constitution itself, in an era where gifts to foreign leaders were common, is a strong statement on their concern about potential improper foreign influence.

It's Not for Trump

"The Boeing 747 is being given to the United States Air Force/Department of Defense, NOT TO ME!"

This argument is at the heart of the rationale from the White House counsel and the Justice Department and deserves a close look. True, the plan is to transfer the plane to the Defense Department, where, according to defense and aviation professionals, it would have to be completely rewired and retrofitted for security purposes to meet Air Force One-level requirements, costing taxpayers hundreds of millions of dollars. Costs to operate and maintain the plane would also be covered by the government.

At the end of Trump's term, according to the proposal, the plane would be moved to Trump's presidential library and decommissioned, which means it's not really being given to the American people. And the rules regarding the plane's use would undoubtedly be made by Trump-friendly directors—I can imagine something like "the library's plane will be stored near West Palm Beach airport and may be used by the former president and family members for travel to locations near luxurious golf resorts where the travelers can tout the administration's many accomplishments."

In other words, I suspect the real gift is the use of the plane for Trump indefinitely. Who really wants to "own" and maintain an extravagant aircraft when you can have exclusive use of it, whenever you want it, to go wherever you want to go—and have it all financed by taxpayers and donors?

Let's not confuse the Qatar plane with, say, the Statue of Liberty, a gift from France that is publicly displayed and enjoyed by all of the American people (and the huddled masses who visit and immigrate here), and generates hundreds of millions of dollars a year in revenue from tourism. If this is really a gift to our government, let's just sell it upon delivery to Elon Musk and put the money toward funding Medicare, rather than spending hundreds of millions of unbudgeted dollars to retrofit and secure a plane that will literally fly out of our hands in a few years.

There's also a bigger issue: the example this would set for business leaders, attorneys, and compliance professionals who are charged with upholding corporate codes of ethics and anti-bribery laws. Earlier this year, the president signed an executive order suspending prosecutions under the Foreign Corrupt Practices Act for 180 days, on grounds that the act has unfairly disadvantaged businesses operating abroad. This action doesn't exactly signal a full foreign bribery free-for-all as prosecutions approved by the attorney general herself can still go forward, and the five-year statute of limitations for FCPA violations—extending beyond the Trump administration—should give companies real pause. Still, it does send a clear signal that bribery and corruption in the name of good American business won't exactly be a top priority.

And the actions of our leaders influence all of us—they matter as an example of the right behavior. If our president is flying around in a plane like that, surely I can accept a little expression of gratitude from a business partner. “That new Mercedes I’m driving? It wasn’t a gift. Our supplier gave it to my company as appreciation for all the business we give them, I’m just driving it until I retire, at which point we agreed that it will go to my family trust.”

It’s difficult for compliance professionals to preach doing the right thing when our president is engaged in what looks like corruption.

Most Impressive Plane

In defending the gift during an interview with Fox News’ Sean Hannity, Trump noted that the new plane was larger and more impressive looking than the current Air Force One. “And you know, we’re the United States of America—I believe that we should have the most impressive plane.”

That’s what this is really about: My plane should be bigger than yours. But do we need the biggest plane to show the world that we’re global leaders—doesn’t that American flag on the side speak volumes?

And if we’re trying to cut spending by the federal government and asking families to expect to buy fewer dolls for their children as a result of Trump’s trade policy, making do with an older, less opulent plane might be a great way to tighten the belt and show leadership.

Turn down the Qatar gift, cancel the Boeing order for new Air Force One planes, and make do with what you’ve got. And if you really want to rack up some savings for the DOGE ledger, sell the existing Air Force One planes, fly commercial, and join me back in coach. I’ve got some lounge passes and free drink coupons that I can give to you—er, I mean, to the Department of Defense.

Rob Chesnut consults on legal and ethical issues and was formerly general counsel and chief ethics officer at Airbnb. He spent more than a decade as a Justice Department prosecutor and he writes on in-house, corporate, and ethics issues.

Read More Good Counsel

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Bipartisan Stablecoin Bill Collides With Trump Crypto Conflicts

Deep Dive

- Senate Democrats unexpectedly voted against stablecoin bill
- Punting leaves US behind foreign jurisdictions, lawyers say

A rare bipartisan deal to regulate stablecoins is now on life support, underscoring how a proposal with widespread backing from lawmakers and industry players can get caught up in the political maelstrom over the Trump family's business conflicts.

A bloc of Democrats and Republicans in the US Senate stood ready to advance the "GENIUS Act" (S. 1582), supported by many digital asset and consumer advocates as way to place federal guardrails on the \$205 billion stablecoin market.

But the legislative push collapsed last week after Democrats demanded provisions ensuring that the president and vice president are covered by bill language to prohibit lawmakers and senior executive branch officials from issuing stablecoins while in office.

The impasse leaves the US at risk of lagging Europe and other jurisdictions and relying on an uneven array of state rules to police digital tokens pegged to traditional currencies, frustrating some industry professionals.

Lawmakers on both sides of the aisle have already mounted an effort to revive the stablecoin legislation, with lead bill sponsor Sen. Bill Hagerty (R-Tenn.) urging bill passage before Congress reaches its Memorial Day recess.

"The statement about how this could allow the Trump family to make money with impunity is kind of fearmongering," said Jonathan Schmalfeld, an associate at Polsinelli PC who focuses on blockchain technology. "It's hard to see how regulating something that is currently legal by creating a regulatory framework that provides more consumer safeguards and protections could somehow benefit the Trump family directly."

World Liberty Financial, the Trump family's decentralized finance project, announced a \$2 billion investment using its new stablecoin in early May. The transaction by Abu Dhabi's MGX uses the USD1 token to invest in Binance Holdings Ltd., the world's largest crypto exchange, which pleaded guilty several years ago to money laundering and other violations.

The announcement drew a sharp rebuke from Sen. Elizabeth Warren (D-Mass.), who warned the stablecoin legislation would "make it easier for the President and his family to line their own pockets." In addition to the stablecoin investment, the creators of Trump's memecoin held a contest offering its top holders the chance to win a private dinner with the president scheduled for May 22.

Regulating stablecoin issuers won't necessarily curb the Trump family's digital asset operations, though it may stave off potential fraud by entities purporting to offer dollar-backed tokens and help avoid a repeat of the 2022 collapse of TerraUSD and Luna, according to lawyers specializing in cryptocurrency.

Regulator Roulette

Stablecoin issuers and consumers both seek more predictability and clarity over what regulations apply—or even which regulator oversees the dollar-backed investments.

The Securities and Exchange Commission under Biden-era Chair Gary Gensler approached the tokens and other digital assets as securities, while the agency under Trump-appointed leadership has taken the opposite stance.

"Until there is predictable, equitable legislation in place, the US is going to be a less desirable place to launch some of these products than other places like Europe, which has a full-bore market structure regulation in place with MiCA," said Meagan Griffin, a partner at Paul Hastings LLP who focuses on digital assets, referring to the EU's Markets in Crypto Assets policy. "They don't want the regulation-by-enforcement that was really the hallmark of the prior administration's agencies."

Falling behind foreign jurisdictions is just one obstacle posed by the delay in Congress after the Senate measure failed to get the 60 votes needed to advance.

A policy vacuum at the federal level also means stablecoin issuers are at the mercy of varying state policies.

Texas has long treated stablecoins as "money or monetary value" under its existing money transmitter law, California lawmakers passed a measure broadly limiting stablecoins unless the issuer is licensed or otherwise exempt, and Wyoming plans to issue a stablecoin of its own this year.

The current mix of rules could persist without a unifying definition of how stablecoins function, what assets they are pegged to, and who can issue them, according to Braeden Anderson, a managing partner at Anderson PC who has advised clients on crypto regulation.

"It really should be a bipartisan bill that regulates fiat-backed digital dollars, not necessarily related to speculative crypto or memecoins," he said. "This isn't casino chips; it's banking infrastructure for the blockchain age."

As a banking tool, stablecoins should be regulated by the Office of the Comptroller of the Currency instead of the SEC, which may prompt broader adoption and invite more large financial institutions to act as issuers in an update to their current procedures and systems, Anderson said.

'From 2D to 3D'

Time is of the essence. Stablecoin issuers are expected to outpace foreign investors as the primary buyers of US Treasuries by 2030, according to an April study by the Citi Institute.

"If those purchases go to foreign currency bonds, that has a huge impact on the US dollar and the US economy," Schmalfeld said. "It isn't so much that there's harm to crypto generally, but that the US dollar might not be the thing that people are pegging their digital asset transactions to, which is a huge danger for the US."

Opponents of the bill, including small banking institutions and some consumer groups with influence in Washington, see the potential for stablecoins to disrupt a time-tested business model.

Those who embrace the technological shift in dollar-backed transactions see the passage of a unified law governing stablecoin issuers as inevitable, likening it to an evolutionary step as part of broader market structure changes.

"This is like going from 2D to 3D," Anderson said. "This is better technology, it's certainly the future, and hopefully Washington can get it together quickly so our digital economy can flourish."

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Senators Seek Records on Trump-Linked Firm's Stablecoin Venture

Senators Elizabeth Warren and Jeff Merkley are asking World Liberty Financial Inc., the Trump family's crypto project, to preserve records of communications with the Trump administration and to provide copies of communications regarding its new stablecoin, USD1.

The Democratic senators are particularly focused on a deal in which an Abu Dhabi firm, MGX, announced it would use \$2 billion in World Liberty stablecoin to invest in the cryptocurrency exchange Binance, before President Donald Trump's trip to the Middle East. He plans to visit the United Arab Emirates on Thursday, following stops in Saudi Arabia and Qatar.



Senator Elizabeth Warren.

Photographer: Jemal Countess/Getty Images

"These documents will help us better understand the extent to which the transaction will enrich President Trump, his family, and special envoy to the Middle East Steve Witkoff," the senators wrote in a letter dated Wednesday and obtained by Bloomberg. Witkoff, a New York real estate developer, and his sons Alex and **Zach Witkoff** are among the co-founders of World Liberty Financial, according to company documents.

"The launch of a stablecoin directly tied to a sitting president who stands to benefit financially from the stablecoin's success is itself an unprecedented conflict of interest presenting significant threats to our financial system," the senators wrote. They said the coin offers "opportunities for unprecedented corruption."

"By using USD1 to finance the MGX-Binance deal, a foreign government-backed entity and a foreign corporation that pleaded guilty to criminal violations of US anti-money laundering and sanctions laws are effectively cutting the Trump and Witkoff families into the deal," the senators wrote.



Donald Trump boards Air Force One ahead of his four-day Middle East visit, on May 12.

Photographer: Win McNamee/Getty Images

Read: [Binance Pleads Guilty, Loses CZ, Pays Fines to End Legal Woes](#)

In 2023, Binance Holdings Ltd. and its then-chief executive officer, **Changpeng Zhao**, plead guilty to anti-money laundering and US sanctions violations under a sweeping settlement with the US.

The lawmakers asked for the copies of communications with Trump administration officials on stablecoins to be provided by May 29.



Senator Jeff Merkley.

Photographer: Bryan Dozier/AFP/Getty Images

Warren, of Massachusetts, and Merkley, of Oregon, have led a filibuster of stablecoin legislation in hopes of adding provisions to block Trump and other senior officials from profiting off of their crypto businesses, which the Trump administration would be charged with regulating.

Earlier this month, Senator Richard Blumenthal of Connecticut, the top Democrat on the Permanent Subcommittee on Investigations, sent letters to World Liberty Financial as well as the firm that launched the Trump memecoin seeking information as part of an inquiry into potential conflicts of interest.

The White House, which did not immediately respond to a request for comment on Wednesday night, has previously denied any conflict of interest, saying Trump's assets are in a trust managed by his children. Republicans have so far shown no interest in reining in the president's private business activities.

Read: What Are Stablecoins and Why Are Regulators Wary?: QuickTake

Representatives of World Liberty Financial also did not immediately respond to a request for comment.

Steve Witkoff has told Bloomberg he was divesting from his real estate company and crypto assets and transferring holdings to his sons to manage potential conflicts of interest.

Bipartisan stablecoin legislation stalled in the Senate amid a furor over the issue last week, though a group of crypto-friendly Democrats and Republicans have continued negotiating with the goal of reviving and passing a version before the Memorial Day recess.

USD1 is already one of the biggest stablecoins in the world with a market value of \$2.1 billion, per CoinGecko. Issuers of stablecoins — typically pegged to the US dollar — make money by investing in securities like short-term government debt and keeping the interest.

--With assistance from **stacy-marie ishmael**.

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<https://www.wsj.com/politics/policy/binance-ceo-changpeng-zhao-trump-pardon-push-727497ac>

EXCLUSIVE POLICY

Democrats Want Answers From Trump on Binance Founder's Pardon Push

First family's financial ties to Binance are raising concerns about conflicts of interest

By [Amrith Ramkumar](#) [Follow](#)

May 15, 2025 5:00 am ET



Binance founder Changpeng Zhao served four months in prison. PHOTO: JULIANA TAN FOR WSJ

Three top Democratic senators are asking the Trump administration to detail its interactions with crypto exchange Binance and billionaire founder Changpeng Zhao as he seeks a presidential pardon, the latest inquiry into potential conflicts of interest in the industry.

The details

Sen. Elizabeth Warren (D., Mass.), Sen. Dick Durbin (D., Ill.) and Sen. Richard Blumenthal (D., Conn.) pushed administration officials to explain how they have discussed a potential pardon with Zhao, widely known as CZ, according to their letter, a copy of which was reviewed by The Wall Street Journal.

The Journal reported in March that Zhao had been [seeking a pardon](#) while representatives of President Trump's family held talks to invest in the U.S. arm of Binance. Zhao served four months in prison last year after [pleading guilty](#) to violating anti-money-laundering requirements. He said on a podcast for crypto enthusiasts that he had lawyers formally apply for a pardon.

Trump's Binance connections drew scrutiny when his family's crypto venture, World Liberty Financial, was part of a [\\$2 billion investment](#) into Binance made by a United Arab Emirates state-backed investor. The arrangement helped make World Liberty's dollar-pegged cryptocurrency among the largest in the world.

"The convergence of Mr. Zhao's pardon application and Binance's financial entanglements with the president's family presents urgent concerns regarding the integrity of our justice system," the senators wrote in their letter to Deputy Attorney General Todd Blanche and White House counsel David Warrington.

Warren is the top Democrat on the Senate Banking Committee and Durbin is the No. 2 Democrat in the chamber. Blumenthal is the top Democrat on a subcommittee focused on investigations.

The White House has said there are no conflicts of interest.

The context

Zhao's push for a pardon is one of several developments making watchdog groups claim that Trump is using the crypto industry to profit from being president. Also raising concerns is an upcoming [dinner for holders of his crypto meme coin](#)—a novelty token with no utility—and plans for a bitcoin miner backed by [his sons](#), Eric Trump and Donald Trump Jr., to go public.

When Binance executives met with Treasury Department officials in March, they discussed [loosening government oversight](#) on the company, the Journal reported. Sen. Chris Van Hollen (D., Md.), Warren, Blumenthal and two other Democrats asked for information on the government's oversight of Binance in a separate letter last week.

What's next

Industry executives are waiting to see if Zhao receives a pardon and whether the Trump family's ties with Binance deepen. They are also gauging if worries about

possible conflicts of interest will begin hurting the sector, which has been one of the biggest winners from Trump's second term.

Those [concerns](#) have been a factor holding up crypto legislation in Congress.

Write to Amrith Ramkumar at amrith.ramkumar@wsj.com

Corrections & Amplifications

Changpeng Zhao is the founder of Binance. An earlier version of this article incorrectly said he was CEO. (Corrected on May 15).

Videos

Tokenized Assets Are Redefining Audits and Compliance in New Ways

Stout's Fotis Konstantinidis say auditors should invest in training to adapt to a new audit and risk landscape—or risk falling behind.

Tokenized assets, including stablecoins and digital representations of real-world assets, are increasingly entering corporate balance sheets, posing new risks for audit and compliance professionals. Blockchain's promise of efficiency and transparency is complicated by its inherent pseudo-anonymity and decentralized infrastructure.

For firms and their auditors, two areas are emerging as particularly critical: preparing for audits of tokenized transactions, and understanding the rising impact of anti-money laundering, or AML, and sanctions failures on financial reporting.

What is at stake? Financial misstatements, enforcement penalties, reputational damage, and potential threats to the organization's viability. Auditors and their clients must adapt or risk falling behind.

Tokenized assets are increasingly held by public companies, funds, and financial institutions. As these assets move into mainstream portfolios and accounting systems, regulators and audit committees are demanding greater accountability. Yet traditional audit practices (designed for bank accounts and inventory ledgers) don't easily apply to blockchain systems.

Audit Readiness

Audit readiness is no longer about ticking boxes. It is about demonstrating that tokenized assets are real, owned by the entity, properly valued, and disclosed in accordance with evolving accounting standards. Yet many companies and audit teams may be unprepared for what this means in practice. Firms must rethink how they complete several key tasks.

Verifying existence and ownership. Unlike cash in a bank, tokenized assets are stored on-chain and may be controlled by cryptographic keys. Auditors must determine whether an entity truly controls those assets and assess the risk of loss or misappropriation.

Measuring value and volatility. Crypto markets are volatile, trade 24/7, and often lack traditional price discovery mechanisms. With new fair value requirements in place, firms must justify their valuation methods under heightened scrutiny.

Ensuring proper disclosure. Updated US generally accepted accounting principles guidance demands clear reporting on how these assets are safeguarded and measured. Disclosures must reflect the specific risks associated with custody, access, and market instability.

These tasks affect every step of the audit process, from planning to fieldwork to forming an opinion. Audit firms need to bring in specialized talent, adopt blockchain-native tools, and develop methodologies that go beyond checklists to assess environments in entirely new ways.

Companies holding these assets also must be ready to support these efforts with robust internal controls, documented policies, and transparent service-provider relationships. Waiting until the audit starts is already too late.

An Escalating Risk

Regulators around the world have sharpened their focus on illicit finance risks tied to digital assets. US agencies such as the Office of Foreign Assets Control and the Financial Crimes Enforcement Network, and global bodies such as the Financial Action Task Force, now expect crypto businesses to apply the same, if not stricter, standards as banks. Noncompliance poses several consequences.

Massive enforcement penalties. Recent crypto enforcement actions have exceeded \$4 billion in penalties.

Disclosure obligations. Companies must report known risks or ongoing investigations tied to compliance failures.

Going concern implications. Material violations can threaten a firm's ability to operate, particularly if access to financial markets is impaired.

Restatements and impairments. Assets tied to sanctioned wallets may become legally or practically worthless, requiring impairment charges and revised financials.

These risks directly impact the financial statements. Weak AML programs are no longer a "compliance-only" issue—they also are an audit issue, a valuation issue, and a legal risk that could undermine investor confidence. Auditors must evaluate how effectively a company is identifying, monitoring, and managing these exposures.

For companies, this means proactively upgrading compliance programs, monitoring blockchain activity with the right tools, and ensuring clear documentation of how risks are addressed. For audit teams, this requires integrating AML and sanctions risk into the audit approach—not as a separate checklist, but as part of how financial assertions are tested and evaluated.

Call to Action

Tokenization is a fundamental shift in how value is created, stored, and transferred rather than a niche experiment. But trust in this new system can't be assumed; it must be earned. To meet the moment, both audit firms and token-holding entities must act.

Auditors and legal advisers should invest in training and talent knowledgeable in areas including blockchain, various crypto asset types, cryptography, AML, sanctions, and accounting standards. They can also use specialized audit tools, including blockchain analytics software and cryptographic verification methods, to gather sufficient appropriate audit evidence.

It's also a good idea for auditors and legal advisers to redesign risk assessments, audit planning, and testing procedures to address the unique challenges of tokenized assets, such as pseudo-anonymity and reliance on off-chain data. They should recognize that AML/sanctions compliance program effectiveness is directly relevant to assessing the risk of material financial misstatement. Findings from compliance testing provide substantive evidence.

Companies holding tokenized assets should prioritize strong controls around private key generation, storage, and access. Also, they should establish secure transaction authorization workflows and perform regular reconciliation between internal records and blockchain data.

These companies should develop and rigorously maintain effective AML, Know Your Customer, and sanctions screening programs tailored to the specific risks of crypto assets. This includes using appropriate blockchain analytics tools.

Firms should thoroughly vet and continuously monitor custodians and other service providers, and ensure comprehensive records support asset existence, ownership claims, valuation methodologies, and compliance activities. It's important to be prepared for heightened auditor scrutiny.

Companies should work closely with auditors and legal counsel who possess demonstrable expertise in blockchain technology and cryptoasset risks before significant issues arise. The path forward for the tokenized economy depends on establishing trust.

This trust can only be built through rigorous assurance processes and a demonstrable commitment to compliance. Proactively addressing these invisible risks isn't just best practice; it is essential to sustainable growth and avoiding significant financial and legal repercussions.

This article does not necessarily reflect the opinion of The Bureau of National Affairs, Inc., the publisher of Bloomberg Law and Bloomberg Tax, or its owners.

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Integra Brass Face Investor Suit Over FDA Compliance Lapses

By **Sydney Price**

Law360 (May 14, 2025, 9:13 PM EDT) -- Executives and directors of medical device company Integra Lifesciences Inc. were hit with a derivative suit alleging they misled investors about the company's compliance with regulatory standards for over five years, causing share declines when information regarding Integra's violations emerged.

According to a Tuesday complaint by shareholder Edward Leverett, Integra's most lucrative products are its regenerative surgical tissue products, also known as "biologic mesh." Between 2019 and 2024, Integra and its executives falsely told investors its products and facilities complied with the U.S. Food and Drug Administration's current Good Manufacturing Practices when the company was actually systemically violating directives and failing to correct its shortcomings properly, according to the suit.

In addition to nominal defendant Integra, the suit's individual defendants include former CEOs Peter Arduini and Jan De Witte, former Chief Financial Officer Carrie Anderson and several current and former directors.

The suit alleges that just before the start of the relevant period, which begins on March 6, 2019, the FDA issued a warning letter to Integra outlining several violations it found at Integra's biologic mesh manufacturing facility in Boston.

But the individual defendants ignored internal and external requests for Integra to become compliant with FDA rules for years, the suit claims.

For example, in October 2022, an internal whistleblower informed Integra that its Boston facility violated several FDA regulations, according to the complaint.

"This whistleblower warned the company that thirty-seven lots of unfinished products awaiting distribution at the Boston facility were exposed to bacterial endotoxin contamination," the suit states. "However, Integra failed to properly investigate and address this purported violation."

In response to the whistleblower complaint, the FDA launched a 10-week investigation into the Boston facility and informed Integra of its compliance shortcomings, according to the suit.

In May 2023, Integra announced a voluntary recall of products manufactured in the Boston facility distributed between March 1, 2018, and May 22, 2023, according to the suit.

A couple of months later, the FDA sent Integra a warning letter concluding that although Integra recalled the products, the remediation efforts were "not adequate" and that self-regulation was no longer an option, the suit says.

However, Integra downplayed the severity of these findings for nearly another year, until Feb. 28, 2024, when it announced it was experiencing significant declines in its financial performance due to the forced shutdown and remediation at the Boston facility, and that then-CEO De Witte was soon leaving the company, the suit states.

On this news, Integra's shares fell \$5.60, or about 13%, to close at \$38.67 each on Feb. 28, 2024, according to the suit.

On May 6, 2024, Integra announced it had decreased its earnings per share guidance for 2024, and that the Boston facility shutdown would need a seven-month extension, bringing the total shutdown time to over 18 months, the suit states.

On this news, Integra's shares fell \$5.75, or approximately 20%, to close at \$23.14 each on May 6, 2024.

The truth "fully emerged" on July 29, 2024, when Integra announced compliance deficiencies and shipping holds at all of its facilities that necessitated a "compliance master plan," the suit says.

On this news, Integra's shares fell \$6.01, or approximately 19%, to close at \$25.42 each on July 29, 2024.

The suit accuses the defendants of violating the Exchange Act, breaching their fiduciary duties and wasting corporate assets. It also alleges that several individual defendants were unjustly enriched through insider sales.

The complaint also notes the defendants are facing a securities class action over related allegations of misconduct in New Jersey federal court.

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

Leverett is represented by Gina M. Serra, Seth D. Rigrodsky, Vincent A. Licata and Leah B. Wihtelin of Rigrodsky Law PA and Joshua H. Grabar of Grabar Law Office.

Counsel information for Integra and the individual defendants was not immediately available Wednesday.

The case is Leverett v. Anderson et al., case number 3:25-cv-04214, in the U.S. District Court for the District of New Jersey.

--Editing by Drashti Mehta.



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Sage Therapeutics Brass Sued Over Drug Candidate Claims

By **Katryna Perera**

Law360 (May 14, 2025, 9:00 PM EDT) -- The top brass of Sage Therapeutics Inc. have been hit with a shareholder derivative suit in New York federal court alleging they misled investors about the safety, efficacy, durability and commercial prospects of three of the company's drug candidates and overstated their likelihood to be approved by the U.S. Food and Drug Administration.

Sage shareholder Jurgen Matton filed a **complaint** on Tuesday against Sage CEO Barry Greene, Chief Financial Officer Kimi Iguchi, one of its founders Jim Doherty, and several other executives and board members.

According to the complaint, Sage develops therapies to treat neurological and psychiatric conditions, including major depressive disorder and postpartum depression.

The company's three primary drug candidates are zuranolone, SAGE-718 and SAGE-324, designed for treating MDD and PPD, Parkinson's and Alzheimer's disease, and essential tremor, respectively.

Matton alleges that from April 2021 through July 2024, the defendants caused Sage to issue false and misleading statements about the efficacy, safety, durability and commercial prospects of the drug candidates, concealed issues with the methodology employed in Sage's clinical trials and overstated the likelihood of the drugs receiving FDA approval.

The truth began to come to light in August 2023 when Sage announced that while the FDA had approved zuranolone for use in treating PDD, it had denied approval of the drug to treat MDD because it "lacked long-term efficacy and had significant safety concerns."

"In the 2Q23 press release and during the 2Q23 earnings call, the individual defendants provided further context surrounding the FDA's denial of approval of zuranolone for use in the treatment of MDD, revealing that the company's [new drug application] for MDD likely lacked sufficient evidence to demonstrate durability," the complaint states.

Matton says that on this news, the price of Sage stock dropped by more than 53% over three days, from \$36.10 per share on Aug. 4, 2023, to \$16.75 per share on Aug. 7, 2023.

Sage subsequently announced that it would undergo a "strategic reorganization," which included a 40% reduction in the company's workforce, the complaint states.

The truth continued to reveal itself over the next year, Matton says. In April 2024, Sage disclosed that the study results of SAGE-718 revealed that the drug was "no more effective than a placebo over the relevant period studied," and the company announced that it would no longer develop SAGE-718 for use in the treatment of Parkinson's disease.

On this news, the complaint states that Sage stock declined 19.58%, from \$15.63 per share on April 16, 2024, to \$12.57 per share on April 17, 2024.

A few months later, in July 2024, Sage revealed the results from its "Phase 2 KINETIC 2" study of SAGE-324, and disclosed that similarly to SAGE-718, the drug was "no more effective than a placebo over the relevant period studied," and that it was closing the open label study of SAGE-324 in essential tremor.

Matton says that on this news, the price of Sage stock declined 20.64%, from \$13.08 per share on July 23, 2024, to \$10.38 per share on July 24, 2024. On Wednesday, Sage's stock was priced around \$6.38.

The complaint further states that in September 2024, Sage announced the termination of its collaboration with Biogen on the development of SAGE-324, and the following month, it announced another "strategic reorganization," whereby it would be terminating 33% of its total workforce, including 55% of the research and development teams. The reorganization also involved the departure of five senior executives, including defendant Kimi Iguchi, according to the complaint.

The suit seeks damages, attorney fees, reforms and improvements to Sage's corporate governance and internal procedures, and a jury trial.

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

Matton is represented by Phillip Kim of The Rosen Law Firm PA.

Counsel information for the defendants was not immediately available.

The case is Matton v. Greene et al., case number 1:25-cv-04017, in the U.S. District Court for the Southern District of New York.

--Editing by Emily Kokoll.

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Actinium Faces Derivative Suit Over FDA Application Claims

By **Emilie Ruscoe**

Law360 (May 14, 2025, 11:24 PM EDT) -- Officers and directors of biopharmaceutical company Actinium Pharmaceuticals Inc. face a shareholder derivative action accusing them of breaching their fiduciary duties after the company's lead product candidate failed to secure a certain approval from the U.S. Food and Drug Administration.

In her complaint Tuesday in Manhattan federal court, Actinium investor Bianca Robinson claimed that the late-stage biopharma company didn't adequately disclose certain material details about its dealings with the FDA as it sought acceptance and approval for its biologics license application for its product candidate Iomab-B.

Instead, Actinium's leadership "repeatedly touted to investors and the public" that its drug trial, known as SIERRA, "was producing promising results that would ultimately lead to FDA approval," Robinson's complaint said. "However, in reality, ... due to inherent issues with the SIERRA Trial's control group, it was highly unlikely that the FDA would review or accept a BLA for Iomab-B."

The company's leadership breached its fiduciary duty to investors from October 2022 to last August, Robinson's suit said, when Actinium revealed the FDA would require further trials to approve its BLA. This sent the company's shares tumbling 60%, the complaint said.

Actinium is a developer of radiation therapies for treating patients with advanced cancers, including patients who have relapsed after remission or haven't been responding to other treatments, the complaint said. Named as defendants in Robinson's suit are Actinium CEO Sandesh Seth, Chief Financial Officer Steve O'Loughlin, Chief Medical Officer Avinash Desai, and other officers and directors.

During the relevant time frame, Robinson claimed, Actinium's clinical programs were focused on two primary areas, one of which was the use of Iomab-B for targeted conditioning ahead of certain other cancer treatments including bone marrow transplants, adoptive cell therapy or gene therapy.

According to Robinson, starting in 2016 Actinium was evaluating Iomab-B in a Phase 3 study of elderly relapsed or refractory patients, for whom other therapies hadn't worked. The trial reached its primary completion date around mid-2022, the investor said.

Robinson claimed that the company's brass breached their fiduciary duties between October 2022, when the company announced what it described as "positive top-line results" of the study, and August 2024, when the company told investors that the trial's existing analyses didn't support its FDA biologics license application for Iomab-B and the regulator required an additional clinical study of the treatment.

Specifically, the investor alleged, the defendants were responsible for the fact that the company had failed to disclose to investors that data from its existing trial "was unlikely to satisfy FDA requirements for acceptance and approval of the BLA for Iomab-B."

"As a result, the FDA was likely to refuse to review the BLA for Iomab-B, or, if it did review it, the FDA was unlikely to approve the BLA," Robinson claimed.

Robinson also referenced a 60% decline in trading prices for Actinium shares that came on the heels

of the company's announcement to investors that the FDA wanted an additional study of the product candidate.

Market records show that on the relevant date in August 2024, prices for Actinium shares slid from roughly \$6.20 a share to under \$2.50 a share, a decline of nearly \$3.70.

That trading price decline is at the heart of a proposed investor class action the company faces in the same district. That suit alleges trading prices for Actinium shares were artificially inflated prior to the news that the company's FDA application wasn't sailing forward.

Robinson claimed in connection with their breaches of their fiduciary duty, the defendants named in her derivative action were liable for "exposing the company to massive class-wide liability and costs related to defending itself in the securities class action."

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

Robinson is represented by Timothy J. MacFall, Vincent A. Licata and Leah B. Wihtelin of Rigrodsky Law PA.

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

The case is Robinson v. Seth et al., case number 1:25-cv-04012, in the U.S. District Court for the Southern District of New York.

--Editing by Emily Kokoll.

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Judge Orders Boeing To Share Disclosures, Allow Depositions

By **Tom Lotshaw**

Law360 (May 14, 2025, 4:59 PM EDT) -- A Virginia federal judge has said Boeing must share disclosures about its "false-stamping" of aircraft testing with three state pension systems that accuse the company and its executives of putting profits over safety, and that some board members must sit for depositions.

U.S. Magistrate Judge Lindsey Robinson Vaala on Tuesday partially granted a motion to compel the Oklahoma Firefighters Pension and Retirement System, Ohio Public Employees Retirement System and State Teachers Retirement System of Ohio filed last week.

The judge directed Boeing to turn over notifications about false-stamping the company sent to the Federal Aviation Administration and the U.S. Department of Justice in April 2024. The judge also said the pension systems can depose Lawrence W. Kellner, a former Boeing board member, and current board members Stayce D. Harris, Akhil Johri, David L. Joyce and Steven M. Mollenkopf.

"It is further ordered that plaintiffs' motion is otherwise denied," Judge Vaala said.

In their motion, the pension systems allege Boeing and the individual executives involved in their derivative litigation refused to turn over relevant documents and make people available for depositions.

The pension systems sought the documents Judge Vaala ordered Boeing to share, but others as well, including the company's investigative file about the false-stamping and documents about its termination and discipline of employees involved in the practice.

The pension systems also asked the court to order the depositions of Boeing board members John M. Richardson and David L. Gitlin, both of whom, like Harris and Joyce, are members of the board's aerospace safety committee.

Court records show the parties had already agreed Joyce, Kellner and Mollenkopf would be made available for depositions.

Boeing and the individual defendants in the litigation opposed the pension systems' motion to compel, telling the court it was based on a false assertion that they had unreasonably stonewalled production and deposition requests.

"Plaintiffs have already received hundreds of thousands of documents, attended 13 depositions, and examined eight witnesses, including David Calhoun, Boeing's former CEO and director, among other very senior Boeing executives," they said in a May 8 court filing.

They also asserted that the pension systems were trying to flesh out claims that Boeing's directors had failed to oversee the company, even though such claims had already been dismissed, although they remain at play in separate litigation in the **Delaware Court of Chancery**.

The individual defendants have further asked the court to **put the pension systems' derivative litigation on hold** as the Fourth Circuit **reviews the certification of a securities class action**, where investors **accuse Boeing and its leaders of making false statements** about the safety of its 737 Max fleet.

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

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 Drashti Mehta.

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Abbott Signs Bill Codifying Immunity For Corporate Execs

By **Catherine Marfin**

Law360 (May 14, 2025, 7:29 PM EDT) -- Texas Gov. Greg Abbott on Wednesday signed into law a corporate reform bill that codifies the "business judgment rule," which provides immunity for corporate directors from personal liability for company decisions.

Senate Bill 29, authored by Sen. Bryan Hughes, R-Minelo, contains several reforms that Abbott said will keep Texas "the #1 state for doing business."

"It empowers business leaders — not courts — to make decisions in the best financial interest of the company & shareholders," Abbott wrote Wednesday on the X social media platform. "It limits renegade shareholders of just a few shares from hijacking business operations."

The codification of the business judgment rule creates a new section of the Texas Business Organizations Code stating that a director or officer is presumed to have acted "in good faith; on an informed basis; in furtherance of the interests of the corporation; and in obedience to the law and the corporation's governing documents."

The bill states that the corporation and its shareholders don't have a claim against the director or officer of the entity unless the presumptions can be rebutted, and it's proven that the director or officer's alleged breach of duty involved fraud or intentional misconduct.

The presumption of good faith also extends to limited liability companies that have a class or series of voting membership interests on a national securities exchange, as well as limited partnerships.

The bill's provisions also include expanding the definition of the national stock exchange to include stock exchanges that have their principal offices in Texas and have received approval by the state's securities commissioner.

The definition of a shareholder is also expanded to include two or more shareholders who act "in concert under an informal or formal agreement or understanding with respect to a derivative proceeding."

S.B. 29 also allows the governing documents of state businesses to select one or more courts to have exclusive jurisdiction over "internal entity claims" and to stipulate the waiver of a jury trial.

The bill additionally provides corporations with more protection from derivative shareholder claims and limits on requests for shareholder books and records.

Because it was signed by Abbott on Wednesday, S.B. 29 is effective immediately.

--Editing by Amy French.

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Audit Firms Agree To \$46M Deal Over Alleged GPB Fraud Ties

By **Sydney Price**

Law360 (May 14, 2025, 9:55 PM EDT) -- Several auditors of GPB Capital have agreed to pay \$46 million to settle claims about their alleged role in the \$1.8 billion GPB Capital-Ascendant Capital fraud scheme, which allegedly victimized approximately 15,000 investors.

In their motion for preliminary approval, the parties said the settlement will end claims against the auditors in two actions related to the alleged Ponzi scheme. The defendants settling on Tuesday — including CohnReznick LLP, Crowe LLP, Margolin Winer & Evens LLP, RSM US LLP and WithumSmith+Brown PC — allegedly provided auditing services to the GPB funds that held investor money, the motion states.

The auditor defendants were accused of negligently preparing false and misleading audits, as well as approving and distributing false and misleading financial statements for the funds.

The \$46 million settlement is an "excellent outcome" given the risks to recovery and significant costs associated with additional litigation, the plaintiffs said, according to the motion.

"While plaintiffs believe their auditor claims are meritorious, settling defendants raised various defenses and affirmative defenses that create the potential risk of no recovery," the motion states.

The settlement class is expected to have approximately 15,000 members and includes those who acquired limited partnership units in any of the GPB funds between Jan. 1, 2013, and Dec. 31, 2018, the settlement notice states.

Class counsel will request up to 30% of the settlement fund, or about \$13.8 million, in fees in addition to costs incurred during litigation.

The 20 proposed settlement class representatives will also request up to \$10,000 each, the notice states.

The settling investors include those in a consolidated class action in Texas referred to as the "Kinnie Ma action," as well as members of a putative class action pending in the Southern District of New York referred to as the "Deluca action."

The litigation alleged that GPB and its affiliate Ascendant Capital leveraged an aggressive sales team to market the companies' securities to investors, promising prospective shareholders returns on their investments as high as 8%, and then used funds paid by new customers to make "interest payments" to their older investors.

According to the investors, the GPB funds are limited partnerships that invested in various industries, including automobile dealerships, waste management companies and real estate.

GPB Capital and the GPB funds received regulatory scrutiny from both state and federal regulators and stopped selling units in late 2018, the settlement states.

GPB Capital and nine of its funds claimed in dismissal bids in 2020 that the purchasers of limited partnership interests in the GPB funds signed subscription agreements containing a mandatory forum selection clause specifying that any claims had to be filed in New York.

In February 2021, the U.S. Department of Justice criminally indicted GPB Capital CEO David Gentile and Ascendant Capital CEO Jeffry Schneider, according to Tuesday's settlement. In August 2024, a jury found **both men guilty** on all charges.

A litigation stay previously entered in the case expired on May 9 with the sentencing of Gentile and Schneider, who are also defendants in the investors' litigation.

The plaintiffs have not yet reached settlements with Ascendant or GPB, according to the docket.

The DeLuca plaintiffs are represented by Daniel L. Berger of Grant & Eisenhofer PA and Catherine Pratsinakos of Dilworth Paxson LLP.

The Kinnie Ma plaintiffs are represented by Timothy S. DeJong, Steven D. Larson, Cody Berne and Elizabeth B. Kinsman of Stoll Stoll Berne Lokting & Shlachter PC.

The auditor defendants are represented by Hogan Lovells, Latham & Watkins LLP, Troutman Pepper Locke LLP, Williams & Connolly LLP and Wilson Elser Moskowitz Edelman & Dicker LLP.

The cases are Kinnie Ma Individual Retirement Account et al. v. Ascendant Capital LLC et al., case number 1:19-cv-01050, in the U.S. District Court for the Western District of Texas; and DeLuca et al. v. GPB Holdings LP et al., case number 1:19-cv-10498, in the U.S. District Court for the Southern District of New York.

--Editing by Bruce Goldman.

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Smartmatic Says Fox News Deleted 'Incriminating' Texts

By **Hailey Konnath**

Law360 (May 14, 2025, 11:36 PM EDT) -- Fox News and its executives — including Rupert Murdoch and his son, Lachlan — deleted "critical" and "incriminating" text messages related to the network's allegedly defamatory broadcasts about Smartmatic during the 2020 election, the voting tech company said Wednesday.

Smartmatic made the accusations in a **motion** for adverse inference charges based on spoliation, filed in its \$2.7 billion defamation case against Fox News in New York state court. According to the heavily redacted document, Fox Corp. and Fox News Networks LLC "orchestrated the destruction of text messages across all levels of their corporate hierarchy." That included members of the company's executive leadership team, like owner Rupert Murdoch, CEO Lachlan Murdoch and former chief legal and policy officer Viet Dinh, Smartmatic said.

"The spoliation occurred despite a clear duty to preserve evidence," Smartmatic said. "The destruction was not isolated or accidental. It was extensive and willful."

Smartmatic asked for a pretrial order "directing that the jury be charged with an adverse inference instruction."

"The court should find that its prerequisites are satisfied and restore the fairness that Fox's spoliation has compromised," it said. "This ruling not only impacts how the jury will be charged in this case, but also how the court rules on summary judgment. Fox cannot exploit at summary judgment an evidentiary void that it intentionally created."

Smartmatic's motion comes just a day after a New York state appeals court ordered it to **give Fox News documents** related to a federal investigation into allegations that the company's executives bribed officials in the Philippines, ruling the materials are "plainly relevant" to the network's defense against defamation claims.

Smartmatic has claimed that Fox reported baseless statements that the company was involved in a scheme to rig the 2020 presidential election for former President Joe Biden, and that the reports caused a significant hit to its business.

Last month, both parties lodged **dueling summary judgment bids**, with Smartmatic accusing Fox of a malicious "betrayal of the truth" while the network argued there was no evidence its election fraud claims caused Smartmatic's "business failure."

Smartmatic said Wednesday that Fox deleted the "incriminating" texts between November 2020 and December 2020, "when Fox knowingly broadcast false claims about Smartmatic."

"Fox's text message destruction has created an evidentiary void at the heart of this case," it said. "Fox has eliminated contemporaneous texts that would have revealed further evidence of what Fox executives knew about the falsity of their broadcasts and why Fox continued airing them anyway."

The purported evidence destruction means Smartmatic is limited in its ability to counter Fox when it "cherry-picks favorable evidence from these same executives' remaining communications," Smartmatic said. On top of that, it said it has been deprived of evidence to impeach Fox's witnesses who now "conveniently lack memory about key events."

"Fox manufactured a defense for itself, as its summary judgment motion discusses at length what evidence Smartmatic can no longer present to support its claims," Smartmatic said. "The 'fair and balanced' network ensured that the record in this case would be neither."

However, according to Fox, the deleted-texts issue was resolved two years ago. A spokesperson said in a statement Wednesday that Smartmatic "is desperately attempting to distract from the court's ruling for Fox and re-opening discovery into the federal indictment of key Smartmatic executives for bribery."

"Fox actually voluntarily disclosed the materials involved and this was resolved two years ago," the spokesperson said. "Fox will shortly file a motion outlining Smartmatic's intentional failure to preserve evidence, including direct written instructions by Smartmatic's CEO to delete relevant text messages on the eve of filing this lawsuit."

Meanwhile, Smartmatic said in its own statement Wednesday that Fox "lied to viewers and then attempted to cover up its lies by willfully destroying evidence."

"Fox's intentional actions compromised the fairness and integrity of the ongoing legal proceedings," the company said. "Smartmatic is seeking to hold Fox accountable for destroying evidence that we believe will support our defamation claims. New York courts have consistently affirmed that no party should benefit from its own wrongdoing, and Smartmatic is confident the court will act accordingly."

In late April, both Smartmatic and Fox filed redacted summary judgment motions that left about 5% of the allotted 46,000 words available for public viewing, citing a confidentiality agreement.

Fox slammed Smartmatic's claims as a "meritless cash grab" that justifies tossing the case, arguing that the financially struggling company failed to prove any damages resulting from Fox's reporting on election fraud claims.

Smartmatic agreed that it had taken a hit in recent years, but said in its own motion that Fox was to blame, focusing on how the newscaster had "deliberately deceived its audience with utter contempt."

"Throughout Fox, from top to bottom, directors, executives, producers and hosts knew with absolute certainty that Smartmatic voting machines were not used to rig the 2020 election, ridiculed the notion of widespread election fraud, and considered those suggesting the 2020 election would be reversed to be 'crazy' and 'nuts,'" Smartmatic said at the time.

On Tuesday, the First Judicial Department reversed a lower court's order blocking Fox from obtaining documents about the effects of the U.S. Department of Justice's investigation on Smartmatic's business, as well as internal communications about the investigation and comments from customers about it.

The panel said an "integral part" of Fox's defense is that Smartmatic's money problems stemmed from other sources, including accusations that three company executives bribed a Philippines election official to secure contracts for that country's 2016 election cycle. Those charges are pending in Florida federal court.

Smartmatic is represented by J. Erik Connolly, Nicole E. Wrigley, Lee B. Muench and Edward C. Wipper of Benesch Friedlander Coplan & Aronoff LLP.

Fox News, hosts Maria Bartiromo and Jeanine Pirro and former host Lou Dobbs are represented by Kirkland & Ellis LLP, Steven G. Mintz and Scott Klein of Mintz & Gold LLP, and Paul D. Clement and Erin E. Murphy of Clement & Murphy LLP.

The case is Smartmatic USA Corp. et al. v. Fox Corp. et al., case number 151136/2021, in the Supreme Court of the State of New York, County of New York.

--Additional reporting by Frank G. Runyeon and Elliot Weld. Editing by Adam LoBelia.



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Chicken Price-Fixing Atty Fees Challenged Again At 7th Circ.

By Celeste Bott

Law360 (May 14, 2025, 9:35 PM EDT) -- A class objector in Chicago's massive consolidated suit over broiler chicken price-fixing is again urging the Seventh Circuit to vacate an attorney fee award for class counsel in a \$181 million deal for chicken buyers, saying the district court erred in calculating the \$51.66 million awarded on remand.

Objector John Andren has already **successfully petitioned** the appellate court to vacate an earlier \$57 million award, but returned to the Seventh Circuit on Wednesday to argue that the lower court has again failed to understand the "market-mimicking" approach the Seventh Circuit requires, where courts must try to award a fee replicating what might have been negotiated at the outset of litigation.

When the Seventh Circuit scrapped the initial fee award in May 2023, it instructed the district court to prioritize "ex ante" market evidence, or fees negotiated at the start of a case, but instead largely focused on "ex post" evidence of fees awarded at the end of litigation in determining class counsel here was owed 30% of the settlement amount, said Ted Frank of the Hamilton Lincoln Law Institute and the Center for Class Action Fairness, arguing for Andren.

"None of the ex ante evidence supported a rate that high. Every preexisting bid was much lower. Every preexisting fee agreement was lower. But the district court used what other district courts awarded to say, 'This is what the market rate would be.' And that's backwards," Frank argued.

Chief Judge Diane Sykes said she was struggling to figure out what rule statement the court could issue in this case that could be applied in other cases, adding that the court would need to find something concrete "that constitutes a legal error of some sort or some discretionary judgment that is beyond the pale." She also asked Frank why the district court's decision to give less weight to the ex ante bids because they were in cases where the government had performed most of the investigative work was unreasonable.

Frank said the lower court applied that standard "inconsistently." He also argued that class counsel's past fee bids made it clear they'd been willing to accept fee awards amounting to 20% or lower in other cases, and they frequently did work in Ninth Circuit district courts, which employ a 25% "benchmark" for presumptively reasonable attorney fees.

"If you're going to reconstruct the marketplace, you can't say the market rate is 30%, because why would a class counsel who has a market rate of 30% regularly subject themselves to an expectation of below 25%?" he said. "We see class counsel over and over and over again going into the Ninth Circuit voluntarily, and we have the district court acknowledging ... that it can do so profitably."

Steve Berman of Hagens Berman Sobol Shapiro LLP countered that the district court did exactly what the Seventh Circuit had asked it to do: give due consideration to class counsel's prior bids and awards from the Ninth Circuit, two categories of evidence that it had not meaningfully weighed the first time around.

"It then exercised its discretion to set a fee of 30%. Now at this stage, unlike the prior appeal, the appellant doesn't say the court failed to consider evidence, he's just quarreling with the determinations that were made," Berman said.

But U.S. Circuit Judges Michael Brennan and Doris Pryor pushed him to address the objector's

contention that the district court cherry-picked citations of 33% fee awards in a declaration by a plaintiffs expert that were ultimately included in a spreadsheet of class counsel's antitrust fee awards that it used to make its determination.

Berman said the cases cited in that declaration are in the public record and in materials submitted by class counsel, and noted the court also relied on other studies and data that pointed to a 30% fee award. And contrary to Andren's arguments that the district judge diluted ex ante evidence, he actually gave it much greater weight than any other evidence, he said.

"He took your direction to heart," Berman said.

As for the objector's contention that the district court's spreadsheet didn't take into account the stages the included cases were in at the time of settlement, Berman noted that in this case, they were at a very advanced stage by the time the deal was struck.

"We'd spent 67,000 litigating the case. The judge found that our conduct was exemplary," he said. "My hair turned grayer than it had been when this case started. It did not settle early."

Private plaintiffs began suing the nation's largest broiler-chicken producers in September 2016, claiming they coordinated and limited chicken production to raise prices and exchanged detailed information about capacity, sales volume and other data through statistical research compiler Agri Stats Inc.

The settlements at issue in this appeal were reached with Tyson for \$99 million, Pilgrim's for \$75.5 million, Peco for \$1.9 million, George's for \$1.9 million, Fieldale for \$1.7 million and Mar-Jac for \$1 million. The agreements were awarded final approval by a district judge in December 2021.

U.S. Circuit Judges Diane Sykes, Michael Brennan and Doris Pryor sat on the panel for the Seventh Circuit on Wednesday.

Andren is represented by Theodore Frank, Michael Bednarz and Anna St. John of the Hamilton Lincoln Law Institute.

The consumers are represented by Steve Berman of Hagens Berman Sobol Shapiro LLP and Benjamin Brown and Brent Johnson Cohen Milstein Sellers & Toll PLLC.

The case is Andren et al. v. End User Consumer Plaintiff Class et al., case number 24-238, in the U.S. Court of Appeals for the Seventh Circuit.

--Editing by Kelly Duncan.



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Poultry Workers Seek \$138M Atty Fees In Wage-Fixing Case

By **Craig Clough**

Law360 (May 14, 2025, 5:30 PM EDT) -- Workers who reached settlements totaling nearly \$400 million over claims that major poultry companies conspired to keep wages low at their plants have urged a Maryland federal court to approve around \$138 million in attorney fees and costs, arguing the deal represents the "largest recovery" of its kind for low-wage workers.

In a **memorandum** from Tuesday, the workers argued for an award of 33.33% of the recovery, along with roughly \$5 million in costs that were incurred during the litigation, saying the percentage is common in the Fourth Circuit while also being a just and fair total after lodging almost 92,000 billable hours over 6½ years.

"Without the initiative, skill, experience and hard work of plaintiffs' counsel, this case would never have been filed, let alone succeed," the workers said in the memorandum. "No government enforcer was investigating these claims. No other firms were. The conspiracy was carefully hidden from the workers".

"Only plaintiffs' counsel's dogged nine-month investigation revealed the poultry industry's conspiracy to suppress compensation," they continued. "Counsel contacted 156 witnesses and interviewed 63 of them, reviewed thousands of documents, and consulted with labor and agricultural economists. These efforts alone brought defendants' misconduct to light and enabled this outstanding recovery."

The 20 companies and the workers **reached the deals** and received preliminary approval of the settlements from the court over the last few years. The companies include Allen Harim Foods LLC, Amick Farms LLC, Butterball LLC, Fieldale Farms Corp., Foster Poultry Farms, Jennie-O Turkey Store Inc., Koch Foods Inc., O.K. Foods Inc., Tyson Foods Inc. and Keystone Foods LLC.

The companies agreed to pay different amounts; most recently Allen Harim paid \$5 million, Amick Farms paid \$6.25 million, Butterball paid \$8.5 million, Fieldale Farms paid \$5.5 million, Foster Poultry Farms paid \$13.3 million, Jennie-O paid \$3.5 million, Koch paid \$18.5 million, O.K. Foods paid \$4.75 million, and Tyson and Keystone paid \$115.5 million.

All combined, the workers' recovery is set at approximately \$398 million, which is "the second-largest recovery ever achieved in a wage-fixing class action in the United States, and the largest financial recovery ever obtained in an antitrust class action in the Fourth Circuit," the workers said Tuesday. "Most importantly, it will make a meaningful financial difference in the lives of hundreds of thousands of deserving low-wage workers."

The dispute began in 2019, when the workers claimed the companies operated as an anticompetitive clique. They said the executives held secret meetings to trade information about how much they paid workers and the benefits they offered them in order to set industry-wide benchmarks, violating the Sherman Act, a federal law that promotes economic fairness.

Aside from the \$133 million in attorney fees, the workers are also seeking reimbursement of expenses of \$5.3 million and service awards of \$30,000 to each class representative.

The co-lead firms of Cohen Milstein Sellers & Toll PLLC, Hagens Berman Sobol Shapiro LLP and Handley Farah & Anderson PLLC "specialize in prosecuting antitrust class actions against large corporations, and their lawyers have served as lead counsel in dozens of successful antitrust cases,

including those alleging the suppression of compensation," the workers said.

They also argued that the vast majority of fee awards in antitrust class actions in the Fourth Circuit have consisted of one-third of the settlement fund.

"Such a sum would not be a windfall here," the workers said.

"This is precisely the kind of case that plaintiffs' lawyers should be incentivized to pursue: an antitrust class action that alleges a multi-year conspiracy to depress the wages of some of the most vulnerable workers in the country; was uncovered solely due to plaintiffs' counsel's persistent investigation; required six years of hard-fought litigation against multinational corporations represented by leading defense firms; and resulted in record-breaking settlements for hundreds of thousands of injured workers," they said.

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

Allen Harim is represented by Gordon Rees Scully Mansukhani LLP.

Amick Farms is represented by Dykema Gossett PLLC.

Butterball is represented by Womble Bond Dickinson.

Fieldale Farms is represented by Alston & Bird LLP, and The Block Firm LLC.

Foster Poultry Farms is represented by Mayer Brown LLP.

Jennie-O is represented by Faegre Drinker Biddle & Reath LLP.

O.K. Foods is represented by Kutak Rock LLP.

Webber Meng Sahl & Co. Inc. is represented by Rosenberg Martin Greenberg LLP.

Tyson and Keystone are represented by Simpson Thacher & Bartlett LLP.

Koch is represented by Baker Donelson Bearman Caldwell & Berkowitz PC.

Case Foods is represented by Miller Shakman Levine & Feldman LLP.

Mountaire is represented by Ballard Spahr LLP, and Rose Law Firm.

Cargill is represented by Jones Day, and Greene Espel PLLP.

Sanderson is represented by Kirkland & Ellis LLP, and Miles & Stockbridge PC.

Perdue is represented by Venable LLP.

Agri Stats Inc. is represented by Hogan Lovells.

Pilgrim's Pride is represented by Whiteford Taylor & Preston LLP, and Weil Gotshal & Manges LLP.

Wayne Farms LLC is represented by Proskauer Rose LLP.

Peco Foods Inc. is represented by Skadden Arps Slate Meagher & Flom LLP, and Saul Ewing LLP.

Simmons Foods Inc. is represented by Shook Hardy & Bacon LLP, and Conner & Winters LLP.

George's Foods Inc. is represented by Stinson LLP.

The workers are represented by Cohen Milstein Sellers & Toll PLLC, Hagens Berman Sobol Shapiro LLP, Handley Farah & Anderson PLLC, Lockridge Grindal Nauen PLLP, and Berger Montague.

The case is Jien et al. v. Perdue Farms Inc. et al., case number 1:19-cv-02521, in the U.S. District Court for the District of Maryland.

--Additional reporting by Irene Spezzamonte. Editing by Adam LoBelia.

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Costco Fails To Wipe Away Kirkland Baby Wipes PFAS Suit

By **Rae Ann Varona**

Law360 (May 14, 2025, 10:40 PM EDT) -- A California federal judge Wednesday denied a bid by Costco Wholesale Corp. to toss a mother's putative class action accusing the warehouse club of falsely advertising Kirkland brand baby wipes as being natural despite allegedly having toxic levels of so-called forever chemicals, saying the mother sufficiently alleged three types of chemicals and their quantities.

Chief U.S. District Judge Richard Seeborg rejected Costco's contention that Larisa Bullard — having had an original complaint tossed — still failed to present sufficient facts to back a plausible claim that the baby wipes contained per- and polyfluoroalkyl substances, or PFAS, "of a type and in quantities" to cause harm.

"As Bullard has now identified the specific PFAS she contends her testing found in the product, the remaining questions as to the degree of risk, if any, posed by those chemicals in those quantities are not subject to resolution at the pleading stage," Judge Seeborg wrote in an order.

Costco's motion "will be denied," he said.

Bullard, a resident of San Ramon, California, is seeking to represent both a nationwide class and a California subclass of persons who purchased the baby wipes during a relevant statute of limitations period.

She asserts violations of California's Consumers Legal Remedies Act, the state's Unfair Competition Law, its False Advertising Law, breach of express warranty and unjust enrichment.

Bullard first filed suit in **June 2024**, claiming that fragrance-free Kirkland Signature Baby Wipes weren't actually "natural" as marketed but were rather made with toxic levels of PFAS, also known as "forever chemicals" because of their persistence in the human body and environment.

Bullard filed another complaint in late February after the district court **tossed** her original complaint with leave to amend. Judge Seeborg had ruled in February that while Bullard's allegations were sufficient to support standing, she hadn't offered a sufficient factual basis that would, if presented at trial, support a conclusion that the Kirkland baby wipes include PFAS of a certain type and in quantities to cause the alleged harms.

Bullard alleged in her latest complaint that she had purchased the Kirkland brand baby wipes "multiple times" since January 2022 and did so thinking they were safe for use on babies and toddlers, like her children.

She said that the wipes' packaging prominently featured an "image of a happy baby" that stated that the product was "made with naturally derived ingredients."

Had she known the wipes "contained — or risked containing — dangerous levels of toxic" chemicals, Bullard said she wouldn't have bought the wipes or would have bought them under "substantially different terms."

Bullard asserted that independent research utilizing a U.S. Department of Defense Environmental Laboratory Accreditation Program-certified laboratory revealed that the wipes contained "3.6 parts

per billion of perfluoropropionic acid, 0.15 parts per billion of PMPA, and 0.040 parts per billion of R-EVE."

Those chemicals, Bullard said in her complaint, "are known to be harmful, toxic PFAS chemicals" and "to have adverse health effects."

Costco moved to dismiss Bullard's amended complaint in March, arguing that she still failed to allege any factual basis to connect "random PFAS substances to a type or amount of individual PFAS that cause harm."

Judge Seeborg, on Wednesday, referred to his previous dismissal order, in which he said "PFAS" is "not a magic word that can be invoked to open automatically the doors to federal litigation."

"That remains true," he said.

"Now, however, Bullard has alleged the three specific PFAS chemicals she contends were found in the product, and in what quantities," Judge Seeborg wrote.

Judge Seeborg said that Costco was likely correct that citations in Bullard's amended complaint to conclusions of an unnamed "expert" aren't facts. He said Costco also demonstrated that at least some of Bullard's assertions aren't backed by sources she leaned on.

"Nevertheless, the viability of Bullard's claims does not turn on her ability to prove the identified PFAS in the product are actually unsafe, even though the issue in this motion is not standing, per se," he said. "Having now named the chemicals, Bullard has stated sufficient facts to support a plausible claim of economic injury."

Bullard's lawsuit also targets Nice-Pak Products Inc., the company that manufactures Costco's Kirkland label.

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

Bullard is represented by L. Timothy Fisher, Joshua R. Wilner and Joshua B. Glatt of Bursor & Fisher PA.

Costco and Nice-Pak are represented by E. Alex Beroukhim of Arnold & Porter Kaye Scholer LLP.

The case is Larisa Bullard v. Costco Wholesale Corp. et al., case number 3:24-cv-03714, in the U.S. District Court for the Northern District of California.

--Additional reporting by Jonathan Capriel and Emily Field. Editing by Jay Jackson Jr.



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Keurig Settles For \$950K Over Coffee Maker Defect

By **Mike Curley**

Law360 (May 14, 2025, 5:54 PM EDT) -- Keurig Green Mountain Inc. has agreed to pay \$950,000 and extend the warranty on its coffee makers to resolve a suit alleging they were sold with a defect that rendered them unusable after descaling.

According to an **amended settlement agreement** filed Wednesday, Keurig will put the \$950,000 into a nonreversionary account to pay up to \$250 to each class member who submits a claim that their coffee maker suffered performance issues and that they were not provided a remedy through Keurig's limited warranty.

In addition, the company will extend by one year warranties for class members who purchased a coffee maker, experienced the defect and did not receive a remedy under the limited warranty.

If any funds are left after payouts and other settlement costs, the remainder will go to a cy pres, or "as near as possible," recipient, according to the agreement, which says that recipient will be chosen by class counsel and Keurig.

Class counsel will also request fees of up to one-third of the settlement fund, while the two class representatives will ask for incentive awards of \$5,000 each.

The settlement was first proposed in March with a motion for preliminary approval, and the court asked the parties to submit an amended settlement agreement following a hearing on that motion last week.

The amendments include an extension of the claim deadline for those who experienced the defect after the effective date of the settlement, allowing them to file a claim by Sept. 30, 2027.

In the suit, first filed in **September 2022**, Doreen Cahill and Janet Christman allege that they purchased Keurig coffee makers that had a defect causing them to break after descaling according to the company's instructions.

According to the complaint, the descaling issue happens because the coffee makers allow the water reservoir to empty completely without stopping to alert the user to add water, causing the coffee makers to overheat and trip an internal thermal switch within them, which is inaccessible except by taking the machine apart.

Cahill and Christman fought a motion to dismiss **in May 2023**, pushing back against the company's argument that they were following the wrong set of instructions. Bed Bath & Beyond had also initially been named as a defendant, before it was dismissed in June 2023.

Representatives for the parties could not immediately be reached for comment Wednesday.

The proposed class is represented by Philip L. Fraietta of Bursor & Fisher PA.

Keurig is represented by Louis M. Solomon and Nancy Savitt of Reed Smith LLP.

The case is Cahill v. Keurig Green Mountain Inc. et al., case number 7:22-cv-07507, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Collin Krabbe. Editing by Andrew Cohen.



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Objectors Give Thumbs-Down To Latest Fix In NIL Settlement

By **David Steele**

Law360 (May 14, 2025, 5:30 PM EDT) -- The exceptions to the roster limits rule added to the NCAA's \$2.78 billion settlement over college athlete compensation for name, image and likeness failed to fix the damage the rule causes for several current and prospective athletes, objectors told a California federal judge in demanding that the latest settlement revision be rejected.

U.S. District Judge Claudia Wilken recommended in an order for a settlement revision on April 23 that the NCAA, the major conferences and the athlete class discuss changes with a mediator and with three groups of objectors, in a bid to resolve the conflict created by replacing a maximum number of scholarships for college teams with a maximum number of players on team rosters. Judge Wilken gave the objectors until Tuesday to respond to the revision **submitted** on May 7 — and all three issued scathing criticisms of the revision, saying that it still allowed programs to use the limits to take away spots from athletes on teams or promised positions on them.

The addition of exemptions for "designated student athletes" who otherwise would lose their spot on their team, to be added to the roster at the discretion of their schools, "blatantly disregards" Judge Wilken's order to eliminate the harm done to the settlement's injunctive class, Laura Reathafor of Lathrop GPM LLP, representing her daughter Emma, a gymnast at Temple University, said in her response.

At the April 7 final approval hearing, Judge Wilken agreed with the objectors' claim that exchanging scholarship limits for roster limits, ostensibly to give athletes opportunities for full scholarships instead of partial grants, reduced the number of places for athletes on a team, as many schools preemptively retracted offers to recruits and cut athletes from teams. Judge Wilken recommended "grandfathering" in such students who would have been left out once the settlement went into effect in the 2025-26 academic year.

The decision to make the grandfathering optional and subject to change by the schools instead of mandatory, Reathafor said in her response, "begs the question — what does grandfathering mean and what protections does the DSA label actually provide to class members? The answer is simple — the DSA label is meaningless to athletes so designated unless a school chooses to grandfather them in and it does nothing to protect anyone else."

Reathafor and the other objectors — a group of athletes led by former Yale University rower Grace Menke and represented by Steven Molo of MoloLamken LLP, and one led by two former swimmers at Ohio University represented by Buchalter PC — all said in their responses that they suggested reinstating athletes who were cut because of roster limits and assuring spots to them if they transfer, mandatory grandfathering of all athletes for the duration of their college careers, and mandatory grandfathering of high school seniors whose roster spots were taken away after deciding to attend colleges.

The revised settlement included none of those recommendations, Molo said in his response, adding, "Defendants' indifference, when simple fixes were offered to address a problem of their making, is stunning."

"The settlement remains unfair," Molo added. "A settlement like this one, which vests defendants with 'discretion' to provide relief — or not — is no settlement at all. Indeed, numerous objectors are hearing that schools have no intention of relaxing roster limits at all, leaving many student-athletes

in the same position as under the settlement this court rejected as unfair."

Rather than add their recommendations to the revisions, the Buchalter athletes said, "with proverbial crossed fingers, the parties have presented a nonsolution for the court's consideration: that members of the injunctive relief class, facing immediate and continuing harm from roster cuts, should only be given an opportunity and not a guarantee to recover and maintain a roster spot."

"Cold comfort indeed for thousands of members of the injunctive relief class, who did not ask for and do not deserve this indifferent treatment, or inability to opt out," they continued.

Taking note of the defense of roster limits the NCAA made in the revisions and its claim that objectors were "overreaching by misconstruing" the settlement's legal requirements, Reathafor said, "It is hypocritical (to say the least) to ask this court to be 'hands off' in requiring the settlement to grandfather in class members while, at the same time, thrusting the court into the NCAA's personnel business affairs, including a judicial sanction to cut players from teams."

The revised settlement submitted last week was ordered by Judge Wilken in response to a previous version last month, in which the two sides made **no changes** to its roster limits provision, defending it and saying that removing them "would cause significant disruption."

The NCAA and the athletes class have until Friday to respond to the objectors.

The Ohio University swimmers and their co-objectors are represented by Douglas M. DePeppe and Robert B. Hinckley Jr. of Buchalter PC.

Emma Reathafor is represented by Laura Reathafor of Lathrop GPM LLP.

Grace Menke and her co-objectors are represented by Steven F. Molo, Thomas J. Wiegand and Eric A. Posner of MoloLamken LLP, William J. Cooper of Conrad Metlitzky Kane LLP and Arthur H. Bryant of Clarkson Law Firm PC.

The athletes are represented by Steve W. Berman, Emilee N. Sisco, Stephanie Verdoia, Meredith Simons and Benjamin J. Siegel of Hagens Berman Sobol Shapiro LLP, Jeffrey L. Kessler, David G. Feher, David L. Greenspan, Adam I. Dale, Neha Vyas and Jeanifer E. Parsigian of Winston & Strawn LLP and Jeffrey L. Kodroff and Eugene A. Spector of Spector Roseman & Kodroff PC.

The NCAA is represented by Rakesh N. Kilaru, Beth A. Wilkinson, Kieran Gostin, Calanthe Arat and Matthew R. Skanchy of Wilkinson Stekloff LLP and Jacob K. Danziger of ArentFox Schiff LLP.

The case is In re: College Athlete NIL Litigation, case number 4:20-cv-03919, in the U.S. District Court for the Northern District of California.

--Editing by Alex Hubbard.



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Politico Beats Readers' Suit Over Online Trackers, For Now

By **Bonnie Eslinger**

Law360 (May 14, 2025, 11:05 PM EDT) -- A California federal judge on Tuesday tossed a proposed class action against Politico claiming the online news outlet unlawfully installed third-party trackers on users' browsers to surreptitiously collect data and personally identifying information without their consent, saying the plaintiffs had not shown they'd suffered a sufficiently concrete injury to sue.

U.S. Magistrate Judge Sallie Kim said she granted the motion to dismiss requested by Politico LLC because the only information that the plaintiffs had sufficiently shown was collected was the IP addresses for their devices.

While the readers also alleged that their browser, device data and other identifying information had been collected, they didn't provide details.

"Those allegations are too vague to assert a protectable privacy interest," the judge said in her order.

In a footnote, the judge said counsel for the plaintiffs has asserted during oral argument that Politico collected a "digital fingerprint" of its readers, including browsing activity and interaction data.

"However, this characterization does not appear in the amended complaint and cannot create a factual allegation that is otherwise absent from the pleadings," Judge Kim said.

The disclosure of IP addresses does not amount to a privacy injury sufficient for standing to sue, the judge said.

The judge pointed to a 2020 decision by another Northern District of California judge in a privacy case brought **against Facebook**, which held that "there is no legally protected privacy interest in IP addresses," and a 2008 Ninth Circuit decision in **United States v. Forrester**,  which held that "Internet users have no expectation of privacy in ... the IP addresses of the websites they visit."

IP addresses are a physical address associated with a device, not sensitive personal information, the judge said.

In a filing to the court opposing the motion to dismiss, the readers argued that a violation of the California Invasion of Privacy Act automatically constitutes a concrete injury, Judge Kim noted. They cited a 2020 Ninth Circuit decision, **In re Facebook, Inc. Internet Tracking Litig.**,  which held that the state law codifies "a substantive right to privacy, the violation of which gives rise to a concrete injury sufficient to confer standing."

But the U.S. Supreme Court's 2021 decision in **TransUnion LLC v. Ramirez**  clarified that the creation of a statutory prohibition doesn't "relieve courts of their responsibility to independently decide whether a plaintiff has suffered a concrete harm," Judge Kim noted.

That finding led her to ruling that an IP address is not sufficiently private or personal, she said.

"The Court is aware of a division among district courts in this Circuit as to whether TransUnion overruled Facebook Internet Tracking's holding that a violation of CIPA, standing alone, gives rise to a concrete injury," Judge Kim acknowledged.

She said she agrees with the decisions holding that TransUnion precludes standing where plaintiffs fail to allege a concrete injury, even if they have asserted a violation of CIPA, the judge said.

The judge gave the plaintiffs 21 days to amend their complaint to adequately allege standing to sue in federal court.

Plaintiffs Saber Khamooshi, Ryan Wu and Brian Carolus first filed the action in the Superior Court of California for the County of San Francisco in September 2024. The case was removed to federal court and consolidated with a later-filed case brought by reader John Deddeh. Following consolidation, the plaintiffs filed an amended complaint in February.

"Plaintiffs and class members had and were entitled to have a reasonable expectation that their accessing of and interactions with the Politico website during the proposed class period would not be sold for advertising purposes or shared with any third parties, let alone to undisclosed third-party trackers," the complaint states.

As a result of the tracking, the readers said they suffered invasion of privacy, economic harm and heightened risk of future harm.

Politico filed its motion to dismiss in March and the court heard oral argument Monday.

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

Politico is represented by Usama Kahf, Catherine M. Contino and Danielle Kays of Fisher Phillips.

Plaintiffs Saber Khamooshi, Ryan Wu and Brian Carolus are represented by Eric A. Grover of Keller Grover LLP and Scot Bernstein of the Law Offices Of Scot D. Bernstein PC. Plaintiff John Deddeh is represented by Timothy D. Cohelan and Isam C. Khoury of Cohelan Khoury & Singer, and Patrick N. Keegan of Keegan & Baker LLP.

The case is Khamooshi et al v. Politico LLC, case number 3:24-cv-07836, for the U.S. District Court for the Northern District of California.

--Editing by Michael Watanabe.