

Litigation Leaders: Darren Robbins on the Importance of 'Trial-Readiness' in Complex Civil Litigation

 [law.com/litigationdaily/2025/05/19/litigation-leaders-darren-robbins-on-the-importance-of-trial-readiness-in-complex-civil-litigation](https://www.law.com/litigationdaily/2025/05/19/litigation-leaders-darren-robbins-on-the-importance-of-trial-readiness-in-complex-civil-litigation)

Ross Todd

May 19, 2025



Welcome to another edition of our Litigation Leaders series, featuring the litigation practice leaders at some of the biggest and most innovative law firms in the country.

*Meet **Darren Robbins**, founding partner of **Robbins Geller Rudman & Dowd**, who is based in San Diego. Robbins Geller has topped the list of top plaintiff-side law firms issued by ISS Securities Class Action Services four out of the past five years. Robbins and partner **Jim Barz** landed Litigator of the Week honors in 2021 for the \$1.21 billion dollar settlement they secured for investors in a securities class action against Valeant Pharmaceuticals.*

Lit Daily: Tell us a little about yourself—perhaps even a thing or two your partners would be surprised to learn about you.

I grew up in San Bernardino, California. My dad owned and operated a music shop in town. He's my role model and one of the hardest-working people I've ever known. No one ever gave him a thing. He instilled in us a deep appreciation for hard work and how important it is to treat everyone with respect and decency. I never once saw him take advantage of anyone

or any situation. He is all about treating everyone fairly and not dealing with those who don't. I think his story is very much the American Dream in many ways: choosing to work hard and do the right thing, even when no one is watching. I try to emulate him every day and am grateful for him and his sacrifices.

You told my predecessor back in 2016 that roughly one-third of your time was spent on client outreach, one-third is in court, and one-third running the firm. Does that breakdown still hold?

Quite similar today. The litigation front has been especially busy. We had a number of very significant cases progress towards trial in the past few years—Twitter, which secured \$809.5 million for investors; TuSimple, a \$189 million case we settled last year involving very complex injunctive relief against a company allegedly absconding with funds and IP; and two just before trial last year against Apple and Under Armour. This past year *UnitedHealth* and another Medicare-related shareholder litigation in Texas have been the focus of much of my time.

What does the firm's management structure look like?

We really operate by consensus. We have a management committee, and all of us have worked together for a very long time, so there's mutual understanding and respect. We are incredibly focused on being the top firm protecting investors and consumers in the nation, and that goal really informs all our choices, from case selection to hiring to how we allocate resources to client service to our focus on trial-readiness.

How big is Robbins Geller and where are most of your litigators concentrated geographically?

We're around 400 people, a little over half of whom are litigators. Our largest practice group is our securities litigation group, which includes not only more than 100 securities lawyers but also a team of top-notch forensic accountants, damage analysts, economists, investigators and paralegals who help us advise institutional investors around the globe. We're strategically located across the U.S. in the areas where we practice the most. So we have two California offices, in San Diego and San Francisco, and we're in Chicago, Delaware, Florida, Nashville, New York, Philadelphia and Washington, D.C. Most of our litigators are concentrated in our San Diego, New York and Florida offices.

What is the firm's general process for evaluating a potential piece of litigation and counseling an institutional investor considering filing suit?

Case evaluation is critical for us, obviously. It's especially critical because every securities action case is going to be intensely defended by the top defense firms, who are well-resourced and very creative. Our clients understand this, so we work hard to ascertain the unique challenge of any potential case and evaluate the potential paths to success from the

beginning. We vet hundreds of cases every year, and we recommend a small percentage of them as opportunities for our clients to take action. With how the SEC has been scaled back and with regulatory enforcement generally on the wane, the private right of action is more important than ever to institutional investors. The Supreme Court has referred to investors' right to bring a securities fraud suit as a "complement" to federal enforcement. Right now, it seems private enforcement is the primary enforcement mechanism.

What do you see as hallmarks of Robbins Geller litigators? What makes you different, especially from your competitors in the plaintiffs' bar?

We have fearless players at our firm who are committed to getting it right. They are the ones who practice until long after the sun goes down. An unwavering commitment to excellence is a core ethos at the firm. Vindicating the rights of defrauded consumers and investors runs deep here. So we have a special group that includes many former federal and state prosecutors and federal defenders with deep trial experience, appellate lawyers who've collectively argued hundreds of cases in the U.S. courts of appeal and Supreme Court and former SEC lawyers, all of whom understand the importance of trial-readiness in a complex civil action.

It's hard to find that in any plaintiffs' firm at this scale. These are folks who get the details consistently right and won't let go until it's right. That's what our clients expect and deserve. It's an honor to work alongside them.

In what three areas of litigation do you have the deepest bench? (I know it's hard, but please name just three.)

If forced to name three, it's securities, consumer and shareholder rights.

Our securities litigation practice group led the NERA and ISS rankings last year for being the top plaintiffs' firm in the space, which we've done almost every year for the better part of a decade.

Our consumer practice group, led by my partner **Paul Geller**, has been at the forefront of some of the most impactful consumer litigation that touches on the public interest. Their work on the opioids public health crisis, privacy harms, social media's impact on youth and drug-pricing schemes has recovered billions for harmed communities and individuals. It's something we're very proud of as a firm.

What were two or three of the firm's biggest in-court wins in the past year, and can you cite tactics that exemplify your firm's approach?

Last year, we resolved two securities fraud class actions just short of trial and secured record recoveries in each.

In *Apple*, my partners **Shawn Williams** and **Dan Pfefferbaum** secured the largest securities class action recovery in over a decade in the Northern District of California. It was a hard-fought case that turned on CEO Tim Cook's comments to investors about the company's prospects in China. The case was settled for \$490 million just before trial. Likewise, in June 2024, just a few weeks before trial was set to start in Maryland, another Robbins Geller trial team settled a securities fraud class action against Under Armour for \$434 million, together with a package of corporate governance reforms that included fundamental changes to the company's executive compensation practices as well as splitting the CEO and chairman roles. These types of reforms are an effective vehicle to address the corporate governance deficiencies that underlie—and are one of the root causes of—almost every securities fraud.

My partners **Bobby Henssler**, **Mike Dowd** and **Sam Sheldon** led the trial team in *Under Armour*. Mike is one of the best securities class action trial lawyers ever and a former AUSA; Bobby is a dynamic trial lawyer and former federal defender; and Sam is a former US magistrate judge and former AUSA, as well. Our trial team was prepared and eager to try the case and the result we achieved for the class showed that defendants knew it.

I think that fighting spirit that we scale across every one of our cases is what makes a difference for our clients.

I know the firm prides itself on its capacity to take cases to trial. Have you had cases go to trial lately? Do you have any potential trials coming up?

I just mentioned the *Under Armour* and *Apple* cases. We had another case—*AltaMesa*—go to trial in Texas last year as well, right around the same time. That case settled in the middle of trial, and we recovered \$126 million for investors—the largest-ever securities class action recovery involving a SPAC, often shady investment vehicles that were all-the-rage a few years ago. We have three more securities class actions set for trial in the second half of 2025.

We know that preparation and practice are the hallmarks of success. Our team loves the process of preparing. We all remember as kids the players who carried their playbook everywhere they went, all dog-eared and marked-up. That approach makes a big difference for our clients. The defense understands what they're getting with us. For the last two decades, this approach has allowed our clients to secure premium results year in and after year out.

[Securities Law](#)

May 19, 2025, 10:31AM PDT

Krispy Kreme Investor Sues Over McDonald's Pause, Financial Hit

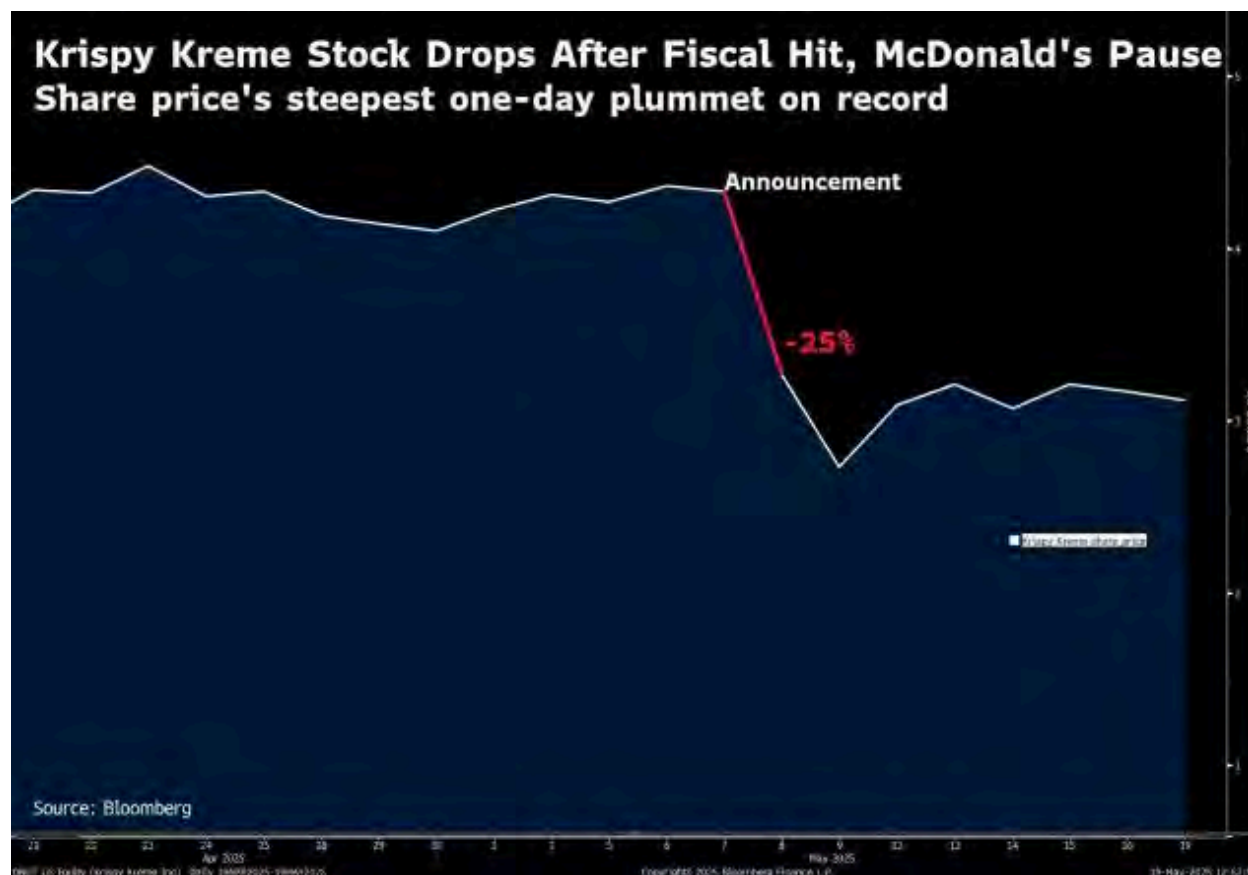
- **COURT:** W.D.N.C.
- **TRACK DOCKET:** No. [3:25-cv-00332](#) (Bloomberg Law subscription)

Krispy Kreme Inc. masked its McDonald's Corp. doughnut partnership wasn't financially burgeoning before pausing its expansion nationwide, resulting in a record stock drop that allegedly caused investors significant losses, a proposed class action said.

Share prices plummeted almost 25% on May 8 to close at \$3.26, the day the doughnut maker withdrew its 2025 financial guidance partly due to uncertainty around the McDonald's rollout, an investor told the US District Court for the Western District of North Carolina. It was the stock's biggest one-day drop since its 2021 market debut, according to data compiled by Bloomberg.

Krispy Kreme reported net revenue of \$375.2 million in the first quarter of 2025, a decline of 15.3%, citing a divestiture of a majority stake in Insomnia Cookies in 2024. The doughnut company reported a net loss of \$33.4 million compared to \$6.7 million in the same quarter of 2024. And it said it withdrew its full-year outlook without updating it given "macroeconomic softness and the uncertainty around the McDonald's deployment schedule."

Krispy Kreme said in the press release that it and McDonald's were reassessing its deployment schedule "while it works to achieve a profitable business model for all parties and does not expect to launch in any additional restaurants in the second quarter of 2025." It said as of March, its doughnuts were available at more than 2,400 McDonald's restaurants and that it continued "to believe in the long-term opportunity of profitable growth through the U.S. nationwide expansion including McDonald's."



Before this, Krispy Kreme and two top executives failed to disclose the doughnut demand at McDonald's had declined, the deal wasn't profitable, and the rollout was at risk, said the investor's complaint filed May 16. Investor David Cameron proposed representing a class of those who got Krispy Kreme stock from Feb. 25—when it released its fourth quarter of 2024 financial results—through May 7.

Krispy Kreme started test offering doughnuts at Louisville, Ky., McDonald's locations in 2022. In March 2024, the fast-food chains said they'd roll out doughnuts nationwide starting in the second half of 2024, with a goal of finishing in 2026.

Glancy Prongay & Murray LLP and The Law Offices of Frank R. Cruz represent Cameron, who seeks damages among other relief for alleged securities law violations. He's suing Krispy Kreme, CEO Josh Charlesworth, and CFO Jeremiah Ashukian.

Krispy Kreme didn't immediately respond to an email seeking comment.

The case is Cameron v. Krispy Kreme, Inc. , W.D.N.C., No. 3:25-cv-00332, complaint filed 5/16/25 .

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Class Action

May 19, 2025, 9:41 AM PDT

MicroStrategy Sued Over Impact of Accounting Change for Crypto

- **COURT:** E.D. Va.
- **TRACK DOCKET:** [No. 1:25-cv-00861](#) (Bloomberg Law subscription)

MicroStrategy Inc. failed to alert shareholders that an anticipated change in accounting standards for the cryptocurrency it held would result in a multibillion-dollar unrealized loss, a proposed class action alleges.

The artificial intelligence software and services company, which does business as Strategy, ultimately disclosed that it had to recognize a roughly \$5.9 billion unrealized loss on its bitcoin and other crypto assets for the first quarter of 2025, Anas Hamza says in the complaint, filed May 16 in the US District Court for the Eastern District of Virginia.

Strategy also said in the April 7 Securities and Exchange Commission filing that the change would result in a net loss for the quarter and that the company might “not be able to regain profitability in future periods, particularly if we incur significant unrealized losses related to our digital assets,” Hamza says. Strategy had been accumulating bitcoin and using it as its primary treasury reserve asset, the shareholder says.

The company's stock price fell 8.7% the day of the filing.



The proposed class consists of hundreds or thousands of members, the complaint estimates.

The suit seeks damages on its securities fraud claims.

Strategy didn't immediately respond to an email requesting comment.

Cohen Milstein Sellers & Toll PLLC and Pomerantz LLP represent Hamza.

The case is Hamza v. MicroStrategy Inc. , E.D. Va., No. 1:25-cv-00861, complaint 5/16/25 .

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Edison Investor Sues Board Over LA Fire Accusation Stock Hit (1)

- **COURT:** C.D. Cal.
- **TRACK DOCKET:** No. [2:25-cv-04403](#) (Bloomberg Law subscription)

Edison International leaders misled investors about the electric utility company's wildfire risk mitigation measures before a deadly fire ignited north of Los Angeles in January, a shareholder lawsuit said.

Edison's stock price slipped multiple times as legal action and reports suggested its subsidiary was tied to the Eaton fire, said the complaint filed in the US District Court for the Central District of California Thursday.

Edison is the parent of Southern California Edison Company, which is still under investigation for a potential connection between its power lines and a pair of Los Angeles County fires that ignited earlier this year. The Eaton fire killed at least 18 people and destroyed more than 9,000 buildings, according to data from state's firefighting agency, making it California's fifth deadliest and second most destructive as of January.

A dozen executives and board members harmed Edison while issuing misleading statements about its power line de-energizing program and wildfire risk mitigation efforts, said Thursday's shareholder derivative complaint, an action filed against corporate leaders on behalf of a company.

They exposed Edison to costly litigation—including at least 100 private Eaton-related lawsuits and a proposed securities class action—and regulatory investigations, plaintiff Charlotte Bark said.

Meanwhile, the executives and board members had Edison buy back about 2.4 million of its own artificially inflated shares, costing more than \$216 million, from April to November 2024, Bark said. One board member allegedly engaged in insider trading, reaping almost \$354,000, she said.

"We take all legal matters seriously," Edison spokesman Jeff Monford said by phone Friday, responding to a request for comment on the suit. "We will review this lawsuit and will respond through the appropriate legal channels."

Bark's lawsuit lands a few weeks after Edison CEO Pedro J. Pizarro said in a first fiscal quarter earnings call the company and SCE would likely suffer "material losses" unless another likely idea of how the Eaton fire started emerges.

Edison stock slid almost 12% Jan. 13, the day a lawsuit filed in the Superior Court of the State of California for the County of Los Angeles alleged SCE equipment sparked the Eaton fire, Bark said. The day prior, a Sunday when markets were closed, SCE had said a preliminary analysis found "no interruptions or operational/electrical anomalies in the 12 hours prior to the fire's reported start time until more than one hour after the reported start time of the fire."



Before this, corporate leaders claimed it used a program to de-energize power lines to mitigate the risk of wildfires from extreme weather, including in the lead up to the Eaton fire, Bark said. Prior statements that SCE's program proactively de-energized power lines weren't true, and that not doing so heightened fire and the company's legal risk, she said.

Wolf Haldenstein Adler Freeman & Herz LLP and Gainey McKenna & Egleston represent Bark, who seeks damages and corporate governance reform for Edison, among other relief. Bark alleged breach of fiduciary duties, gross mismanagement, waste of corporate assets, unjust enrichment, aiding and abetting, and securities law violations.

The case is Bark v. Pizarro , C.D. Cal., No. 2:25-cv-04403, complaint filed 5/15/25 .

(Updates with a comment from Edison in the seventh paragraph.)

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Class Action

May 19, 2025, 8:39 AM PDT

Aehr Test Systems Investor Drops Claims Over Revenue Miss

An Aehr Test Systems Inc. investor dropped claims that the semiconductor test supplier and two top executives misled shareholders about its projected 2024 revenue growth before a 22% stock selloff.

Lead plaintiff Yue Guo notified the US District Court for the Northern District of California May 16 that he is voluntarily dismissing the allegations but left the ability to refile. The proposed class action alleged that Aehr said in October 2023 that its 2024 fiscal year revenue would surpass \$100 million, but in January 2024 the company and executives misleadingly downplayed reducing that projection and touted its visibility into customer orders. Aehr slashed its 2024 revenue forecast to \$65 million on March 25, 2024, while sharing a preliminary third fiscal quarter revenue estimate that missed consensus expectations.

- Its CEO said softness in semiconductors and shifts in electric vehicle introductions and ramps impacted Aehr more than expected
- Share prices plummeted more than 22% to close at \$11.37 on the March day the revenue projection was cut—the stock's steepest single-day fall since July 2021, according to data compiled by Bloomberg
- The investment fund that filed the operative complaint in December also sought to be lead plaintiff

The Rosen Law Firm PA is lead counsel for the proposed class, targeting those that got Aehr stock from Jan. 9, 2024, through March 24, 2024. Latham & Watkins LLP represents Aehr, CEO Gayn Erickson, and CFO Chris P. Siu. Neither firm immediately responded to an email seeking comment. Aehr didn't immediately respond to an online query to its investor relations team.

The case is Lucid Alt. Fund, LP v. Aehr Test Sys., Inc. , N.D. Cal., No. 3:24-cv-08683, 5/16/25 .

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Tesla blocks stockholders with less than 3% shares from suing officers on its behalf

 [reuters.com/sustainability/sustainable-finance-reporting/tesla-blocks-stockholders-with-less-than-3-shares-suing-officers-its-behalf-2025-05-17](https://www.reuters.com/sustainability/sustainable-finance-reporting/tesla-blocks-stockholders-with-less-than-3-shares-suing-officers-its-behalf-2025-05-17)

Reuters

May 17, 2025

The logo of Tesla is pictured at a Tesla Super Charging station in Saint-Herblain near Nantes, France, March 27, 2025. REUTERS/Stephane Mahe/File Photo Purchase Licensing Rights, opens new tab

(TSLA.O), opens new tab blocked shareholders who own less than 3% of its shares from suing its directors or officers on behalf of the electric vehicle maker for breach of duties, according to a filing with the U.S. Securities and Exchange Commission on Friday. Three percent of Tesla's shares amounts to about 97 million shares worth about \$34 billion as of Friday's close.

That is far higher than the nine shares owned by Richard Tornetta when he sued Tesla's CEO Elon Musk and several of its directors over his \$56 billion pay package in 2018. Tesla was at the time incorporated in Delaware, where such a threshold does not exist.

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Musk filed an appeal in March to restore his pay package after a Delaware judge last year invalidated it, siding with Tornetta and calling it unfair to Tesla shareholders.

The amendment on Thursday to the bylaws of Tesla, now incorporated in Texas, follows a new law in the state this week that allows companies to set a threshold of up to 3% shareholding for derivative lawsuits as part of "restrictive new provisions to limit abusive shareholder litigation."

A derivative lawsuit is brought by a shareholder or group of shareholders on behalf of the company, against its directors or officers, alleging a breach of their fiduciary duties.

Reporting by Juby Babu in Mexico City and Tom Hals in Delaware; Editing by Abhirup Roy and Will Dunham

Our Standards:

Bristol-Myers Curbs Investor \$6.4 Billion Payout Suit on Appeal

- Investors didn't adequately allege intent, Second Circuit said
- Affirmed lower court tossing of \$6.4 billion payout lawsuit

Bristol-Myers Squibb Co. prevailed against investor allegations it misled them about a payout tied to Food and Drug Administration approval of cancer treatments by acquired company Celgene Corp., an appellate court ruled Friday.

The US Court of Appeals for the Second Circuit affirmed the tossing of the contingent value rights purchasers' lawsuit, agreeing with the district court finding that the plaintiffs didn't adequately allege the level of intent to carry securities fraud claims against BMS and its then top officers in a summary order.

Their consolidated proposed class action claimed that BMS intentionally delayed FDA approval to avoid a \$6.4 billion payout on "contingent value rights"—a security payable only if a future event occurs.

As part of the 2019 acquisition, BMS issued these CVRs to Celgene investors to be payable depending on cancer therapies being approved on specific deadlines, the order said. But the FDA approved one of the three treatments too late, meaning the CVRs expired worthless, it said. The plaintiffs sought to represent a class of those who acquired CVRs from Nov. 20, 2019, through Dec. 31, 2020.

Last year, Judge Jesse M. Furman of the US District Court for the Southern District of New York said the investors failed to adequately allege scienter by BMS and a current and former top executive about the CVRs likelihood of being paid out, among other issues, when dismissing remaining claims with prejudice.

The appellate panel agreed. The allegations suggested corporate leaders and thereby the company were aware with setbacks to lymphoma drug Liso-cel's processing, but "not that they were aware of a deliberate plan to slow-roll regulatory approval," the unpublished order said.

BMS and its current and former officers' innocent explanation was more probable, the order said—that integrating Celgene, setting up a new manufacturing facility, and the pandemic aggravated mismanagement and hiccups in Liso-cel's approval process.

The shareholders' theories of motive to commit securities fraud—that BMS was struggling financially, an executive faced risk of being fired, and that corporate leaders didn't buy CVRs—weren't sufficient to back up scienter allegations, the order said.

And statements from BMS and Celgene's joint proxy ahead of the merger that the investors pointed to under securities laws governing new offerings weren't actionable, the order said. Some alleged misstatements simply weren't false, while others were forward-looking, the order said.

Judges Debra Ann Livingston, Pierre N. Leval, and Alison J. Nathan joined the order.

Cohen Milstein Sellers & Toll PLLC represents the plaintiffs-appellants, Mangrove Partners Master Fund, Ltd., SM Merger/Arbitrage LP, SM Investors LP, and SM Investors II LP. DLA Piper US LLP represents Bristol-Myers Squibb and certain corporate leaders. Neither law firm immediately responded to an email seeking comment.

The case is Mangrove Partners Fund, Ltd. v. Bristol-Myers Squibb Co. , 2d Cir., No. 24-826, affirmed 5/16/25 .

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This Week in Chancery Court: Exxon, Pioneer CEOs' Emails, Texts

The Delaware Chancery Court's chief judge will review this week a decision to block access to texts and emails from Pioneer Natural Resources Co.'s ex-CEO related to the Texas-based energy exploration and production company's sale to ExxonMobil Corp.

Here's more from the court's calendar:

Monday: Thomas v. American Midstream GP, LLC, Del. Ch., No. 2019-0641, trial 5/19/25.

At issue: Vice Chancellor Morgan T. Zurn ruled Dec. 17 that oil and gas provider Third Coast Midstream Holdings LLC must face a class action challenge to a merger between its owner, private equity firm ArcLight Capital Partners LLC, and American Midstream Partners LP. A federal court in Manhattan in 2021 dismissed a proposed class action challenging its acquisition of American Midstream, finding the shareholders who brought the litigation failed to support their allegations of securities fraud. In the Delaware litigation, one count from a 2019 lawsuit remains to be decided at trial: whether Third Coast breached its limited partnership agreement with American Midstream Partners by improperly approving the merger.

Court action: A one-day trial will be held in Wilmington, Del.

Challenge of Conflicted Merger Headed to Trial in Delaware

Monday: Neem Int'l CV v. Shulman, Del. Ch., No. 2022-0187, post-trial arguments 5/19/25.

At issue: An offshore investment firm sued Ukrainian businessman Vadim Shulman in March 2022, alleging he looted the now-defunct biotech company Pathway Genomics Corp. Former Joint Chiefs of Staff Chairman Peter Pace was initially named as a defendant, but Vice Chancellor Lori W. Will dismissed him without prejudice from the case in December 2022. The matter went to trial in December. Shulman says in a post-trial brief that he attempted to save Pathway, making loans to the company, until he decided in 2019 that he could no longer fund its operations. The plaintiffs say Shulman engaged in conflicted transactions before the company's dissolution.

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

Joint Chiefs Ex-Chairman Named in Pathway Genomics Investor Suit

Tuesday: Operating Eng'rs Constr. Indus. & Miscellaneous Pension Fund v. Pioneer Nat. Res. Co., Del. Ch., No. 2024-0101, hearing 5/20/25.

At issue: Chancellor Kathaleen St. Jude McCormick will review a pension fund's exceptions to a magistrate's Jan. 16 decision declining to order former Pioneer CEO Scott Sheffield to release text messages and emails related to the \$60 billion sale that closed in May 2024. Senior Magistrate Judge Selena E. Molina determined that communications between Sheffield and ExxonMobil CEO Darren Woods from June 2023 through October 2023 weren't essential to the fund's investigation of potential wrongdoing in the sale. ExxonMobil wasn't named as a defendant in the litigation.

Court action: The hearing will be held in Wilmington, Del.

Exxon, Pioneer CEOs' Emails, Texts May Be Withheld, Judge Says

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Securities Law Prof Blog

 lawprofessors.typepad.com/securities/2025/05/new-securities-law-articles-in-print.html

Saturday, May 17, 2025

The following law review articles relating to securities regulation are now available in paper format:

Peter Adelson, Matthew Jennejohn, Julian Nyarko & Eric Talley, *Introducing a New Corpus of Definitive M&A Agreements, 2000–2020*, 22 J. Empirical Legal Stud. 130 (2025).

Eric D. Chason, *Regulating Crypto Intermediaries*, 108 Marq. L. Rev. 187 (2024).

George S. Georgiev, *Human Capital Disclosure & Corporate Governance: The New Evidence*, 46 Cardozo L. Rev. 485 (2024).

Jonathan Klick, *Market Response to Court Rejection of California's Board Diversity Laws*, 22 J. Empirical Legal Stud. 4 (2025).

Geeyoung Min, *Shareholder Direct Democracy*, 74 Emory L.J. 381 (2024).

Samantha J. Prince, *Benefits Transparency*, 108 Marq. L. Rev. 37 (2024).

Verity Winship, *Unicorn Shareholder Suits*, 100 Ind. L.J. 1 (2024).

Masamichi Yamamoto, *Reassessing the Constitutionality of SEC Administrative Proceedings in View of Japanese Administrative Proceedings*, 56 U. Tol. L. Rev. 45 (2024).

Class Action

May 19, 2025, 8:14AM PDT

Embry-Riddle Gets Partial Costs After Beating 401(k) Challenge

- Judge awards costs related to named plaintiff's deposition
- Other requested costs denied in light of pending lawsuit

An Embry-Riddle Aeronautical University Inc. employee must pay \$1,400 in litigation costs after her proposed class action challenging how the private aviation school manages its \$500 million retirement plan was dismissed for lack of standing.

Judge Paul G. Byron ordered the worker to cover the school's costs in obtaining a certified transcript of her deposition, along with its photocopying costs in connection with exhibits to that deposition. Byron's two-page order, issued May 16 in the US District Court for the Middle District of Florida, adopts a magistrate report recommending that Embry-Riddle receive less than half of its requested costs.

The school had sought a court order directing plaintiff Guillermina Lopez to cover \$3,738 in costs associated with seven deposition transcripts and photocopying charges for related exhibits. Magistrate Judge Leslie Hoffman Price said in an April report that Lopez should cover only costs associated with her own deposition and exhibits related to that deposition, noting that the other materials could be used in another pending lawsuit raising similar claims against the school.

Lopez's 2022 lawsuit accused Embry-Riddle of mismanaging its retirement plan by overcharging participants for administrative services and offering overly expensive mutual funds. Byron awarded summary judgment to Embry-Riddle in 2024 after finding that Lopez hadn't suffered an injury giving her standing to sue, because she invested in a single target date fund that wasn't challenged by the lawsuit and paid administrative fees far lower than those she alleged were excessive.

Another participant in Embry-Riddle's plan brought similar claims in April 2024, two months after Byron declined to certify Lopez's case as a 5,000-person class action.

Wenzel Fenton Cabassa PA and Michael McKay of Scottsdale, Ariz., represent Lopez. Carlton Fields PA represents Embry-Riddle.

The case is Lopez v. Embry-Riddle Aeronautical Univ., Inc. , M.D. Fla., No. 6:22-cv-01580, 5/16/25 .

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Apple fights to dismiss, merge AirPods Pro defect lawsuits

DJ [dailyjournal.com/articles/385507-apple-fights-to-dismiss-merge-airpods-pro-defect-lawsuits](https://www.dailyjournal.com/articles/385507-apple-fights-to-dismiss-merge-airpods-pro-defect-lawsuits)

May 19, 2025

Apple fights to dismiss and merge two class actions alleging AirPods Pro Gen 1 audio defects, as plaintiffs resist, claiming fraudulent concealment. Hearings are set for August and September.

Photo: Framesira/Shutterstock

A dispute arose Friday between Apple Inc. and one group of AirPods Pro Gen 1 customers as the plaintiffs' attorneys resisted Apple's efforts to dismiss their case and also combine it with a similar class action.

At the heart of both disputes is the plaintiffs' admittedly identical claim that Apple knowingly sold its first iteration of the AirPods Pro with defects that caused users to hear crackling or static and other sounds.

The first lawsuit, known as LaBella, was filed in San Jose federal court on Nov. 1 seeking to represent a nationwide class and subclasses from seven states: California, Florida, Illinois, New York, Ohio, Pennsylvania, and Texas. The second case, known as McBride, was filed in Philadelphia federal court on Nov. 13 and seeks to represent only one subclass: Pennsylvania residents.

Apple's attorneys from Morrison & Foerster LLP denied any wrongdoing by the company in Thursday's motion to consolidate the two cases. They previously asked the court to dismiss the LaBella complaint, saying it was time-barred. If not, they said, the plaintiffs in both cases should be forced to file a joint consolidated class action in the interests of judicial economy.

In Friday's opposition brief, the LaBella attorneys, from Tycko & Zavareei LLP and Dworken & Bernstein Co. LPA, fired back, arguing that they should be appointed as interim class counsel because their clients already have a Pennsylvania resident. They also pushed back on Apple's attempt to dismiss their case. *LaBella et. al. v. Apple Inc.*, No. 5:24-cv-07588-NW (N.D. Cal. Nov. 1, 2024).

"Both this action and McBride's duplicative action allege that Apple's fraudulent concealment of the audio defect caused Pennsylvania residents harm. Importantly, while plaintiffs in this action plead 28 causes of action, McBride alleges only four causes of action," the LaBella

attorneys wrote. "Apple hinges most of its motion to dismiss on the argument that plaintiffs' claims are time barred by Apple's one-year limited warranty. But plaintiffs have not brought claims under Apple's limited warranty."

The pending motion to dismiss will be heard by U.S. District Judge Noel Wise on Aug. 6. She will hear the motion to consolidate on Sept. 10.

In Thursday's motion to consolidate, Claudia Vetesi, a San Francisco partner for Morrison & Foerster and one of Apple's lead attorneys, wrote, "Apple does not concede the truth of any of the factual allegations, any violations of any law, or that certification of the putative classes is proper under Federal Rule of Civil Procedure 23.

"The LaBella and McBride complaints are predicated on an identical theory--that Apple AirPods Pro 1 contained an undisclosed audio defect," she wrote. "Thus, both cases would require discovery regarding the same set of underlying facts. ... In sum, LaBella and McBride are textbook examples of cases that should be consolidated, given both actions share the same proposed class, the same legal claims for the same class period, the same defendant, and nearly identical factual allegations."

The following plaintiffs' attorneys in McBride could not be reached for comment Friday: John Christian Bohren of Yanni Law APC in San Diego; Stuart J. Guber, Paul J. Doolittle, Seth C. Little, of Poulin, Willey, Anastopoulos, LLC in Charleston, South Carolina. *McBride v. Apple Inc.*, No. 5:25-cv-02656-NW (N.D. Cal. Filed March 19, 2025).

Three of Vetesi's Morrison & Foerster colleagues serve as her co-counsel: Zachary Maldonado of Los Angeles; Camila Tapernoux and Lena Gankin of San Francisco. The attorneys could not be reached for comment Friday.

The following attorneys from Tycko & Zavareei LLP represent the LaBella plaintiffs and could not be reached for comment Friday: Annick M. Persinger, Emily Feder Cooper of Oakland; Andrea R. Gold and Anna C. Haac of Washington D.C. Patrick Brickman and Frank Bartela of Dworken & Bernstein Co., L.P.A. in Cleveland also represent the LaBella plaintiffs and could not be reached for comment on Friday.

#385507

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Capital One Strikes \$425M Deal to End Claims It Denied Customers Interest

 [law.com/newyorklawjournal/2025/05/19/capital-one-strikes-425m-deal-to-end-claims-it-denied-customers-interest-](https://www.law.com/newyorklawjournal/2025/05/19/capital-one-strikes-425m-deal-to-end-claims-it-denied-customers-interest-)

Alyssa Aquino

May 19, 2025

Capital One building in New York City. Photo: Katherine Welles

Under the deal, Capital One will pay \$300 million to a class of people who opened a 360 Savings account since Sept. 18, 2019 to cover the interest they would have earned had they instead opened a 360 Performance Savings account. The remaining \$125 million will be paid out as additional interest payments for class members who decide to keep their 360 Savings accounts.

Class Actions

Capital One will pay \$425 million to end consumer claims that the financial services company cheated 360 Savings account holders out of millions of dollars worth of interest payments, according to a recent court filing.

Capital One N.A. and customers from 18 different states, including New York, informed the Virginia federal court of the settlement late Friday, saying the deal, if finalized, would permanently resolve a nationwide class action that has been brewing for less than a year.

Under the deal, Capital One will pay \$300 million to a class of people who opened a 360 Savings account since Sept. 18, 2019 to cover the interest they would have earned had they instead opened a 360 Performance Savings account.

The remaining \$125 million will be paid out as additional interest payments for class members who chose to keep their 360 Savings accounts. Those accounts will yield an interest that is “at least two times” the national average rate, according to the notice.

Representatives for Capital One and the account holders did not immediately respond to Monday requests for comment.

The parties notified the court of the deal late on Friday, just two days after New York Attorney General Letitia James announced she was suing Capital One for allegedly withholding interest to customers who had opened 360 Savings accounts.

The U.S. Consumer Financial Protection Bureau had also filed its own case against Capital One, alleging that the bank had denied 360 Savings consumers across the country \$2 billion in interest payments since September 2019, when the bank launched the similarly-named

360 Performance Savings. That federal enforcement case was filed by the Biden administration during its final weeks in power, and dropped by the succeeding Trump administration.

However, a group of customers represented by Wolf Popper and the Kaplan Law Firm had been the first to take on the bank and its corporate parent, Capital One Financial Corp., over the 360 Savings accounts. The case is captioned *In Re: Capital One 360 Savings Account Interest Rate Litigation*, under case number 1:24-md-03111.

The 360 Savings accounts had been marketed as high yield savings accounts with “one of the nation’s best savings rates.” But in a suit filed in July, 360 Savings account holders claimed that Capital One had cheated them out of higher interest payments by creating 360 Performance Savings and covering up to existing 360 Savings customers that the new product was different. While interest rates on 360 Performance Savings soared, once peaking at 4.3% in August 2023, the interest rates on 360 Savings was held at 0.30%, the customers alleged.

Capital One, represented by Am Law 100 firms King & Spalding and McGuireWoods, sought to dismiss the 23-count case. U.S. District Judge David Novak largely denied the request in November, dismissing only four claims.

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Families of 737 MAX crash victims to object to deal allowing Boeing to avoid prosecution

 [reuters.com/business/autos-transportation/families-737-max-crash-victims-object-deal-allowing-boeing-avoid-prosecution-2025-05-17](https://www.reuters.com/business/autos-transportation/families-737-max-crash-victims-object-deal-allowing-boeing-avoid-prosecution-2025-05-17)

David Shepardson

May 17, 2025

Family members hold photographs of Boeing 737 MAX crash victims lost in two deadly 737 MAX crashes that killed 346 people as they arrive for Boeing CEO Dennis Muilenburg's testimony before a Senate Commerce, Science and Transportation Committee hearing on "aviation safety" and the grounded 737 MAX on Capitol Hill in Washington,... Purchase Licensing Rights, opens new tab Read more

- Agreement would prevent Boeing from being branded convicted felon
- Boeing faces scrutiny from FAA after MAX 9 emergency incident

WASHINGTON, May 17 (Reuters) - Families of some of the 346 people killed in two fatal Boeing 737 MAX crashes plan to object to a tentative nonprosecution agreement between the planemaker and the U.S. Justice Department, a lawyer said on Saturday.

The Justice Department outlined the tentative deal in a more than two-hour meeting with families on Friday and said in a court filing on Saturday that they would have until Thursday to file written objections.

Paul Cassell, a lawyer for the families, said they would object "to any deal along the lines described by DOJ yesterday, because it fails to hold Boeing accountable for the 'deadliest corporate crime in U.S. history,'" citing the prior comments of U.S. District Judge Reed O'Connor.

The Justice Department said in its filing "it has not decided whether to enter into the agreement or to proceed to trial, and would not make the decision until after finishing conferring with the families."

The agreement would forestall a June 23 trial the planemaker faces on a fraud charge it misled U.S. regulators about a crucial flight control system on the 737 MAX, its best-selling jet.

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The agreement would allow Boeing (BA.N), opens new tab to avoid being branded a convicted felon and would be a blow to families who lost relatives in the crashes and had pressed prosecutors to take the U.S. planemaker to trial.

"The new deal is a step backward from last summer, when Boeing was going to plead guilty," Cassell added. "Under the new arrangement, they don't plead guilty."

Boeing declined to comment.

Boeing agreed in July to plead guilty to a criminal fraud conspiracy charge after the two fatal 737 MAX crashes in Indonesia and Ethiopia, spanning 2018 and 2019, and to pay a fine of up to \$487.2 million.

Boeing and DOJ officials have not yet exchanged papers to negotiate final details of any nonprosecution agreement, the department said Saturday.

The Justice Department told families on Friday that Boeing would be asked to pay an additional \$444.5 million into a crash victims' fund that would be divided evenly per crash victim, lawyers for the families said, on top of \$500 million Boeing paid in 2021.

Boeing has faced enhanced scrutiny from the Federal Aviation Administration since January 2024, when a new MAX 9 missing four key bolts suffered a mid-air emergency losing a door plug. The FAA has capped production at 38 planes per month.

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Class Action

May 16, 2025, 10:06 AM PDT

Chord Dental Hit by Seven Class Actions Over 2024 Data Breach

- **COURTS:** M.D. Tenn., E.D. Pa.
- **TRACK DOCKETS:** Nos. [3:25-cv-00371](#), [3:25-cv-00380](#), [3:25-cv-00379](#), [3:25-cv-00382](#), [2:25-cv-02186](#), [2:25-cv-02453](#), and [5:25-cv-02482](#) (Bloomberg Law subscription)

Pennsylvania-based Chord Specialty Dental Partners is facing at least seven proposed class actions in two federal courts alleging it negligently failed to protect the personal information of more than 173,000 people that was exposed in a September 2024 data breach.

The plaintiffs say Chord Dental breached its duties under common law, contract law, industry standards, the Federal Trade Commission Act, and the Health Insurance Portability and Accountability Act to implement reasonable and adequate data-security measures and provide adequate notice of the incident.

Information exposed in the breach included names, addresses, Social Security numbers, driver's-license numbers, bank-account information, payment-card information, dates of birth, medical information, and health-insurance information, according to complaints filed between April 2 and May 15 in the US District Courts for the Middle District of Tennessee and the Eastern District of Pennsylvania.

Chord Dental, also known as Chord Management LLC, didn't respond immediately to a request for comment. The company provides support services to 60 dental practices in six states, the complaints said.

Victims have suffered out-of-pocket costs for mitigation measures, lost time responding to the incident, reduced value of their personal information, increased risk of fraud and identity theft, loss of privacy, payment for data security that wasn't provided, and emotional distress, the complaints said.

Each plaintiff seeks to represent a nationwide class of people who were affected by the breach. One of the plaintiffs, Christina Figueroa, also seeks to represent a Pennsylvania subclass of affected people.

The complaints bring a variety of claims, including negligence, negligence per se, breach of implied contract, breach of third-party beneficiary contract, breach of fiduciary duty, breach of confidence, unjust enrichment, and declaratory judgment.

The plaintiffs are variously seeking actual, statutory, nominal, consequential, and punitive damages; injunctive and equitable relief; restitution; credit-monitoring services for class members; attorneys' fees and costs; and pre- and post-judgment interest.

The plaintiffs are represented by KO Lawyers; Strauss Borrelli PLLC; Stranch, Jennings & Garvey PLLC; EKSM LLP; Golumb Legal PC; Shub Johns & Holbrook LLP; and Milberg Coleman Bryson Phillips Grossman PLLC.

The cases are McKinney v. CDHA Mgmt. LLC , M.D. Tenn., No. 3:25-cv-00371, complaint filed 4/2/25 , Rawlinson v. CDHA Mgmt. LLC , M.D. Tenn., No. 3:25-cv-00380, complaint filed 4/3/25 , Cook v. CDHA Mgmt. LLC , M.D. Tenn., No. 3:25-cv-00379, complaint filed 4/4/25 , Eury v. CDHA Mgmt. LLC , M.D. Tenn., No. 3:25-cv-00382, complaint filed 4/4/25 , Figueroa v. CDHA Mgmt. LLC , E.D. Pa., No. 2:25-cv-02186, removed 4/4/25 , E.W. v. CDHA Mgmt. LLC , E.D. Pa., No. 2:25-cv-02453, complaint filed 5/14/25 , and S.J. v. CDHA Mgmt. LLC , M.D. Tenn., No. 3:25-cv-00382, complaint filed 5/15/25 .

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'A growing chorus': Pa. judge rejects climate change lawsuit against Big Oil



legalnewsline.com/stories/671600668-a-growing-chorus-pa-judge-rejects-climate-change-lawsuit-against-big-oil

John O'Brien

May 19, 2025

Climate Change

Corr | Instagram

DOYLESTOWN, Pa. - A Pennsylvania County "violated the spirit" of state transparency laws when suing 14 energy companies over climate change, a judge has written while becoming the sixth to toss such a case at an early stage.

Judge Stephen Corr of the Bucks County Court of Common Pleas on May 16 granted the preliminary objections of companies like Exxon and Chevron, who have been sued by dozens of city, county and state officials who hired private lawyers hoping for a blockbuster payday.

Cases in Hawaii and Boulder, Colo., have been permitted to proceed past the companies' initial arguments, but judges in New York, Maryland, New Jersey and Delaware have dismissed the cases as improper attempts to have them impact federally controlled emissions standards.

"Today we join a growing chorus of state and federal courts across the United States, singing from the same hymnal, in concluding that the claims raised by Bucks County are not judicable by any court in Pennsylvania," Corr wrote

The cases allege consumers would not have burned as many fossil fuels as they did had companies been more forthright about their effects. Lawyers crafted them to keep them out of federal courts, where defendants would have been afforded even stronger arguments against.

To keep them in state courts, they made claims under consumer protection and public nuisance laws. Baltimore judge Videtta Brown called that "a way to get in the back door what they cannot get in the front door."

Corr agreed, noting Bucks County's complaint uses the word "emissions" more than 100 times, while "deceptive" and "deception" were used 39 times combined.

"While not conclusive, the disparity informs the Court that the focus of the complaint is more on emissions than on deception," he wrote.

"The reason Bucks County avoids the issue of emissions is obvious, there is no question that emissions are the sole province of the federal government through the (Clean Air Act) and (Environmental Protection Agency) regulations that flow from it."

The Bucks County case differed from others in that the defendants raised the issue of how it was brought. One county commissioner renounced the case, as the entire commission was accused of skipping the step of approving litigation in a public meeting.

In January 2024, the commission published an agenda for a public meeting that included the issue of hiring DiCello Levitt on a 25% contingency fee to "evaluate and litigation potential environmental claims on behalf of the county."

No documents regarding this item were attached for the public. Commissioners voted 3-0 at the meeting to approve all items on the agenda in a single motion, and there was no discussion of the climate case, which was filed two months later.

The commission violated the Sunshine Act by failing to approve the filing of the lawsuit, defendants argued. Corr noted the matter was on the agenda for a public meeting, so the commission did not commit a direct violation of the Sunshine Act.

"However... we are concerned about the manner in which the Commissioners went about hiring counsel and filing this lawsuit," he added. "We believe the conduct of the Commissioners violated the spirit of the Sunshine Act."

The use of a "consent agenda" chilled public discourse, he said. The climate case was "buried among 17 other items, some with multiple sub-items."

"The cryptic summary of the 'Purpose' of the Agenda item... provides the public with such little information that the average citizen attending the meeting would be hard-pressed to formulate an intelligent question to ask," Corr wrote.

"Indeed, at the meeting... no member of the public commented on any item within the 'Consent Agenda.' In fact, not one of the three commissioners, nor the county solicitor, mentioned the item at the meeting, and there was no indication that they intended to file a lawsuit within the next few weeks."

After a press conference hailed the case as "historic" and "momentous," three members of the public spoke out against it, and Commissioner Gene DiGirolamo withdrew his support for it.

Ultimately, though, the commission did not commit a direct violation of the Sunshine Act and the defendants' argument that it did was brought too late, Corr ruled. Ted Boutrous, a lawyer at Gibson, Dunn and Crutcher, said Corr "got it right" in writing the commission violated the spirit of Pennsylvania's open government law.

Corr's ruling came the same week the Colorado Supreme Court allowed Boulder's case to proceed, though a dissenting justice wrote "Boulder is not its own republic."

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

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

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

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

A group of 14 attorneys general has filed a lawsuit of their own against the executive order in Seattle federal court.

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

ORGANIZATIONS IN THIS STORY

Bucks County Court of Common Pleas

'They Make Stuff Up:' Judges Are Issuing Orders About AI

 [law.com/nationallawjournal/2025/05/16/they-make-stuff-up-judges-are-issuing-orders-about-ai](https://www.law.com/nationallawjournal/2025/05/16/they-make-stuff-up-judges-are-issuing-orders-about-ai)

Laura Lorek

May 16, 2025

Chief Judge Robert Randall "Randy" Crane, United States District Court for the Southern District of Texas. Credit: Administrative Office of the U.S. Courts via Wikimedia Commons

More judges are issuing orders warning lawyers about the dangers of relying on artificial intelligence-generated documents, and cautioning them about citing fake cases in submissions to the court. One of the latest is Chief Judge Randy Crane of the Southern District of Texas. He signed an order reminding legal practitioners that they are responsible for the accuracy of court filings, even with AI assistance.

Litigators

The original version of this story was published on Texas Lawyer

A federal court in Houston became the latest jurist to warn lawyers and self-represented litigants against using artificial intelligence tools to prepare legal documents.

As AI becomes more common in legal practice, legal experts observe that judges are increasingly setting guidelines for AI use in the courtroom.

Chief Judge Randy Crane of the Southern District of Texas signed General Order 2025-04 on May 7, reminding legal practitioners that they are responsible for the accuracy of court filings, even with AI assistance. The order mentions generative AI platforms like ChatGPT and Harvey AI, advising that they can create inaccurate content and should not replace a lawyer's independent judgment.

Crane's order states that anyone signing a court document is responsible for its contents under Rule 11, regardless of AI involvement in drafting. Rule 11 of the Federal Rules of Civil Procedure mandates that attorneys and litigants confirm their legal claims are supported by current law and evidence.

Violations may lead to sanctions such as non-monetary directives, financial penalties payable to the court, or payment of the opposing party's attorney's fees and expenses.

Judge Brantley Starr of the U.S. District Court for the Northern District of Texas issued one of the first orders in 2023, warning lawyers about using AI in documents submitted to the court.

"These platforms in their current states are prone to hallucinations and bias," Starr wrote. "On hallucinations, they make stuff up—even quotes and citations. Another issue is reliability or bias."

Judge Michael Baylson of the U.S. District Court for the Eastern District of Pennsylvania and Magistrate Judge Peter Kang of the U.S. District Court for the Northern District of California have also issued orders warning about the dangers of using AI in court documents.

The Houston order follows the increasing use of AI tools in the legal profession, including instances where attorneys have submitted filings containing AI-generated inaccuracies and other mistakes.

In April, an attorney filed a brief in the Dallas Court of Appeals citing four cases that neither opposing counsel nor the court could locate. Other cases have popped up in courts nationwide.

"There's nothing magic about this technology," said David Coale, Dallas-based attorney with Lynn Pinker Hurst & Schwegmann.

"The rule didn't change. We still have a rule you're not supposed to make stuff up and you're supposed to verify things that you send into court."

Coale's firm uses Harvey, a large-language model database for the legal industry.

Harvey provides firms with privacy protections that public models like ChatGPT, Grok, and Claude.ai don't. Coale said Harvey has increased productivity and cut down on time-consuming tasks, but it's not a replacement for everything.

"Harvey's never going to write, at least not in the foreseeable future, the whole brief," Coale said. "It writes chunks or pieces. ... As you take its work, adopt it and edit it, you check what it says. It's just part of the editing process."

Rose Hunter Jones, a partner with Hilgers Graben PLLC in Atlanta, said lawyers still have ethical responsibilities to use technology wisely. She said AI-powered legal programs can't fully eliminate hallucinations, so it's necessary to check everything they produce.

"I would never cite a case I haven't read," Jones said. "What these lawyers are doing is they are citing a case that's fake, which means not only do they not look it up, but they also didn't even read the opinion."

In July 2024, the American Bar Association published Opinion 512, which lays out how lawyers should use artificial intelligence applications in their practices.

"Formal Opinion 512 doesn't say don't use AI, it says use it wisely," Jones said. "Lawyers can't outsource ethical judgment to a tool. The tech might be new, but our obligations, they're not."

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Class Action

May 16, 2025, 11:00 AM PDT; Updated: May 16, 2025, 12:42 PM PDT

Susman Puts Money Into DEI Scholarships During Trump Battle (1)

- **Susman builds program as some rivals step away from DEI**
- **Law firm is suing president over executive order targeting it**

Law firm Susman Godfrey is boosting a law student diversity scholarship program that's under attack by the Trump administration.

The firm increased the award for its annual Susman Godfrey Prize to \$4,000 and expanded the group of recipients to 25, Susman said Friday. The scholarship program is open to first- and second-year law students of color.

The prize "continues to champion law students of color who embody values of integrity, leadership, and academic excellence," Kalpana Srinivasan, Susman's co-managing partner, said in a statement.

Susman's move shows the differing approaches some top firms are taking with their diversity, equity and inclusion programs. Some have opted to cease or scale back the programs amid scrutiny from the Trump administration and a series of executive orders aimed at the president's perceived enemies.

Susman is breaking from the general pattern with DEI, according to David Glasgow, a lawyer who advises firms on diversity. "Every organization has to do its own risk assessment, and it's not surprising to me that some are more risk averse than others," he said.

President Donald Trump pointed to the Susman Prize in an April 9 executive order targeting the firm, saying it was engaging in "unlawful discrimination" and "weaponizing" the legal system to "degrade the quality of American elections."

The directive instructed agency heads to strip lawyers' security clearances, restrict personnel from accessing federal buildings, and slash federal contracts held by the firm's clients. A federal judge temporarily froze most the order less than a week after it was issued.

Houston-founded Susman is a litigation powerhouse known for its work in high-stakes trials. The firm's lawyers represented Dominion Voting Systems Inc. in a defamation lawsuit against Fox Corp. for airing bogus claims that Dominion rigged the 2020 election against Trump. Fox agreed to pay a \$787.5 million settlement to end the case.

'Powerful' Change

The firm this year added five more recipients of its Susman Godfrey Prize and increased awards by \$500 for the scholarship, first launched in 2021. This year's recipients hail from the country's top law schools, including Harvard, Yale, and Stanford Law.

"At a time when law firms and organizations are retreating from DEI efforts, it's really powerful to see Susman Godfrey step up," said Dru Levasseur, a lawyer who runs the Trans Legal Professionals Networking Program and consults law firm's on their DEI plans. "This kind of leadership sends a message about the values that will define the future of a legal profession."

A Justice Department lawyer told a DC federal judge May 8 that Susman saying it wants to recruit lawyers from underrepresented groups is problematic, following a 2023 Supreme Court decision that curbed the consideration of race in college admissions.

"But nothing you have described is unlawful," Judge Loren AliKahn said in the hearing, saying that she didn't see "any evidence" to support accusations that Susman was violating federal law with its diversity programs.

The firm previously was threatened over its 1L diversity fellowship, a separate program that hosts first-year law students for two-week stints and gives them \$5,000. The firm made changes to the program after a group run by Edward Blum, the activist many credit with the demise of affirmative action, threatened to sue.

Susman axed its description of the program as aimed at "women, people of color, individuals who identify as LGBTQ, or members of other groups underrepresented in today's legal profession." The fellowship is now open to "students who have overcome personal or systemic hardships or disadvantages, including experiences of those who self-identify as members of groups underrepresented in today's legal profession," the firm now says in its description of the program.

Blum's American Alliance for Equal Rights dropped lawsuits against two other firms—Perkins Coie and Morrison Foerster—after the firms opened similar fellowship programs to wider groups of students.

(Adds Levasseur comment in 10th paragraph.)

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Sequoia Capital Partner's Data Hacked in Coinbase Breach (1)

- Attackers accessed some account information about Roelof Botha
- Outsiders bribed Coinbase workers, tried extorting crypto firm

Sequoia Capital Managing Partner Roelof Botha was among the Coinbase Global Inc. customers whose personal information was stolen as part of a hack against the largest US crypto exchange, a person familiar with the situation said, signaling that high-profile executives were among the targets of the breach.

Personal information about Botha, including his phone number, address and other details associated with his Coinbase account, were stolen, the person said, asking not to be identified discussing private matters.



Roelof Botha

Photographer: Jason Alden/Bloomberg

Coinbase on Thursday revealed that attackers had bribed customer service representatives in India with cash in exchange for access to client data. Bloomberg News reported that information including names, dates of birth, addresses, nationalities, government ID numbers, some banking data and details about when accounts were created and their balance were exposed.

The thieves then demanded \$20 million from Coinbase in exchange for covering up the incident, an extortion demand the company refused to pay, it said. Coinbase began noticing unusual activity from some customer service representatives as far back as January, the company confirmed in an interview with Bloomberg.

That the attackers gathered information about Botha, which has not been previously reported, hints at the type of wealthy and powerful targets that the outsiders were looking to compromise. Botha is a member of the so-called PayPal Mafia, an influential group of former PayPal employees that includes Peter Thiel and Elon Musk. He joined Sequoia, one of the world's foremost venture firms, in 2003, placing early bets on companies like YouTube and Instagram. He became the firm's leader, taking the title of senior steward, in 2022.

Coinbase declined to comment on the matter. Botha didn't respond to a request for comment. Sequoia Capital also declined to comment.

Some customers last weekend received alerts from Coinbase suggesting that their information had been improperly accessed, according to the person familiar with the matter.

The safety of crypto executives has become a topic of concern as the sector has become more visible.

France's interior ministry assembled a group of executives on Friday to explain immediate steps the country is taking to end a wave of kidnappings that's targeted industry leaders. Those measures will include special checkups at the homes of crypto executives and specific briefings to them and their families.

The meeting comes after the daughter and grandson of chief executive officer of Paymium, a virtual currency exchange, were the targets of a failed kidnapping that took place in broad daylight in Paris. Before that, the father of another man made rich from cryptocurrency was taken, then freed two days later.

Hackers have targeted the cryptocurrency industry for years. Suspected North Korean attackers exploited the crypto exchange Bybit in February, causing a \$1.5 billion incident that security researchers described as a bigger incident than any that came before it.

(Updated to include additional context in final paragraph. A prior version of this story misspelled Sequoia in the headline.)

Crypto Crooks Now Eating Their Own as Crypto Holders Targeted in Crime, Even Violent; Coinbase "Hack" an Inside Job, and Highly Damaging to Wallet-Holders

 [nakedcapitalism.com/2025/05/crypto-crooks-now-eating-their-own-as-crypto-holders-targeted-in-crime-even-violent-coinbase-hack-an-inside-job-and-highly-damaging-to-wallet-holders.html](https://www.nakedcapitalism.com/2025/05/crypto-crooks-now-eating-their-own-as-crypto-holders-targeted-in-crime-even-violent-coinbase-hack-an-inside-job-and-highly-damaging-to-wallet-holders.html)

Yves Smith

May 19, 2025

Our early observation that crypto = prosecution futures is playing out, including along some lines we had not anticipated. The New York Times and Wall Street Journal each have major stories that ran over the weekend on coordinated criminal action against large crypto holders. So far, these are perpetrated by members of the crypto community, but the increased role of violence indicates organized crime are watching these comparative amateurs and looking for ways in.

Keep in mind that being a crypto-asset-holder makes you more likely to be pilfered in a big way. From the New York Times:

Although just 10 percent of all financial fraud complaints [to the FBI's Internet Crime Complaint Center] were crypto-related, the losses associated with those complaints accounted for nearly 50 percent of the total.

The real picture is sure to be worse. A crypto-heist victim who was engaged in illicit activity, or mere garden-variety bad conduct like not reporting income on crypto sales to the IRS is pretty certain not to talk to the FBI and potentially open up other cans of worms.

These stories are appearing shortly after a major Coinbase "hack," which appears to be anything but. Even though Coinbase maintains no wallets were compromised, the company offered to reimburse any impacted customers, which says the reverse.¹ Regardless of the state of compromised 97,000 customers' wallets, the information grabbed was considerable (including potentially biometric ID), offering ample opportunity for mischief like targeting other financial accounts for pilferage and identity fraud.

But let's start with the big weekend stories first. Both feature violence in the perpetration of these crimes; the Wall Street Journal makes that the focus of its account. Both illustrate how readily some very young men have slid from small bore crimes that started with another crimogenic community. The monetization of video game assets like desirable names moved into the crypto-sphere as a result of thefts and other abuses when trying to complete transactions using more traditional payment mechanisms like PayPal.

Both the New York Times and Wall Street Journal stories are hum-dingers. I urge you to read them in full.

First to the Gray Lady, They Stole a Quarter-Billion in Crypto and Got Caught Within a Month.

The story lovingly chronicles the wild spending spree that followed the heist, including an over \$569,000 tab in one evening at a nightclub. It starts with a kidnapping in tony and normally staid Danbury Connecticut, of Sushil and Radhika Chetal, driving a \$240,000 Lamborghini Urus. Witnesses called police, who were flummoxed that the perps has abandoned the vehicle. They managed to catch one of them, enabling them to unravel the case.

It turns out the Chetals are the parents of one 19 year old Veer Chetal, who was one of the actors in the heist of \$243 million of Bitcoin. The crime ring, astonishingly, had conned the Bitcoin holder into taking a call from someone who pretended to be from Google's security team.²

The information extraction on this conversation facilitated a second call, this time supposedly from Gemini, where the victim had a small (well, small for him at \$4.5 million) account:

Like the supposed Google employee, he had the man's personal information; he explained that his Gemini account, which held about \$4.5 million worth of coins, had been hacked and that the man needed to reset his two-factor authentication and transfer the Bitcoin in his account to another wallet to keep it safe.

The person on the phone then suggested that the account holder download a program that would provide additional security. The man agreed, not knowing that he was downloading a remote-desktop app, which would give the caller access to his computer — and access to a second crypto account.

So the crooks got to the big stash entirely by accident.

The New York Times waxes heavy on the role of crypto sleuth ZachXBT, but does seem deserving of accolades; for instance, his monitoring tools enabled him to see the draining of the \$243 million Bitcoin wallet, one where there would be no obvious reason for that activity. The showy spending called attention to the monster theft. In internet bragging, Veer Chetal mistakenly included a shot of his own computer screen, which enabled him to be identified. Other crooks decided to kidnap his parents to get Veer to turn over his ill-gotten lucre.

But the part I found interesting was not the crime drama of the tracking of the baddies or the salaciousness of their spending spree, but (to put it in stereotyped terms), how these kids came to embrace a life of crime:

Classmates remember Chetal as shy and a fan of cars...one day in the middle of his senior year, when he showed up at school driving a Corvette....Soon Chetal rolled up in a BMW, and then a Lamborghini Urus.

Chetal said that he had made his money trading crypto...

Independent investigators say Chetal was secretly a member of the Com, also referred to as the Comm or the Community, an online network of chat groups that has its roots in the hacking underground of the 1980s and functions as a kind of social network for cybercriminals or aspiring ones...According to the F.B.I. affidavit and experts who study the Com, the various subgroups' activities include swatting, which entails making false reports to emergency services or institutions like schools to trigger a police response; SIM swapping, when hackers take over a target's phone number, sometimes by tricking customer-service representatives; ransomware attacks, using a malware that denies users or organizers access to computer files; cryptocurrency theft; and corporate intrusions.

Allison Nixon, the chief research officer of...a collective of cybersecurity experts...says most Com members are young men from Western countries...The gateway for many is through video games like RuneScape, Roblox and Grand Theft Auto.

By the mid-2010s...Minecraft evolved into a highly competitive battle zone. With that came opportunities to monetize and scam. Servers soon began to introduce in-game purchases that gave players upgrades, like the ability to fly and to fight with more powerful weapons and armor. Other in-game purchases bought users stylish character outfits, which were wielded to show status online.

As players gravitated toward these competitive servers, a large black market for in-game items and valuable user names started to blossom on Discord. With Minecraft dominated by young players, the black market became ripe for fraud. Users agreed to trade in-game items for real money via PayPal, but once the money was received, scammers would block the user's account...

One prized possession in this world is high-value user names...which could go for upward of \$10,000.

As faction-based servers and the Minecraft black market thrived, so did cryptocurrencies, which eventually supplanted PayPal on these servers. It was this combination of a consequence-free training ground for competition, gambling and fraud, with a growing familiarity with crypto, that turned Minecraft servers into a cesspool for budding cybercriminals.

I hate to sound like an old fart, but I have always harbored doubts about the online gaming world. Even from a considerable distance, it seems to attract a cohort that has an addictive attachment. Compulsions are not only bad for the subject, but can be exploited.

The account continues:

A common tactic used by the Com today to steal cryptocurrency is what's called social engineering, which entails manipulating users into divulging sensitive information....Sometimes, Com members will then return to the Minecraft black market to launder their stolen crypto by buying valuable game items and selling the items for real dollars using PayPal.

The article continues with the spending spree of the thieves, in particular one Malone Lam, who left a money trail so big it could be detected from space. Another track of the story is how the Feds found the members of a group out of Florida that kidnapped the Chantal parents:

The six Florida men reflect a growing faction of the Com, those less interested in online schemes and more concerned with using brute force..

In the F.B.I. affidavit, an agent said the Com regularly commits "brickings, shootings and firebomb attacks." In 2022, according to reporting from Brian Krebs, an independent investigative journalist, a young man who went by the moniker Foreshadow was kidnapped and beaten by a rival SIM-swapping gang and held for a \$200,000 ransom. In October 2023, a 22-year-old named Patrick McGovern-Allen of Egg Harbor Township, N.J., was sentenced to 13 years in prison for participating in violence-for-hire jobs after being contracted by a group of cybercriminals. Last November, it was reported that the chief executive of a Toronto-based crypto company was kidnapped and held for a \$1 million ransom. A few weeks later, after a 13-year-old known as the Gen Z Quant Kid created a crypto coin and inflated its value, the crypto community responded by doxxing him and his family and, it is rumored, kidnapping his dog. In January this year, a founder of the French crypto company Ledger was kidnapped with his wife; the kidnappers mutilated his hand and demanded a multimillion-dollar ransom in cryptocurrency.

And Com is also breeding recidivists:

The twin episodes — the crypto heist and the kidnapping — suggest that the complete lawlessness of Com members' online lives allowed them to imagine that they could get away with similar exploits in the real world. "I don't think they really learn," ZachXBT says. "I've seen a lot of them, after they either get either arrested, have assets seized, et cetera — I see a lot of them go back to what they were doing before."

The Wall Street Journal focuses on violent crypto crimes, with the graphic headline Severed Fingers and 'Wrench Attacks' Rattle the Crypto Elite. Key bits:

Three men in black masks had jumped on a 34-year-old woman whose father runs Paymium, a French cryptocurrency exchange...the assailants bludgeoned the husband....

With other neighbors closing in, and a shopkeeper readying to throw a fire extinguisher, the would-be abductors jumped in the back of their van and sped off.

The brazen attack was the latest in a wave of violent abductions around the world, including several in the U.S., targeting crypto executives and their families. Victims have been pistol whipped, abducted, and—in two cases—had fingers severed.

The criminals' goal: millions of dollars in ransom in cryptocurrency.

The assaults are often called "wrench attacks" because they rely on simple tools for inflicting pain to coerce victims, rather than sophisticated tools for hacking them.

...to thwart hackers, savvy cryptocurrency investors have increasingly taken their digital wallets offline in favor of physical devices, making remote theft more difficult. Real-world crypto crime bypasses those safeguards.

After more examples, plus the statement that there have been "dozens" more instances around the world, the article ominously notes:

Some of the assaults have been clumsy, with the criminals quickly caught. But there are signs that organized-crime rings see major profit potential.

But fortunately, at least for now, the victims have been high profile.

But will the recent Coinbase misnamed "hack"³ of 97,000, which exposed information that would greatly assist actual hackers, lead to much smaller and/or secretive fry being targeted? The Journal notes that in addition to the Coinbase information breach, officials are also concerned about a hack of 272,000 at Ledger, a company that makes devices for storing cryptokeys off the Internet, and Knoll, which exposed information about creditors in the Gemini bankruptcy (notice the role that seems to have played in the big Bitcoin heist profiled in the New York Times).

More on Coinbase:

Coinbase hackers weren't after funds, they were after identities.

How are we okay with still trusting these 3rd party companies with our info – info that becomes more and more sensitive as more of our lives move online (and on chain) ?

— Anna Rose (@AnnaRRose) May 15, 2025

And they appear to have gotten quite the information haul: From the Coinbase 8-K:

While the Company is still investigating the affected data, it included:

- Name, address, phone, and email;
- Masked Social Security (last 4 digits only);
- Masked bank-account numbers and some bank account identifiers;
- Government-ID images (e.g., driver's license, passport);
- Account data (balance snapshots and transaction history); and
- Limited corporate data (including documents, training material, and communications available to support agents).

Name, address, phone, e-mail, and government ID images???? That alone is an identity theft party even before getting to the other details. In addition, US passport photos are now required to be at biometric ID standards. If the images at Coinbase were high enough fidelity, that creates additional exposure. Keep in mind quite a few Social Security numbers are already for sale on the dark web. And the 8-K wording indicates there could be more.

It should come as no surprise that crypto, whose main use case has been the illicit movement of funds to facilitate crime, including tax evasion, would become a criminogenic environment. But that makes it even more startling to see governments still promoting crypto as some sort of "innovation" in the face of that. And there are many many true believers:

JUST IN: Coinbase is joining the S&P 500. pic.twitter.com/Ufi5ONr6sc

— Brew Markets (@brewmarkets) May 12, 2025

¹ Not the only seemingly legit complaint on Twitter:

 My Coinbase account was hacked — and right after I tried to buy Toshi Coin! In this video, I break down the nightmare experience, what went wrong, how much I lost, and what you need to know to protect yourself. 💣 What You'll Learn: How the hack happened (step-by-step) What pic.twitter.com/XyDJPXH1bq

— Jay talks Crypto (@jaytalkscrypto) May 18, 2025

² Being a Bitcoin whale may create an undue sense of self-importance. Since when does Google have live people call individual users? I've been called only for harassment as a company owner, and then only automated ones based on an obvious lack of comprehension (Local ads? Seriously?)

³ More detail:

It's clear Coinbase was not "hacked" reading the 8-K Material Facts statement they made to the SEC: @Coinbase employees sold customer data. People/media need to stop referring to it as a hack, as it minimizes blame

Take this as another data point for 3rd party custodian risks
pic.twitter.com/RSMbbQ9BS5

— MAGS 🗝️🔨🇺🇸 (@Crypto_Mags) May 16, 2025

Coinbase outsourced jobs to overseas contractors. Some of them took bribes from hackers and sold sensitive customer data. This is what happens when companies offshore just to save a buck. <https://t.co/RQ1RFh2ZSx>

— U.S. Tech Workers (@USTechWorkers) May 15, 2025

Binance, Kraken Are Said to Have Been Targets of Hacks (1)

Binance and Kraken are among major crypto exchanges that have been targeted by the same type of social-engineering hack that was recently disclosed by Coinbase Global Inc., according to people familiar with the situation.

Both digital-asset platforms were able to fend off the attacks without losing customer data, according to the people, who asked not to be identified discussing the assaults. Representatives of Binance and Kraken declined to comment on cybersecurity matters.

While crypto companies and market participants have been constant targets of cyber criminals since the earliest days of the industry more than a decade ago, upticks in the attacks tend to coincide with a jump in the value of digital currencies as they've done so recently. Countless exchanges, including Bybit, Bitfinex and FTX, lost billions to hackers over the years.

Read more: [Bybit Hack Prompts EU Scrutiny of OKX Platform Used by Thieves](#)

Binance and Kraken were attacked in a similar way to Coinbase's, but their internal policies and technologies repelled the attacks, the people said. Binance was seeing scammers reaching out to its customer-service agents with bribery offers, and a Telegram handle to contact the culprit with, one of the people said.

Binance uses artificial-intelligence bots to spot offers of potential bribes in different languages, and to stop the conversations. Many exchanges also only allow representatives to access customer information when customers initiate calls.

Last December, security personnel at several rival exchanges became aware of hackers targeting specifically large Coinbase holders, the people said. At least one exchange notified Coinbase's security team through Telegram multiple times, one of the people said. Coinbase declined to comment on whether it had been notified by other exchanges. Coinbase declined to comment on whether it had been notified by other exchanges.

Read more: [Coinbase Hack Rocks Company That Led Crypto Into Mainstream](#)

In Coinbase's case, hackers bribed customer agents to steal client data and then demanded a \$20 million ransom to delete it. The bribed reps got access to names, dates of birth, addresses, nationalities, government-issued ID numbers, some banking information as well as details about when customer accounts were created and their balances, Bloomberg reported earlier. Coinbase began noticing unusual activity from some of these reps as far back as January, the company told Bloomberg News on Thursday.

Social-engineering attacks have been on an upswing for crypto exchanges for the last two years. Hackers have also been known to buy crypto exchange users' information, collected via malware unwittingly installed on the users' devices, on the dark web. Using that, they called some Binance users in Israel, for example, trying to hoodwink them into transferring their funds into a new wallet the hackers controlled, two people said. The caller had a posh British accent, one of the people said.

Separately, on Thursday, the Department of Justice charged 12 people "for allegedly participating in a cyber-enabled racketeering conspiracy throughout the US and abroad that netted them more than \$263 million" and involved using social engineering to steal Bitcoin.

(Updates the second paragraph to note that Binance declined to comment.)

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How Trump's crypto business partners left their old clients in the lurch

 [reuters.com/business/how-trumps-crypto-business-partners-left-their-old-clients-lurch-2025-05-19](https://www.reuters.com/business/how-trumps-crypto-business-partners-left-their-old-clients-lurch-2025-05-19)

Lawrence Delevingne

May 19, 2025

 How Trump's crypto business partners left their old clients in the lurch

Item 1 of 3 Charles Hoskinson moderates a panel as Chase Herro, Zach Witkoff, Zak Folkman and Donald Trump Jr. speak about World Liberty Financial at the DC Blockchain Summit 2025 in Washington, DC, U.S., March 26, 2025. The Digital Chamber/Joyce Boghosian/Handout via REUTERS/File Photo

[1/3] Charles Hoskinson moderates a panel as Chase Herro, Zach Witkoff, Zak Folkman and Donald Trump Jr. speak about World Liberty Financial at the DC Blockchain Summit 2025 in Washington, DC, U.S., March 26, 2025. The Digital Chamber/Joyce Boghosian/Handout via REUTERS/File Photo Purchase Licensing Rights, opens new tab

Summary

- Crypto startup Dough Finance was hacked last summer and deposits were lost
- The founders promised to make users 'whole' but then stopped communicating
- They've made at least \$65 million partnering with President Trump and his three sons

BOSTON, May 19 (Reuters) - (Note language in paragraphs 5 and 15 that readers may find offensive)

In May last year, Jonathan Lopez invested about \$1 million worth of cryptocurrency in Dough Finance, a small trading platform that made it easy to make risky bets using borrowed funds.

Initially, the 31-year-old investor and motivational speaker from Miami did well.

Part of Dough's appeal for users was "looping," where traders borrow against their crypto holdings to buy more of the same asset and then use that new asset as collateral to buy even more. Each "loop" increases risk and Dough made those highly technical trades as easy as a few clicks.

Lopez paid a 5% fee on the crypto he deposited in Dough, and co-founder Chase Herro personally showed him how to use the platform and cheered him along, according to documents made public in subsequent litigation between the two men.

"We get reward(s) for the risks we take," Herro wrote Lopez. "Lfg," he added, shorthand for "let's fucking go."

But on July 12, 2024, Lopez's entire investment was gone, stolen by unidentified hackers who made off with about \$2.5 million, according to a post-mortem of the heist that Dough later posted online.

"We acknowledge our mistake and are deeply sorry," Dough said in a post-hack report published on Medium, opens new tab on July 23, 2024 conceding vulnerability in the code that made the hack possible. "We will continue to work diligently to protect our users and their assets, learning from this incident to enhance our security posture."

Advertisement · Scroll to continue

Two months later, Herro and co-founder Zak Folkman resurfaced with a brand new crypto venture, World Liberty Financial, and new partners: U.S. President Donald Trump and his three sons, Don Jr., Eric, and Barron.

Herro and Folkman were introduced to President Trump and his two eldest sons by his current mideast envoy Steve Witkoff. The Trumps, Witkoff has said, were smitten by the two men's vision of decentralized finance and became partners in World Liberty, where President Trump is listed as "Chief Crypto Advocate" and his sons are "Web3 Ambassadors."

Now Lopez is suing Herro for fraud, misrepresentation, breach of fiduciary duties, and violating Florida's securities laws, seeking restitution and punitive damages as well as legal fees. Lopez did not respond to requests for comment.

An attorney for Lopez, Joseph Pardo, told Reuters in February that Lopez had invested heavily in Dough based on Herro's representations, arguments echoed in the lawsuit Lopez filed against Herro in January. Pardo did not respond to requests for additional comment.

Attorneys for Herro filed for dismissal or arbitration, calling Lopez a "sophisticated" investor who should have understood the risky nature of looping and crypto and that the hack was out of Herro's control. The judge overseeing the case set a trial date for April 2026 in Miami federal court.

"We are proud of the entire team," Trump Organization executive vice president Eric Trump said in an emailed statement in response to questions about Herro and Folkman's involvement in Dough and their role with World Liberty. "They have overachieved our wildest goals and our current trajectory is nothing short of incredible."

Reuters review of previously unreported correspondence unearthed by the lawsuit, combined with interviews with 10 former Dough customers and a review of social media posts, lays out for the first time how the crypto entrepreneurs walked away from their old venture just as they became entwined with World Liberty, a crypto project that has sent hundreds of millions of dollars to the family of President Trump.

Prior to Dough Finance, Herro and Folkman were frequent collaborators as online sales and crypto entrepreneurs. Herro once called himself “the dirtbag of the internet” in an address to investors about making money in crypto, in which he also said “I do what’s legal...besides that I don’t give a fuck”; Folkman early in his career founded “Date Hotter Girls,” which proffered advice on how to pick up women.

After the collapse of Dough, though, they hit it big with Trump's World Liberty; their cut of the company's revenues so far is at least \$65 million, according to their disclosed share of proceeds from the sale of more than \$550 million in tokens. The Trump family's share of those token sales is about \$400 million, Reuters has reported .

Herro and Folkman, as well as Herro's attorneys and a spokesperson for World Liberty, did not respond to requests for comment for this story. Don Jr. and Barron Trump did not respond to requests for comment. The White House press office referred questions to the Trump Organization.

World Liberty is part of an array of Trump family crypto ventures that have expanded during his new administration. These include a \$TRUMP meme coin , Trump Media & Technology Group's new crypto exchange-traded funds, a crypto mining operation called American Bitcoin, and USD1 , a stablecoin pegged to the U.S. dollar from World Liberty.

Those businesses are testing the norms of how U.S. officeholders are allowed to enrich themselves while in power. Beyond the crypto investments, the Trump family has unveiled plans for a new Trump hotel in Dubai and a new golf course in Qatar. Most recently, Trump has faced bi-partisan criticism for his desire to accept a \$400 million airplane from Qatar . In January, the Trump Organization announced the president's assets would be held in a trust managed by his children and he would play no day-to-day role.

‘I SAID WE’D TAKE CARE OF IT’

The thieves made off with nearly all of Dough's deposits, but Folkman and Herro promised to work to recover lost funds. “We will not stop until everyone is made whole,” Folkman wrote on the day of the breach in a Telegram channel for Dough users with around 2,700 members, reviewed by Reuters.

Herro texted Lopez to assure him he would be reimbursed for the nearly 300 ether tokens he had lost, worth about \$833,133 at the time, according to Lopez's lawsuit.

“I said we’d take care of it,” Herro wrote. “I’m letting the team sort this. They said give them the weekend.”

Known for their frequent posts online about exotic cars and money-making strategies, the men abruptly stopped updating Dough's Telegram chat and X.com account after August 18. Herro deleted another Telegram group for early Dough users, according to three former

participants.

Hacks have long plagued crypto . Funds stolen by hacking cryptocurrency platforms totaled \$2.2 billion in 2024 , according to a report from Chainalysis in December. In February, cryptocurrency exchange Bybit was hit in a \$1.5 billion heist researchers called the biggest of all time.

Decentralized finance or “DeFi” platforms like Dough, which allow people to access financial services like borrowing and lending without intermediaries like banks, are particularly vulnerable to hacks. That’s because they are typically new and offer novel features and code that are less battle-tested than those of larger, centralized exchanges.

For users affected by the hacks, recovery of stolen crypto from the thieves themselves using forensic firms or law enforcement is usually the best option – if a highly uncertain one – because legal claims against exchanges are difficult to prove. Regardless, once a platform is hacked users often do not get their assets back.

"Most of these suits (Lopez's included) assert claims of negligence, likely because such a claim has a lower burden of proof than fraud-based claims," said Jonathan Cogan, an attorney with Kobre & Kim who has worked on legal disputes involving stolen digital assets, in an email.

Post-hack, crypto platforms and exchanges sometimes promise to make users “whole,” but that’s not necessarily binding given the subjective nature of the promise and lack of formalization in a user agreement.

“‘Make whole’ can be in the eye of the beholder,” said Joseph Cioffi, a partner with law firm Davis+Gilbert who has worked on large crypto bankruptcies and forfeiture proceedings.

The Dough website includes various disclaimers, including that crypto technologies are “novel, experimental, and speculative” and that there “is significant uncertainty regarding the operation and effects and risks thereof.”

But such language would not typically be enough to shield crypto companies from any liability. “ Courts may look into why and how the hack occurred and any obligations undertaken by the exchange to secure the assets,” Cioffi said.

Looping is considered high-risk, even in the world of crypto, because it uses leverage to amplify bets – potentially juicing returns but also risking larger losses and forced liquidation of positions .

Meir Dolev, CEO of Israel-based crypto security company Cyvers, which detected the Dough hack as it happened, said that looping-related code is what hackers exploited to break into Dough’s systems. “Their implementation of complex, high-risk strategies like looping and de-

looping without sufficient safeguards suggests they took excessive risks," Dolev said via email.

Dough's post-hack report acknowledges the same root cause of the theft as Cyvers. Dough added that it would take preventive measures including auditing its code and enhancing security through monitoring.

The Dough website is now effectively shut down, locked behind a password and has virtually no assets in it, according to crypto tracker DeFiLlama, opens new tab.

‘WORTH NOTHING’

On July 23, Dough announced on Medium that approximately \$281,000 of the stolen crypto assets had been recovered, opens new tab by a professional counter-hacking outfit, SEAL 911, and that the funds would be distributed back to investors on a pro-rata basis.

An analysis by crypto security company CertiK shows that, in September, around \$180,000 worth of ether crypto coins in total was sent by a Dough account to 134 digital wallets. It's not clear how those accounts were selected; eight Dough users told Reuters that they received no such repayment.

It was unclear what, if any, compensation Lopez has received for his Dough-related losses. Lopez's legal complaint on January 27 said that Herro had "reneged" on his promise to reimburse Lopez for his nearly 300 ether tokens.

Ten victims of the Dough hack contacted by Reuters spoke on condition of anonymity. One user, who said he lost about \$150,000 worth of ether, said he grew frustrated at the lack of communication and reported the hack to the FBI. He said he never heard back from the FBI, nor from Herro. The FBI did not respond to a request for comment.

In August, Dough also announced, opens new tab that it would issue proprietary tokens equivalent to the remaining missing funds that could be exchanged for ether if any additional assets were recovered.

"What the hell am I supposed to do with that?" said another Dough user of the millions of Dough tokens he had received after the hack. Unless Dough gets more funds back, "it's worth nothing."

Thus far, no additional recoveries have been announced.

A 25-year-old man in Poland, who did not give his name, told Reuters that he had put most of his life savings, about \$12,000 worth of ether, into the Dough platform around May 2024. His account swelled to about \$25,000 around the time of the hack, said the man who shared screengrabs of his communications with Herro and Folkman via direct messages on X.com.

The last he heard from Dough was a direct message from Folkman on January 13. “We should have a solution this week,” he wrote to the Poland man, who said he never received any tokens, ether or other compensation.

Days later, on January 20, the day of Trump’s inauguration, Herro and Folkman were spotted in Washington, DC, celebrating at a black-tie ball.

Reporting by Lawrence Delevingne in Boston; Additional reporting by Tom Wilson in London.
Editing by Tom Lasseter and Michael Learmonth

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

Delevingne works primarily on enterprise stories related to finance. He joined Reuters in 2015 and previously reported for CNBC.com and Absolute Return. Delevingne is a graduate of Columbia’s Graduate School of Journalism and Georgetown’s School of Foreign Service.

Securities Law

May 19, 2025, 4:00 AM PDT

A Tiny Bank in Trump Tower Is Enriching the President's Sons

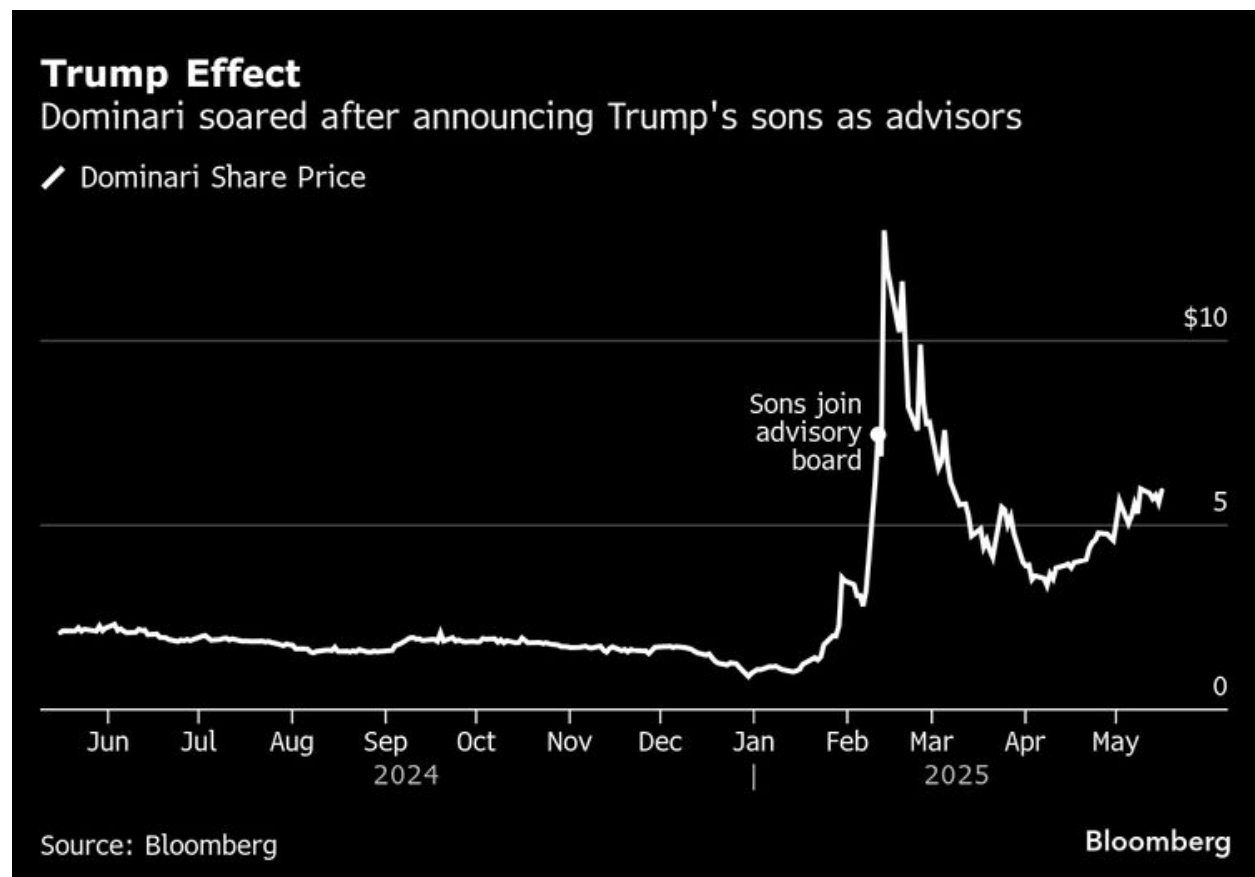
- Dominari surged after bringing on Eric Trump, Donald Trump Jr.
- It's part of lucrative pattern they've embraced since election

From its New York headquarters on Trump Tower's 22nd floor, Dominari Holdings Inc. operates a tiny investment bank that, less than three years ago, pivoted from developing cancer therapies into finance.

Since then it has lost about \$70 million. One of its senior executives was named in a now-settled complaint alleging "Boiler Room" style business practices at an earlier employer. And it has been stockpiling Bitcoin.

For years its shifting priorities and tribulations remained largely out of the spotlight. That changed when it gained two recognizable backers: **Donald Trump Jr.** and **Eric Trump**.

The announcement in February that they were joining Dominari as advisers promptly sent shares soaring more than 80% – a windfall for the brothers, at least on paper, because they received hundreds of thousands of shares beforehand. While the stock is down from its peak, Trump Jr. and Eric Trump have already amassed stakes they could potentially sell for about \$8 million each, according to a Bloomberg analysis.



Their involvement in Dominari follows a lucrative pattern the pair have embraced since their father's reelection – joining a small, sometimes unprofitable company, announcing an advisory role, and watching the value of their shares pop.

Trump Jr. took on a partnership with conservative Christian radio network Salem Media Group Inc. and became an adviser to Unusual Machines, a drone company that tapped Dominari for its initial public offering, among other ventures. In response to scrutiny of his corporate roles, Trump Jr. has said that he has spent his entire adult life as a businessman.

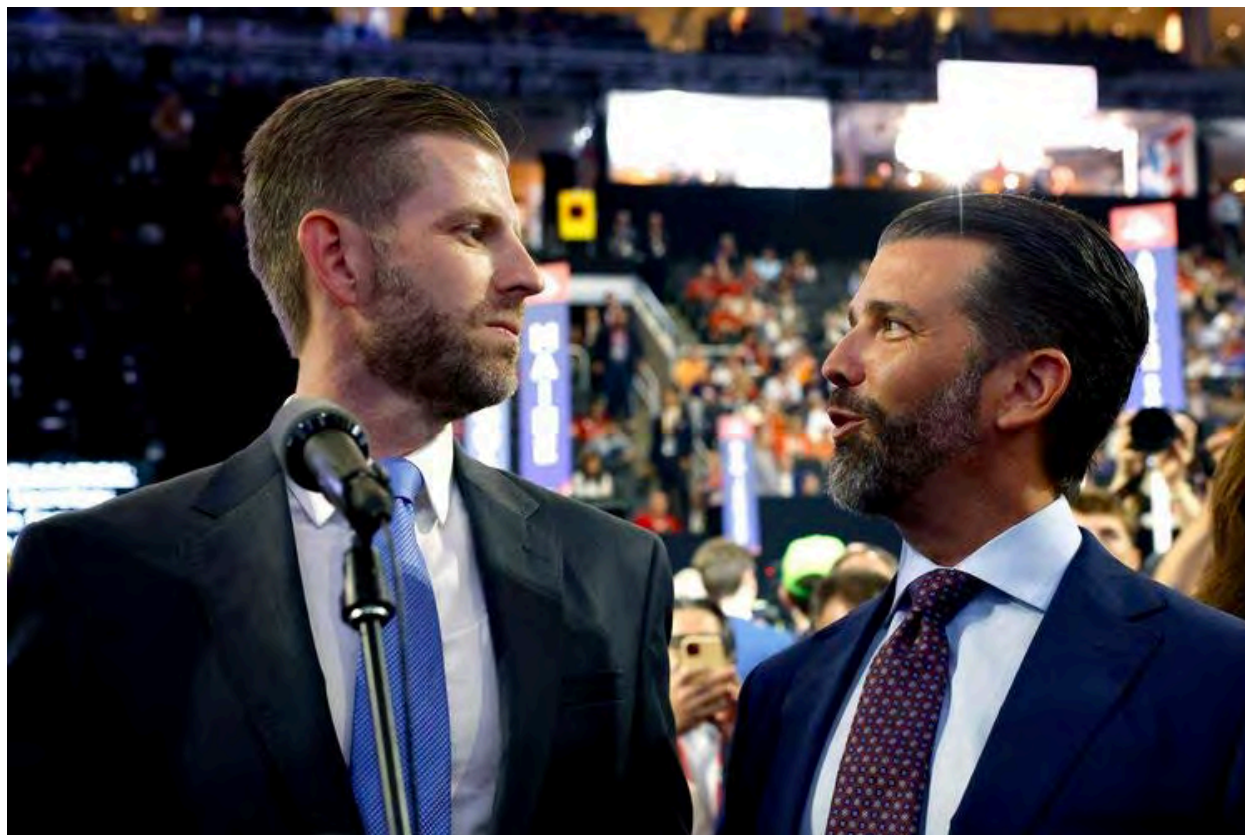
Yet even in their growing roster of corporate positions, Dominari stands out. One of the company's most senior executives has a history of customer claims against him. The company underwrites US public offerings for small, obscure companies, many of which are based in Hong Kong and China and trade as penny stocks.

Of the more than a dozen IPOs it has been involved in since shifting to banking, about one-third have plunged more than 75%, a Bloomberg analysis shows. Some lost almost all of their value in less than a year of hitting public markets.

Brett Maas, a spokesman for Dominari, said none of the company's advisers have sold any shares, and that the firm remained committed to "its long-term growth strategy."

"Both the company and its investors believe in the strength of our business model, the caliber of our leadership, and the opportunities ahead," Maas said. The advisers' "continued ownership reflects a shared belief in the company's future and alignment with the interests of long-term shareholders."

The Trump Organization did not respond to a request for comment.



Eric Trump, left, and Donald Trump Jr. at the RNC in 2024.

Photographer: Eva Marie Uzcategui/Bloomberg

Regulators warn that penny stocks – typically defined as companies whose shares cost less than \$5 – can be associated with volatile trading and increased susceptibility to fraud. Dominari's business shepherding low-priced companies to US markets could be a hazard, said Jay Ritter, an IPO researcher at the University of Florida.

"These penny stock underwriters are not going to be enhancing anybody's reputation," Ritter said.

Though Dominari has a track record of losing money on its private investments, the Trump brothers have said they see big things ahead for the company. Since they joined, the firm already struck an [agreement](#) with Hut 8 Corp., a Bitcoin mining company, that could stand to benefit from their father's vow to make the US the "crypto capital of the world."

"I've got a little special twinkle in my eye whenever I see those guys," Eric Trump said of Dominari's executives in an interview with Fintech.TV. "They're an amazing firm. They've brought a lot of great things to us in the past, and so many of those great things have worked out so incredibly well."

Trump Ties

Though the Trumps haven't been involved in Dominari for long – they became advisers only about three months ago – they've already amassed valuable stakes. They each received 750,000 shares for joining the company, and for meeting "certain milestones."

Three other Trump Organization executives hold Dominari shares too. Ronald Lieberman, an executive vice president who joined Dominari as a board member in December, registered to sell most of his shares, worth more than \$1 million as of April. Lawrence Glick, another executive vice president, and Chief Legal Officer Alan Garten registered to sell stakes worth more than \$3 million each. Lieberman, Glick and Garten did not respond to requests for comment.

On the February morning that Dominari announced Eric Trump and Trump Jr. would join its advisory board – a board that the company rarely mentioned in previous filings – Dominari President **Kyle Wool** heralded their business acumen.

Wool, who is also chief executive officer of the firm's securities business, has helped shift the company's focus radically since 2022, when it struck a deal to buy a brokerage and pivoted to finance from biotech.



Kyle Wool and Soo Yu at an event in New York in 2023.

Photographer: Sylvain Gaboury/Patrick McMullan/Getty Images

He called President Donald Trump's sons his friends, and said that with their help, Dominari would pursue even buzzy industries.

"They're very great businessmen, and I think they both have an interest in the AI and data center space," Wool said in a phone interview after the announcement.

Wool, who added he's a member of a Trump golf course in Jupiter, Florida, has boosted his MAGA bona fides by styling himself as an expert on investing in regular appearances on Fox News, promoting "anything Elon Musk-related," among other things.

Yet his track record is hardly pristine. Wool has faced five customer disputes since 2005, according to Finra, the financial industry's self-regulatory body. The most recent of them alleges more than \$1 million of damages.

"Dominari and Mr. Wool believe the allegations are wholly without merit, intend to vigorously contest them, and expect that they will prevail at a hearing on the merits," the broker responded.

Asked about his earlier regulatory disclosures in February, Wool denied wrongdoing.

"This is part of being in the industry for many years," Wool said at the time. "I vehemently denied that, and I defend myself."

Wool declined a subsequent interview request. Dominari didn't comment on detailed questions about his regulatory history.

Revere Securities

Before arriving at Dominari, Wool worked at another small investment firm, Revere Securities. His conduct there was the subject of a 2023 legal complaint against him and several Revere colleagues.

The complaint offers a window into the accusations of aggressive sales tactics often associated with low-priced securities. A client who hired Wool to manage her investments claimed he made unauthorized trades, racking up more than \$820,000 in fees in less than a year for himself and Revere, according to the complaint. Her account meanwhile was saddled with about \$1.5 million of losses.

Wool urged the client, a professional female golfer, to invest \$250,000 in a Bitcoin startup called BCII, which had not yet gone public, the complaint said. She allocated \$50,000, but Wool prodded her to invest more, "reminding us all of the movie the *Boiler Room*," it said.

She discovered her accounts held stocks she hadn't known about: instead of shares in BCII, she owned a stake in a company called Kerna Health, according to the complaint.

Kerna Health was one of Dominari's largest long-term holdings at the end of 2024.

"Mr. Wool denies these allegations and will vigorously defend this matter," states the broker comment on Finra's site. On Wool's BrokerCheck, the matter is now listed as "settled."

Tight-Knit Group

Dominari's leadership team is a tight-knit group. Wool, who first joined the company's board in 2021, has described CEO Anthony Hayes as "one of my best friends." **Soo Yu**, Wool's wife, is special projects manager and sits on the board.



Trump Tower in New York.

Photographer: Jeenah Moon/Bloomberg

The company lost a net \$37.6 million in the two years ended in 2024. In just the first three months of 2025, it lost an additional \$32.5 million.

Wool's pay totaled \$2.8 million in 2024. Yu, a naturalized US citizen who was born in South Korea and cultivates relationships with clients overseas, collected \$2.4 million. In 2023 she earned more than \$8 million, putting her in league with executives at much larger financial institutions.

Shape Shifting

The corporation that became Dominari started as Spherix Inc. in 1967. In 2017 it began operating a small-molecule anticancer and antiviral therapeutics firm, and later changed its name to Aikido Pharma Inc. It rebranded once more to Dominari in 2022.

In the same year, it agreed to buy a small broker-dealer called FieldPoint. Its Trump Tower lease agreements cost it about \$750,000 a year in rent, filings show.

Its track record in IPOs has largely come from penny stocks. Jupiter, Florida-based Jupiter Neurosciences Inc. and Hong Kong-based Wellchange Holdings Co. are among the companies with shares trading below \$1 after sharp price drops on the public markets.



The company also made small investments in private businesses that link back to Trump's orbit. They include a \$100,000 stake in Musk's xAI; \$364,000 in crypto exchange Kraken, whose co-founder **Jesse Powell** donated \$1 million to Trump's inauguration fund. It held a roughly \$1 million stake in Unusual Machines, where Trump Jr. is also an adviser, before the drone company went public in 2024, according to the most recent disclosures.

Dominari is moving deeper into cryptocurrency, an industry the Trumps promote. The company started a Bitcoin stockpiling strategy in the same month that the Trumps joined. It held about \$2 million of a Bitcoin exchange-traded fund at the end of March.

In another crypto venture, Dominari created a data-center division in February with the Trumps, and announced it was turning it into a Bitcoin miner in March. A publicly traded company, Hut 8, agreed to hand over almost all of its miners to Dominari's newly formed data-center division. Hut 8 would get 80%, and the Trumps and their partners would receive the remaining 20%.

The new company, American Bitcoin, plans to go public this year by combining with another firm – another potential opportunity for its owners to profit.

Read More: [Trump Sons' Bitcoin Mining Partners Had Run-Ins With Regulators](#)

Asked about the expertise the Trumps would bring to Dominari, Wool responded that they're "friends and advisers" and he didn't want to speak for them.

Adam Pritchard, who teaches corporate and securities law at the University of Michigan, said one driver for the small bank's selection of the advisers is likely name recognition.

"Is there any doubt that having the last name Trump is helping in their business?" he said. "Of course it's helping them."

--With assistance from **Tom Maloney** and **Phil Kuntz**.

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Securities Law News

May 16, 2025, 12:26 PM PDT

Trump's Crypto Project Pushes Back on Senate Inquiry (1)

Attorneys for Donald Trump's World Liberty Financial crypto project pushed back against claims about potential conflicts of interest raised by the Democratic head of a Senate investigative subcommittee.

“The company has exercised rigorous diligence to ensure compliance with applicable legal and regulatory obligations at every stage,” World Liberty lawyers wrote in a letter dated May 15. The crypto project also denied there is any affiliation with Fight, Fight, Fight, LLC, the firm that launched the Trump memecoin, and its chief executive officer, **Bill Zanker**.

Earlier this month, Senator Richard Blumenthal of Connecticut, the top Democrat on the Permanent Subcommittee on Investigations, sent letters to World Liberty as well as Fight, Fight, Fight seeking information. Blumenthal's letter, addressed to World Liberty's co-founder **Zach Witkoff**, accuses the project of reaping "substantial financial benefits for its founders and the Trump family." The letter came after Fight Fight Fight promoted a private dinner with President Trump and a VIP White House tour for the top 220 holders of the Trump memecoin that will be held May 22.

“This seriously inadequate response conveniently avoids the fact that foreign governments and others can enrich and compromise the president through World Liberty Financial,” Blumenthal said in statement Friday. “WLFI’s refusal to answer even the most basic questions about President Trump’s financial entanglements with the company raises serious concerns, and I will continue demanding transparency for the American people.”

Trump's potential conflicts of interest related to crypto have increasingly become a concern for Democratic senators. This week, Senators Elizabeth Warren and Jeff Merkley also asked World Liberty 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 used \$2 billion of the World Liberty stablecoin to invest in the cryptocurrency exchange Binance, before President Donald Trump's trip to the Middle East.

World Liberty announced Friday that it is collaborating with Chainlink to enable cross-chain transfers of the USD1 stablecoin between Ethereum, BNB Chain, and other networks.

The attorneys writing on behalf of World Liberty Financial and Witkoff are Teresa Goody Guillén and Jonathan R. Barr, partners at law firm Baker & Hostetler LLP. Teresa Goody Guillén, a lawyer who was reportedly among President Donald Trump's candidates to lead the Securities and Exchange Commission, is also a lobbyist for cryptocurrency exchange Binance and its founder, Changpeng Zhao.

Binance, which pleaded guilty to anti-money laundering and sanctions violations less than two years ago, registered Goody Guillén as their lobbyist in late March, according to public filings. While she has a history of working with companies involved in government enforcement actions, representing Binance and Zhao marks the first time she has registered as a lobbyist, according to public records.

(Adds latest venture in the sixth headline. An earlier updated corrected a typographical error.)

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Tesla Cybertruck Loses Sales Lead to Ford. It Was Always Going to Happen

 [thedrive.com/news/tesla-cybertruck-loses-sales-lead-to-ford-it-was-always-going-to-happen](https://www.thedrive.com/news/tesla-cybertruck-loses-sales-lead-to-ford-it-was-always-going-to-happen)

Byron Hurd

May 16, 2025



The latest car news, reviews, and features.

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The Tesla Cybertruck may have entered the 2025 electric pickup race in pole position, but the advantage it had last year has already evaporated, analysts said earlier this week after tabulating vehicle registrations for the first quarter of the year. So far, it's not the Tesla, but the old-fashioned F-150 Lightning leading the battery-powered pickup sales charts.

The advantage was not immense—Tesla accounted for 7,126 new registrations to the Lightning's 7,913, *Automotive News* says—but Tesla boosters may find cause for concern in the truck's overall trajectory. A sales rate of ~7,150 per quarter puts the Cybertruck on pace for fewer than 30,000 total sales in 2025, which would be a drop of nearly 40% from its first year on the market.

Politics aside, this has been a challenging sales environment for Tesla's aspirational electric truck. Not only did its initial sales fall dramatically short of the company's widely publicized reservation figures, but Tesla also faced the embarrassment of being publicly confronted with its sales shortfall when it was compelled to share delivery data as part of a recall earlier this year—a campaign some owners and fans say is still putting a drag on the company's deliveries.

Tesla's total share of EV sales has been slipping for the better part of a year, forcing the company to find sales in a steadily narrowing slice of the broader market. Second place is still nothing to sneeze at, granted. Most automakers would kill to have the second-most-popular pickup truck in virtually any segment of the U.S. market. Generally speaking, that's an advantageous (and profitable) position, and Tesla can certainly pat itself on the back for beating out several established competitors—the Chevrolet Silverado EV, GMC Sierra EV, and the Rivian R1T.



F-150 Lightnings being delivered. *Ford Ford*

If Tesla can hang on to any good news here, it's that it is still doing better than Stellantis. Conspicuously absent from that list, Ram's electrified entries remain stuck in development hell with a 2027 on-sale date now being floated. But hey, at least we might get the Hemi back before the year is out?

0:04

Got a tip? Send it in: tips@thedrive.com

EY's 'paused' split dragged into \$2.7 bln London lawsuit

 [reuters.com/markets/deals/eys-paused-split-dragged-into-27-bln-london-lawsuit-2023-03-20](https://www.reuters.com/markets/deals/eys-paused-split-dragged-into-27-bln-london-lawsuit-2023-03-20)

Sam Tobin

March 20, 2023

The logo of Ernst & Young is seen in Zurich, Switzerland November 13, 2020.
REUTERS/Arnd Wiegmann/File Photo Purchase Licensing Rights, opens new tab

LONDON, March 20 (Reuters) - EY's plans to split its auditing and consulting arms have been dragged into a \$2.7 billion lawsuit brought in London by the administrators of troubled hospital operator NMC Health PLC over concerns EY would be unable to pay if it loses the case.

The company, formerly known as Ernst & Young, has been planning to separate its auditing and consulting businesses, though reports this month suggested the move is likely to be paused.

EY – one of the world's "Big Four" auditors, along with Deloitte, PwC and KPMG – appeared to confirm the pause in court filings released for a hearing at London's High Court on Monday.

"NMC will be aware from press coverage ... that the potential separation under consideration is paused," the document said.

An EY spokesperson said in a statement: "This transaction is complex and will be the roadmap for re-shaping the profession, so it is important we get this right.

"We remain committed to the strategic rationale that underpins Project Everest (the proposed separation) and believe that a deal can and should be done."

NMC, which sued EY last year for allegedly failing to identify that NMC's financial statements were materially misstated between 2012 to 2018, asked for a court order requiring EY to provide details of the potential split.

Its lawyer Simon Salzedo said in court filings that NMC is concerned that the proposed separation would "reduce EY's assets and future income", and that EY would be unable to pay \$2.7 billion if NMC is successful at trial.

However, EY – which denies any breach of duty to NMC – says it has already agreed to provide relevant information about the potential split to NMC.

EY's lawyer Thomas Plewman also said in court filings that, as the proposed separation has been paused, the application is "premature and unnecessary".

Judge David Foxton said on Monday that he was not going to make a court order, but that EY should notify NMC four weeks before any partnership vote on the split of EY's business.

The judge also set a provisional trial date of April 2025.

NMC, which used to be listed in London, ran into trouble in late 2019 when short-seller Muddy Waters questioned its financials, which led to a sharp fall in its share price. It went into administration the following year after it disclosed more than \$4 billion in hidden debt.

Reporting by Sam Tobin, editing by Ed Osmond and Susan Fenton

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4th Circ. Latest To Curb Short-Seller Usage In Securities Suits

By **Tim Fitzmaurice, Elizabeth Gingold Clark and Madeleine Juszynski Davidson** (May 16, 2025, 4:20 PM EDT)

Frequently, a short seller issues a public report claiming that a public company has engaged in some type of wrongdoing, with the deliberate purpose of causing the public company's stock price to decline. The short seller issuing the report profits from the decline in the public company's stock because it has taken a short position on the stock, and their reports trade mostly in gossip and innuendo, rather than fact.

These reports frequently produce their intended effect, causing a public company's stock price to decline. In turn, plaintiffs in securities class actions attempt to rely on stock drops after these short-seller reports are issued as the basis for claims under the federal securities laws.

In recent years, federal courts have begun curtailing plaintiffs' ability to rely on short-seller reports as corrective disclosures for pleading the loss causation element of a federal securities law claim. On April 8, the U.S. Court of Appeals for the Fourth Circuit in *Defeo v. IonQ Inc.* **joined** the U.S. Court of Appeals for the Ninth Circuit in restricting this pleading tactic by securities class action plaintiffs.[1]

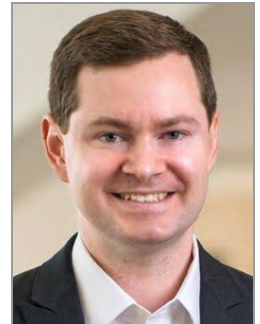
The Fourth Circuit's Decision on Short-Seller Reports

In October 2020, IonQ, a publicly traded company that develops quantum computers,[2] announced a new product, a 32-qubit quantum computing system, that would have been the most powerful quantum computer available to date.[3] In May 2022, Scorpion Capital LLC published a short-seller report purporting to rely on public information and interviews with unnamed former IonQ employees, customers and quantum computing experts.[4]

Typical of these types of reports, Scorpion Capital claimed "IonQ was running a 'quantum Ponzi scheme.'"[5] It asserted that IonQ's claims about the quantum computer's technical specifications were "completely outrageous" and "fraudulent," and that IonQ's revenue was driven by related party deals that only "creat[ed] the illusion of commercial momentum."[6]

Critically, however, the report also included "a long set of prefatory disclosures" that revealed: (1) Scorpion Capital "is short on IonQ stock," i.e., it stood to profit if IonQ's stock price declined in response to the report; (2) "the nonpublic information in the Report may be inaccurate"; and (3) the report did not "reflect all information" Scorpion Capital learned from the alleged former employees and experts, and Scorpion Capital may have excluded "certain positive comments and experiences with respect to IonQ." [7]

Although IonQ's stock was largely stable immediately after the report was issued, it declined by almost 50% within two weeks.[8] Following the sharp decline in IonQ's price, IonQ shareholders filed a securities class action containing allegations closely tracking those from Scorpion Capital's short-seller report.[9]



Tim Fitzmaurice



Elizabeth Gingold Clark



Madeleine Juszynski Davidson

The shareholders tried to rely on the short-seller report as a corrective disclosure to plead the loss causation element of a federal securities law claim.[10] The U.S. District Court for the District of Maryland, however, rejected their theory and dismissed the case.[11]

Now, the Fourth Circuit has affirmed the district court's decision granting the defendant's motion to dismiss because the short-seller report the plaintiffs relied on to plead their claim wasn't a corrective disclosure for purposes of loss causation.[12]

The Fourth Circuit hadn't previously "had occasion to consider whether a short-seller publication ... can plausibly expose the truth of a company's fraud as needed to plead loss causation." [13] The Fourth Circuit, however, noted that in 2020, the Ninth Circuit, in *In re: Bofl*, "considered this precise circumstance, and concluded that similar publications cannot meet the pleading standard." [14]

The Ninth Circuit in that case examined whether a series of blog posts analyzing a company's public statements, which were anonymously published and acknowledged that the authors held short positions in the relevant company, could be considered corrective disclosures.[15]

The Ninth Circuit found that it wasn't plausible that the market reasonably perceived anonymous blog posts from short sellers as revealing the falsity of prior misstatements.[16] The court noted that a reasonable investor reading the posts would have taken the content with a "healthy grain of salt," since the short sellers included a disclaimer that they have made "no representation as to the accuracy or completeness of the information set forth" in the posts.[17]

The Fourth Circuit also could have looked to similarly persuasive precedent from the U.S. Court of Appeals for the Eleventh Circuit, which the Ninth Circuit relied upon in reaching its conclusions.[18] The Eleventh Circuit took a slightly different route to finding that a short-seller report was not a corrective disclosure for purposes of loss causation.

In 2013, the Eleventh Circuit **held** in *Meyer v. Greene* that a short-seller report containing only a short seller's opinion based on already-public information couldn't be a corrective disclosure since the only information new to the market was the short seller's opinion, which could not reveal the falsity of any prior statements.[19]

And in 2023, in *Carpenters Pension Fund of Illinois v. MiMedx Group Inc.*, the Eleventh Circuit **reaffirmed** the view that an analyst report couldn't serve as a corrective disclosure when the report only repeated information already in the public domain.[20]

In its April decision, the Fourth Circuit found "the Ninth Circuit's jurisprudence [on this issue] persuasive." [21] As the Fourth Circuit explained, "[b]orrowing the Ninth Circuit's language," the plaintiffs "fail to clear the high bar of showing that the [Scorpion Capital] Report revealed the truth of IonQ's alleged fraud to the market." [22]

In particular, the Fourth Circuit noted that the Scorpion Capital report "relies on anonymous sources for its nonpublic information and disclaims its accuracy." [23] The appeals court also found it "particularly troubling" that Scorpion Capital "admits some quotations" in the report "may be paraphrased, truncated, and/or summarized solely at our discretion, and do not always represent a precise transcript of those conversations." [24]

This disclaimer, the Fourth Circuit explained, "gives Scorpion Capital the kind of editorial license that could allow it to say just about anything and cloak it in the imprimatur of truth in order to make a buck." [25] In all, the Fourth Circuit held that these "disclosures lead to the conclusion that 'the character of the' [Scorpion Capital] Report 'rendered it inadequate' to reveal any alleged truth to the market." [26]

Although the Fourth Circuit, like the Ninth Circuit, left open the possibility that "[i]n appropriate circumstances, a short-seller report's financial motivation may not disqualify it from use in litigation as alleging that it exposed a company's fraud to the market," many reports by short sellers feature the disclaimers that disqualified the Scorpion Capital report from serving as a corrective disclosure in a securities class action.[27]

The Fourth Circuit's decision will serve as a powerful and persuasive new precedent for defendants as

courts continue curtailing securities class action plaintiffs' use of short-seller reports to plead federal securities law claims.

Tim Fitzmaurice and Elizabeth Gingold Clark are partners, and Madeleine Juszynski Davidson is an associate, at Alston & Bird LLP.

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[1] No. 24-1709, 2025 U.S. App. LEXIS 8216 (4th Cir. Apr. 8, 2025).

[2] Id. at *3.

[3] Id.

[4] Id. at *4.

[5] Id.

[6] Id. at *5.

[7] Id. at *6-7.

[8] Id. at *8.

[9] Id. at *8-9.

[10] Id. at *15-16.

[11] Id. at *16.

[12] Id.

[13] Id.

[14] *In re: Nektar Therapeutics Secs. Litig.*, 34 F.4th 828, 839 (9th Cir. 2022); *In re: BofI Holding Inc.* at 794.

[15] *In re: BofI Holding, Inc. Sec. Litig.*, 977 F.3d 781, 796-97 (9th Cir. 2020).

[16] Id. at 797.

[17] Id.

[18] See *Carpenters Pension Fund of Ill. v. MiMedx Grp., Inc.*, 73 F.4th 1220, 1246 (11th Cir. 2023); *Meyer v. Greene*, 710 F.3d 1189, 1198 (11th Cir. 2013).

[19] 710 F.3d at 1199.

[20] 73 F.4th at 1246.

[21] 2025 U.S. App. LEXIS 8216, at *16.

[22] Id. at *18.

[23] Id.

[24] Id.

[25] Id.

[26] Id. at *18-19.

[27] Id. at *19.

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Krispy Kreme Overhyped McDonald's Pact, Investors Say

By **Hailey Konnath**

Law360 (May 16, 2025, 11:31 PM EDT) -- Krispy Kreme investors hit the doughnut chain with a proposed securities class action Friday, alleging Krispy Kreme overhyped its partnership with McDonald's before disclosing poor financial results and uncertainty about its future.

Shareholder David Cameron said in his suit that North Carolina-based Krispy Kreme first announced that it would test out offering its doughnuts at a small number of McDonald's locations in Kentucky in 2022. In March of this year, the companies announced that they'd be taking that partnership nationwide, according to the complaint, filed in North Carolina federal court.

But on May 8, Krispy Kreme released financial results showing that it saw declining revenue, Cameron said. It also disclosed that it was rethinking its McDonald's partnership, he said. And that led to Krispy Kreme stock prices falling 24.71%, he said.

Between the announcement earlier this year and the May 8 disclosure, Krispy Kreme and its top brass made materially false statements and failed to disclose important information about the company's operations and prospects, Cameron said.

Specifically, he said Krispy Kreme failed to disclose that demand for its products declined significantly at McDonald's locations after an initial marketing launch, that demand at McDonald's locations was a "driver of declining average sales per door per week" and that the McDonald's partnership wasn't profitable. Krispy Kreme also should've disclosed that all of those factors posed a "substantial risk" to maintaining the McDonald's partnership and that Krispy Kreme was planning to pause expansion into new McDonald's locations, Cameron said.

"As a result of defendants' wrongful acts and omissions, and the precipitous decline in the market value of the company's securities, plaintiff and other class members have suffered significant losses and damages," Cameron said.

McDonald's isn't listed as a defendant in the case.

Cameron is hoping to represent all persons and entities that purchased or acquired Krispy Kreme securities between Feb. 25, 2025, and May 7, 2025. He's alleging violations of the Exchange Act and seeking unspecified damages, attorney fees and court costs.

Krispy Kreme and counsel for the investors didn't immediately respond to requests for comment late Friday.

The investors are represented by Robert V. Prongay, Garth Spencer and Charles Linehan of Glancy Prongay & Murray LLP and Frank R. Cruz.

Counsel information for Krispy Kreme wasn't immediately available.

The case is David Cameron v. Krispy Kreme Inc., case number 3:25-cv-00332, in the U.S. District Court for the Western District of North Carolina.

--Editing by Michael Watanabe.



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Biotech Co. Hit With Investor Suits Over Cancer Drug Launch

By **Sydney Price**

Law360 (May 16, 2025, 9:38 PM EDT) -- Cancer treatment company Iovance Biotherapeutics has been hit with two proposed shareholder class actions accusing the company of misleading the public about the success of its commercial rollout of an FDA-approved skin cancer treatment.

According to the complaints filed Thursday by shareholders Dimitry Farberov and Karthik Trichur Sundaram, Iovance's key product is its melanoma treatment Amtagvi. For months, the company communicated the likelihood it would achieve product revenue of \$450 million to \$475 million in the first full calendar year of Amtagvi sales.

But earlier this month, the company's shares fell nearly 45% after Iovance slashed its yearly financial guidance by 40% and updated investors on shortcomings related to the rollout, the complaints said.

In addition to Iovance, the suits' individual defendants include Iovance CEO Frederick G. Vogt, Chief Financial Officer Jean-Marc Bellemin and Chief Operating Officer Igor P. Bilinsky. Additionally, Chief Commercial Officer Daniel G. Kirby is a defendant in Sundaram's suit.

The proposed class period in Farberov's suit begins May 9, 2024. On that day, Iovance said it was experiencing "strong momentum" in the Amtagvi launch, which had started a couple of months earlier, according to the suit.

Sundaram's suit alleges investor harm began Aug. 8, 2024, the day Iovance announced its second-quarter 2024 financial results and guidance for the 2025 fiscal year. The defendants told investors that 2025's total product revenue is predicted to be in the range of \$450 million to \$475 million, with gross margins expected to increase to greater than 70% over the next several years, the suit states.

For several months, Iovance continued to tout the "launch momentum" it was experiencing due to the release of Amtagvi, the suits claim.

For example, on Feb. 27, Iovance stated that it treated more than 200 patients with Amtagvi within the first three quarters of launch, and that Amtagvi is "positioned for significant growth across our [authorized treatment center] network in 2025 and beyond," according to the suits.

Then, on May 8, Iovance revised down its product revenue guidance within the range of \$250 million to \$300 million in the first full calendar year of Amtagvi sales, citing reduced manufacturing capacity as one of several reasons for the adjustment, according to the suits.

On this news, Iovance's shares declined \$1.42 each, or about 45%, to close at \$1.75 on May 9, according to the complaints.

The suit accuses Iovance and the individual defendants of acting with scienter, or actual knowledge of wrongdoing or reckless disregard, and violating the Exchange Act.

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

Sundaram is represented by Adam M. Apton of Levi & Korsinsky LLP.

Farberov is represented by Robert V. Prongay, Charles Linehan and Pavithra Rajesh of Glancy Prongay

& Murray LLP and Frank R. Cruz of The Law Offices of Frank R. Cruz.

Counsel information for Iovance and the individual defendants was not immediately available on Friday.

The cases are Farberov v. Iovance Biotherapeutics Inc. et al., case number 3:25-cv-04199, and Sundaram v. Iovance Biotherapeutics Inc. et al., case number 3:25-cv-04177, both in the U.S. District Court for the Northern District of California.

--Editing by Vaqas Asghar.

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Food Delivery App's \$80M Investor Settlement Gets Final OK

By **Sydney Price**

Law360 (May 16, 2025, 7:17 PM EDT) -- Investors suing mobile food delivery and ride-hailing services operator Grab Holdings Ltd. have received final approval of an \$80 million deal settling claims that several sections of a proxy statement Grab filed with a special purpose acquisition company were false and misleading.

U.S. District Judge Jennifer L. Rochon said in her order Thursday that the settlement was negotiated at arm's length and in good faith. Counsel for the investors will receive \$26.7 million, or about a third of the settlement fund in fees, as well as approximately \$225,000 in expenses, according to the order.

Each of the three lead plaintiffs will be awarded \$15,000 each from the settlement fund, the order says.

The \$80 million settlement represents a recovery of between 8.9% and 13.4% of the maximum likely recoverable damages if the plaintiffs had prevailed at trial, according to the unopposed motion for **preliminary approval** filed in January. This recovery exceeds the 1.8% median settlement value in 2023 for all securities class actions, according to the motion.

In the suit, the investors say Grab announced it would go public through a de-SPAC transaction with Altimeter Growth Corp. The merger was approved and closed in December 2021, according to the suit.

A few months later, Grab's stock price fell 37% when it announced it lost \$1.1 billion during the fourth quarter of 2021 and that revenue had declined 41% during the period due to preemptive investments to grow driver supply and increased consumer incentives, the investors said.

Prior to that, Grab had concealed from investors that it was already experiencing driver shortages, which was negatively affecting operations, and the company was already increasing incentives to combat the driver supply constraint, the suit said.

In March 2024, Judge Rochon allowed the investors to proceed with claims that the first four sections of the proxy statement Grab filed in 2021 with Altimeter were false and misleading.

According to her order, the first four sections of the proxy discussed Grab's use of incentives to attract drivers and consumers for its food delivery and ride-hailing services. The sections noted that Grab might increase its incentives in the future and that if it did, it could negatively affect the company's profitability.

Judge Rochon said that in discussing those topics, Grab "put these issues in play" and triggered a duty to "tell the whole truth," which the investors said didn't happen.

At the same time, Judge Rochon tossed the rest of the suit's allegations relating to other statements in the proxy statement and other allegedly false and misleading statements made in press releases and on a conference call. According to the order, Judge Rochon found many of the challenged statements nonactionable.

The parties proceeded to discovery after the March 2024 order was issued.

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

The investors are represented by Joshua B. Silverman, Omar Jafri, Brian P. O'Connell, Jeremy A. Lieberman and J. Alexander Hood II of Pomerantz LLP and Shannon L. Hopkins of Levi & Korsinsky LLP.

Grab and its executives are represented by Susan L. Saltzstein and Jeffrey S. Geier of Skadden Arps Slate Meagher & Flom LLP.

The Altimeter defendants are represented by David Hennes and Amy Jane Longo of Ropes & Gray LLP.

The case is In Re: Grab Holding Ltd. Securities Litigation, case number 1:22-cv-02189, in the U.S. District Court for the Southern District of New York.

--Editing by Stephen Berg.

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'Tuna Bond' Defendants Ordered To Pay \$352M In Restitution

By **Elliot Weld**

Law360 (May 16, 2025, 9:20 PM EDT) -- A Brooklyn federal judge ordered three former Credit Suisse bankers and the former finance minister of Mozambique to pay a combined \$352 million in restitution Friday after they pled guilty or were convicted of scheming to defraud investors in a \$2 billion state-backed development initiative involving tuna fishing.

U.S. District Judge Nicholas Garaufis said Friday the former finance minister Manuel Chang was ordered to pay \$42.2 million, former head of Credit Suisse's Global Financing Group Andrew Pearce would pay \$264 million and Pearce's two former subordinates Surjan Singh and Detelina Subeva were ordered to pay \$35.2 million and \$10.6 million, respectively. The amount represents losses sustained by VTB Capital as a result of the scheme.

A representative for the Brooklyn U.S. Attorney's Office declined to comment, as did attorneys for Chang and Pearce. Counsel for Singh and Subeva did not immediately respond to requests for comment.

According to prosecutors, the defendants schemed to defraud investors in \$2 billion worth of Mozambican government-guaranteed loans made by Credit Suisse and Russian bank VTB that were meant to fund three investment vehicles for tuna fishing, coastal surveillance and shipyard projects.

Pearce, Singh and Subeva all pled guilty, and Pearce and Singh testified at Chang's trial, where he was convicted of wire fraud conspiracy and securities fraud conspiracy and sentenced to 8½ years in prison.

Judge Garaufis said Chang was determined to have made about \$7 million individually as part of the scheme, but the total loss for the entire scheme couldn't be calculated. However, the judge found that the losses sustained by VTBC could be calculated. Although VTBC's parent entity, Russian state-owned VTB Bank, is under U.S. sanctions currently, it can still be entitled to restitution under the law, the judge said.

VTBC was not "complicit" in the scheme, as Chang argued, Judge Garaufis said, as Chang and his co-conspirators at one point fraudulently induced VTBC to loan two entities related to the scheme \$1.2 billion.

Evidence at trial "demonstrates that VTBC's loss was proximately caused by Chang and his convicted co-defendants' conduct," the order said.

Trial evidence also showed that sovereign guarantees signed by Chang were what gave VTBC confidence that it would "ultimately be repaid if the project companies defaulted on their loan payments," the order said.

The judge said the government had shown VTBC lost about \$352.2 million, but rejected its request for \$288.7 million in prejudgment interest, ordering the defendants to pay only its total losses in restitution.

Chang also argued that he was not able to pay restitution, but Judge Garaufis said the charge Chang was convicted under mandates restitution regardless of his financial situation.

The government is represented by Jonathan Siegel, Mark Bini, Matthew Amatruda, Hiral Mehta, Laura Mantell and Tanisha Payne of the U.S. Attorneys' Office for the Eastern District of New York and David Fuhr, Katherine Nielsen and Margaret Moeser of the Department of Justice.

Chang is represented by Adam Ford, Anjula Prasad, Arthur Kutoroff and Carolyn Satori of Ford O'Brien Landy LLP.

Pearse is represented by Lisa Cahill of Lisa Cahill PLLC.

Singh is represented by Alison Van Horn, Rachel Mueller and Thomas Shakow of Aegis Law Group LLP.

Subeva is represented by Amanda Raad, Brittany Royce, Michael McGovern and Zaneta Wykowska of Ropes & Gray LLP.

The case is USA v. Boustani et al., case number 1:18-cr-00681 in the U.S. District Court for the Eastern District of New York.

--Editing by Kelly Duncan.

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Attys With 'Borrowed' Claims Can't Skip Inquiry, Lumen Says

By **Jared Foretek**

Law360 (May 16, 2025, 8:22 PM EDT) -- Telecommunications company Lumen has told the Colorado Supreme Court that attorneys still need to conduct their own "objectively reasonable inquiry" when borrowing claims from outside litigants, in the hopes of beating a shareholder suit that took allegations from other cases despite attorneys not speaking to the witnesses.

In its **opening brief** before the state's high court filed Monday, Lumen Technologies Inc. claimed that if litigants are able to simply outsource due diligence to attorneys in other states, the practice would swing open the door to spurious lawsuits.

"This has never been the Colorado rule — in fact, an earlier appellate division in this case rejected such a rule," Lumen said. "And although some federal courts have allowed allegations to be copied in circumstances not applicable to this case, no court has adopted a rule as extreme as the division's."

The telecom formerly known as CenturyLink Inc. is appealing a Colorado Court of Appeals ruling from August that cleared the suit without having the attorneys behind the litigation conduct their own inquiry and speak to the witnesses whose allegations form the suit's basis.

The proposed state class action was filed in 2018 on behalf of Level 3 Communications Inc. stockholders alleging CenturyLink had misled investors about deceptive charges on customer bills as CenturyLink **headed to a merger** with Level 3.

But the class action borrowed allegations from a consolidated federal class action against CenturyLink from another jurisdiction and under different federal law. That suit had relied on interviews with 20 anonymous former employees, but didn't allege misstatements in the offering documents at the heart of the more recent Colorado state suit.

The Colorado complaint was dismissed in trial court over the lack of an independent "reasonable inquiry," but it was later revived by the Court of Appeals, which gave plaintiff Dean Houser the chance to amend his complaint, warning him not to just copy allegations from others.

Lumen now says Houser and his attorneys "ignored [the] instruction."

"The amended complaint repeated verbatim (or nearly verbatim) dozens of allegations from the out-of-state complaint, which were purportedly based on private interviews of unnamed witnesses compiled by lawyers in the out-of-state federal lawsuit who lacked any connection to plaintiff and who owed no Rule 11 [inquiry] duty to the district court here," Lumen said Monday. "Moreover, plaintiff sought to conceal the 'borrowing' — the amended complaint failed to disclose that the allegations came from unnamed witnesses in the federal lawsuit."

The district court dismissed the amended complaint with prejudice, but another appellate panel reversed the decision and allowed the case to proceed. In what Lumen said was a first, the second appellate panel held that plaintiffs in civil cases could "borrow plausibility" from other suits. The Colorado Supreme Court **agreed to review** the case in March.

The telecom said the Colorado Rules of Civil Procedure imposes on plaintiffs' attorneys a "personal, non-delegable duty" to do their own inquiry into allegations.

"Recycling unproven allegations from another case, and borrowing from a different lawyer's investigation, fails that standard," Lumen said. "This court should adopt the majority federal approach and hold that 'borrowing plausibility' — and, in particular, copying allegations from unverified confidential sources in another lawsuit — violates Rule 11."

Attorneys for Houser did not immediately respond to Law360's request for comment Friday.

Lumen is represented by Frederick R. Yarger, Kathryn A. Reilly and Daniel N. Guisbond of Wheeler Trigg O'Donnell LLP, and Tariq Mundiya, Sameer Advani and Philip F. DiSanto of Willkie Farr & Gallagher LLP.

Houser is represented by Jason P. Kane of Ranson & Kane PC and Albert Y. Chang of Bottini & Bottini Inc.

The case is CenturyLink Inc. et al. v. Dean Houser, case number 2024SC644, in the Colorado Supreme Court.

--Additional reporting by Thy Vo. Editing by Lakshna Mehta.

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Anthropic's AI-Hallucinated Errors Taint Filing, Publishers Say

By **Dorothy Atkins**

Law360 (May 16, 2025, 10:48 PM EDT) -- Music publishers suing Anthropic for copyright infringement accused the artificial intelligence company on Friday of downplaying the seriousness of errors in a filing caused by Anthropic's own Claude AI tool, saying the company's counsel violated a judge's standing order and arguing that the filing at issue should be tossed.

In a four-page brief, the music publishers responded to a declaration **filed Thursday** by Latham & Watkins LLP associate Ivana Dukanovic, who represents Anthropic, explaining a citation error in an Anthropic expert's declaration. The citation at issue appeared to reference a nonexistent study purportedly published in a real academic journal that was allegedly written by two philosophy professors who, in reality, never wrote the study and who have never worked together.

The music publishers' counsel, Matthew J. Oppenheim of Oppenheim & Zebrak LLP, informed U.S. Magistrate Judge Susan van Keulen of the Northern District of California about the citation issue at the **outset of a hearing Tuesday** on the latest discovery disputes in hotly contested copyright infringement litigation against Anthropic, a private company recently valued at \$61.5 billion and backed by Amazon.com Inc., Google LLC and Lightspeed Venture Partners.

The erroneous citation was included in a footnote in an April 30 declaration filed by Anthropic data scientist Olivia Chen, and Dukanovic admitted in her declaration Thursday that it includes an "erroneous author and title" that was generated when she used Anthropic's Claude.AI to format legitimate citations. However, Dukanovic argued that the citation provides a correct link to the correct publication, volume, page numbers and year of publication of the legitimate article at issue.

In their filing Friday, music publishers told Judge van Keulen that Dukanovic's explanation for the error raises numerous questions, and also confirms that there is ultimately no dispute that the Chen declaration contained hallucinations generated by Claude, which "fatally undermines" the reliability of Chen's declaration and Anthropic's position in the discovery dispute more broadly.

The publishers argued that Dukanovic's admissions also reveal violations of the presiding judge's standing order in civil cases. U.S. District Judge Eumi K. Lee's order doesn't prohibit counsel from using generative AI tools outright, but she requires counsel to "personally confirm for themselves the accuracy of any research conducted by these means, and counsel alone bears ethical responsibility for all statements made in filings."

Judge Lee's standing order goes on to require that any court submission containing AI-generated content must include a certification that lead trial counsel has personally verified its accuracy, and "failure to include this certification or comply with this verification requirement will be grounds for sanctions."

The standing order additionally requires counsel to maintain records of all prompts or inquiries submitted to any generative AI tools "in the event those records become relevant at any point."

The publishers' filing also notes that the court still doesn't know how Chen prepared her declaration, whether she used Claude to conduct her analysis, and whether she relied on the fabricated Claude-generated information in forming her opinion that "a 25% margin of error is 'widely accepted for extremely rare events.'"

The publishers argued that these questions are particularly important given that the new article Dukanovic's declaration points to as being the "correct" article references a margin of error rate of 10% to 50%, and not the 25% margin of error proposed by Chen.

The publishers additionally called into question the legitimacy of Dukanovic's explanation for the errors.

"We also do not know how it is possible that, if Anthropic's counsel indeed fed details into Claude about the linked article, Claude could have completely ignored those details and hallucinated something that does not exist at all," the publishers' brief says.

In light of the errors, the publishers argue that Chen's declaration should be excluded "in full."

Judge van Keulen called the errors "very serious and grave" and ordered Anthropic's counsel to file a response to them. She also ordered Anthropic, Chen and Anthropic's attorneys to preserve "any and all documents and discussions" relating to the development of her declaration. The judge said that after Anthropic responds to Oppenheim's allegations in writing, she will decide whether Chen's declaration should be stricken.

Anthropic declined to comment further Thursday and counsel for the publishers declined to comment on the issue beyond their legal filings with the court on Friday.

The discovery dispute is the latest development in a lawsuit filed by music publishers, which include Universal Music Publishing Group, Concord Music Group Inc. and ABKCO Music and Records Inc., in **October 2023**, alleging that Anthropic's large language model, AI chatbot Claude, rips off their intellectual property by reproducing lyrics to thousands of copyrighted songs on command.

Anthropic has denied the allegations and **counters** that it has put in place measures that prevent this type of verbatim copying. The litigation has proceeded into discovery, during which numerous fights have arisen, including the latest dispute.

Anthropic submitted Chen's declaration to support its argument that it should only have to produce a sample size of 1 million Claude prompts and outputs — even if such a sample comes with a 25% relative margin of error — instead of the 24.4 million sample size sought by the publishers. Their expert claims that the larger sample size would have a 5% relative margin of error.

This isn't the first time experts for an AI company and legal teams have faced scrutiny in court for their purported use of AI in drafting declarations and legal briefs. In **January**, a Minnesota federal judge threw out a declaration prepared by a Stanford University AI expert for citing fake, AI-generated sources.

In a pending case over defamation claims, MyPillow CEO Mike Lindell's defense counsel is **fighting sanctions and a disciplinary referral** for filing a response brief in February with 30 "defective citations," presumably caused by AI hallucinations.

The publishers are represented by Matthew J. Oppenheim, Audrey L. Adu-Appiah, Jennifer Pariser, Andrew Guerra, Timothy Chung and Nicholas C. Hailey of Oppenheim & Zebrak LLP, by Jeffrey G. Knowles of Coblenz Patch Duffy and Bass LLP, and by Richard S. Mandel, Jonathan Z. King and Richard Dannay of Cowan Liebowitz & Latman PC.

Anthropic is represented by Sarang V. Damle, Ivana Dukanovic, Joseph R. Wetzel, Andrew M. Gass, Brittany N. Lovejoy, Sara E. Sampoli, Allison L. Stillman and Rachel S. Horn of Latham & Watkins LLP.

The case is Concord Music Group Inc. et al. v. Anthropic PBC, case number 5:24-cv-03811, in the U.S. District Court for the Northern District of California.

--Editing by Karin Roberts.

Additional reporting by Ivan Moreno and Thy Vo.

Capital One Inks \$425M Deal In Savers' 'High-Interest' Suit

By **Hailey Konnath**

Law360 (May 16, 2025, 11:50 PM EDT) -- Capital One has agreed to pay \$425 million to put to rest a proposed class action alleging that it deceptively advertised its 360 Savings accounts as high-interest savings products, according to a joint notice filed Friday in Virginia federal court.



Capital One has agreed to settle claims that it deceptively advertised its 360 Savings accounts as high-interest savings products. The settlement class comprises anyone who maintained a Capital One 360 Savings account at any time between September 2019 and present. (Photo by Jakub Porzycki/NurPhoto via AP)

Capital One and the plaintiffs said they were still working out some of the deal's details. But thus far, they've agreed that \$300 million of the total settlement fund will cover the amount of interest members would've earned if their 360 Savings accounts "had paid the interest rate then applicable to the 360 Performance Savings account," they said in the filing. On top of that, Capital One will pay an additional \$125 million to class members who still have 360 Savings accounts, they said.

"In order to accomplish such additional interest payments, Capital One shall maintain an interest rate on the 360 Savings account of at least two times the national average rate for savings deposit accounts as calculated by the [Federal Deposit Insurance Corp.]," they said.

The settlement class will consist of anyone who maintained a Capital One 360 Savings account at any time between September 2019 and present, the notice states. That includes joint and co-holders of

savings accounts, the parties said.

In exchange, the savings account holders have agreed to drop all their claims for good.

The plaintiffs — citizens of 18 different states who have been Capital One 360 Savings account holders since at least 2019 — alleged that Capital One "cheated" them out of higher interest payments by creating a duplicate savings account: the 360 Performance Savings account. Capital One then concealed that the second savings account was earning higher interest than the original savings accounts, they claimed in the consolidated litigation.

Last year, U.S. District Judge David J. Novak **slightly trimmed the suit**, tossing just three of the almost 20 claims asserted by the plaintiffs. Judge Novak also rejected Capital One's request for a bench trial rather than a jury trial.

Notably, the judge found that the consumers had sufficiently pled fraud, the complaint does not suffer from shotgun pleading and the suit plausibly claims that Capital One acted dishonestly and breached its implied covenant of good faith and fair dealing to consumers.

The consumers had been pushing for class certification when all deadlines and court dates were canceled in late April. A trial was set to kick off July 18.

In Friday's notice, Capital One and the consumers said they haven't yet hammered out the attorney fees request or service awards for the named plaintiffs.

"The proposed settlement compromises claims which are contested in good faith, and it shall not be deemed an admission by any of the Parties as to the merits or weakness of any claim or defense," they added.

Capital One and counsel for the plaintiffs didn't immediately respond to requests for comment late Friday.

The plaintiffs are represented by Matthew B. Kaplan of The Kaplan Law Firm and Chet B. Waldman, Carl L. Stine, Philip M. Black, Matthew Insley-Pruitt and Timothy D. Brennan of Wolf Popper LLP.

Capital One is represented by David L. Balser, John C. Toro, Robert D. Griest, Jeffrey D. Miles, Mandi E. Youngblood, Jamie Dycus, Jackie L. Fugitt and I. Cason Hewgley IV of King & Spalding LLP and Bryan A. Fratkin and John S. Moran of McGuireWoods LLP.

The case is In Re: Capital One 360 Savings Account Interest Rate Litigation, case number 1:24-md-03111, in the U.S. District Court for the Eastern District of Virginia.

--Additional reporting by Katryna Perera. Editing by Emily Kokoll.



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Coinbase Users Sue Over Bribery-Linked Data Breach

By **Aislinn Keely**

Law360 (May 16, 2025, 9:39 PM EDT) -- Crypto exchange Coinbase faces a wave of lawsuits from users accusing it of negligent information security practices after the exchange disclosed that an unknown perpetrator had stolen customer data by bribing overseas workers.

At least five separate proposed class actions were filed Thursday and Friday, bringing negligence claims against the crypto exchange over alleged cybersecurity failures. The first suits hit hours after the firm **disclosed** in a regulatory filing that certain user data had been compromised, and that it intended to apportion millions of dollars to reimburse customers who might have been scammed as a result.

But Maine user Zaal Panthaki and Texas user Alexander Crous said in their proposed class action, filed in the U.S. District Court for the Southern District of New York, that the firm "failed to invest the resources necessary" to protect their data.

"Upon information and belief, Coinbase failed to implement practices and systems to mitigate against the risks posed by Coinbase's negligent (if not reckless) IT practices," they said. "As a result of these failures, plaintiffs and class members face a litany of harms that accompany data breaches of this magnitude and severity."

Coinbase said Thursday in a blog post that it received an extortion threat Sunday requesting a \$20 million ransom for the user data. Its investigation revealed that the unknown perpetrator obtained information like phone, email, transaction history and masked account and Social Security numbers by bribing overseas customer support agents working for the crypto exchange, the post said.

Panthaki and Crous argued that the firm didn't adequately train certain employees on how to handle sensitive personal identifying information and failed to properly monitor third-party data security systems, vendors and employees.

Coinbase faces another proposed class action in the Northern District of California from user Rosemary Ortiz, who likewise said the firm could have prevented the breach by encrypting or destroying the personal data, "especially old data from former inquiries and/or customers that defendant had no legal right or responsibility to retain."

Coinbase declined to comment on the user suits. Its disclosure with the U.S. Securities and Exchange Commission on Thursday said it was actively working with law enforcement and planned to "aggressively pursue all remedies." It's also setting aside \$180 million to \$400 million on "remediation costs" and plans to reimburse customers who are scammed as a result of the breach.

The information breached doesn't include passwords or private keys, but it does contain personal identifying information that scammers may use to impersonate accounts or authorities to convince victims to hand over funds.

"The reason this data is so valuable is because it contains [personal identifying information], which can be sold and weaponized for purposes of committing various identity theft-related crimes," Panthaki and Crous said in their complaint.

Ortiz said in her suit that she and fellow Coinbase users "now face years of constant surveillance of their financial and personal records, monitoring and loss of rights."

Beyond the New York suit and Ortiz's suit, three other users filed proposed class actions in the Northern District of California.

California user Allen Shakib argued in his suit that Coinbase provided "a paltry amount of information concerning the data breach on its website, and does not position impacted individuals to protect themselves against fraud and identity theft." His suit brings claims of negligence, breach of implied contract and unjust enrichment over alleged security flaws that "run afoul of industry best practices and standards."

"Had defendants adequately protected and secured its servers or systems, and the sensitive personal information stored therein, it could have prevented the data breach," said Shakib.

None of the users allege that they've been clearly targeted by any scammers as a result of the breach, but all argued that they now face years of close monitoring and heightened risk.

California user Adam McAfee, who filed his proposed class action in the Southern District of New York, said he and other Coinbase users will have to devote "substantially more time, money and energy to protect themselves, to the extent possible, from these crimes."

"Plaintiff and class members are now at a significantly increased and certainly impending risk of fraud, identity theft and other harms caused by the unauthorized disclosure of their [personally identifiable information] — risks which may last for the rest of their lives," he said.

A California user using the initials G.B. said in his proposed class action that he "was and is very careful about sharing" his personal information, and subsequently spent considerable time verifying the legitimacy of the data breach and self-monitoring his accounts and credit reports for potential fraud.

"This time has been lost forever and cannot be recaptured," he said.

In addition to claims for negligence, breach of implied contract and unjust enrichment, G.B.'s suit brings claims for breach of confidence, breach of implied covenants of good faith and fair dealing, and breach of fiduciary duty.

The users did not immediately respond to requests for comment on Friday.

Panthaki and Crous are represented by Israel David and Adam M. Harris of Israel David LLC.

Shakib is represented by Tina Wolfson, Robert Ahdoot, Theodore W. Maya and Bradley K. King of Ahdoot & Wolfson PC, and by Gary M. Klinger of Milberg Coleman Bryson Phillips Grossman PLLC.

G.B. is represented by M. Anderson Berry, Gregory Haroutunian and Brandon P. Jack of the Arnold Law Firm, and by Daniel Srourian of Srourian Law Firm PC. G.B. is also represented by Gary M. Klinger and John J. Nelson of Milberg Coleman Bryson Phillips Grossman PLLC.

Ortiz is represented by Ignacio Hiraldo of IJH Law.

McAfee is represented by Gary F. Lynch and Nicholas A. Colella of Lynch Carpenter LLP.

Counsel information for Coinbase was not immediately available on Friday.

The cases are Panthaki et al. v. Coinbase Global Inc. et al., case number 1:25-cv-04094, and McAfee v. Coinbase Inc. et al., case number 1:25-cv-04137 in the U.S. District Court for the Southern District of New York, and G.B. v. Coinbase Global Inc. et al., case number 3:25-cv-04171, Shakib v. Coinbase Global Inc. et al., case number 3:25-cv-04207, and Ortiz v. Coinbase Inc., case number 4:25-cv-04235, all in the U.S. District Court for the Northern District of California.

--Editing by Karin Roberts.



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Feds Want Ex-McKinsey Exec To Serve Time For Obstruction

By **Dorothy Atkins**

Law360 (May 16, 2025, 5:16 PM EDT) -- Prosecutors urged a Virginia federal judge Thursday to sentence a disbarred, former senior McKinsey & Co. partner to one year in prison for obstructing an investigation into the consulting giant's work with opioid-manufacturer Purdue Pharma, while defense counsel pushed for probation so that he can return to his home in Thailand.

In a 17-page memo, federal prosecutors asked U.S. District Judge Robert S. Ballou to sentence Martin Eric Elling, who is in his 60s, to 12 months in prison, followed by three years of supervised release, and to order Elling to pay "a substantial fine" of up to \$250,000 for pleading guilty to one count of knowingly destroying and concealing evidence.

Elling cut the plea deal in **January**, admitting that he illegally obstructed the government's investigation into Purdue Pharma LP and destroyed emails, strategy-related documents and documents that included the name of Purdue's prior CEO, Michael Friedman, who pled guilty to misbranding Purdue's highly addictive opioid drug OxyContin.

Prosecutors argued in their memo that a "substantial sentence of imprisonment" is necessary to deter future bad actors and to reflect the seriousness of Elling's crime, to promote respect for the law among top corporate executives, and to provide just punishment.

"A term of imprisonment is particularly crucial to send a message to white-collar defendants that they are not above the law, and to deter others from attempting to evade responsibility by destroying evidence," the government's memo says.

But Elling's counsel filed his own sentencing memo on Thursday, arguing that Elling is "deeply sorry" for his conduct, which he sincerely regrets, and the memo notes he lost his 30-year career and was disbarred from practicing law as a result of it.

"It is clear that against the backdrop of Martin's life story — marked by a devotion to caring for and supporting those he knows and loves, and to service, charity, and generosity to all people, whether he knows them or not — his offense conduct is an extraordinary aberration," the memo says.

Defense counsel added that Elling is a U.S. citizen residing in Thailand, and he should only receive a term of probation so that he can return to his home in Bangkok, where he has lived since 2019 and cultivated a community.

"Not only would incarceration be far greater than necessary to accomplish the purposes of sentencing, it would be, respectfully, disproportionately severe in Martin's case," the memo says. "This is because if Martin is sentenced to any period of incarceration, he would not be permitted to enter his new home of Thailand ever again. This would be devastating to Martin and a great loss to the many people in his community there who have come to know, love and rely on Martin's presence."

Following the government's investigation, Purdue and its affiliate agreed to pay more than \$600 million for misbranding OxyContin by falsely marketing it as less addictive, less subject to abuse and diversion, and less likely to cause dependence and withdrawal than other pain medications, according to court documents.

Purdue's then-president, general counsel and chief medical officer also pled guilty to misbranding-related charges, and they agreed to a total of \$34.5 million in fines, court documents show.

In December, McKinsey also agreed to pay \$650 million to resolve charges related to its work helping Purdue Pharma market and boost sales of OxyContin, reaching a **five-year deferred prosecution agreement** with the U.S. attorney's offices in the Western District of Virginia and the District of Massachusetts, as well as the U.S. Department of Justice's Consumer Protection Branch.

At the time, the firm said it was "deeply sorry" for its past work with Purdue "and the actions of a former partner [Elling] who deleted documents related to his work for that client."

McKinsey's pharmaceutical and medical products practice worked with Purdue from 2004 until 2019 on 75 different projects, according to the government. Prosecutors accused Elling of deleting numerous documents from a McKinsey-issued laptop in August and September 2018, soon after learning that the Massachusetts Office of the Attorney General had named a former Purdue board member in a lawsuit over OxyContin marketing.

After requesting the personal email of a fellow senior partner, the partner wrote that "it probably makes sense to have a quick conversation with the risk committee to see if we should be doing anything other than eliminating all our documents and emails. Suspect not but as things get tougher there someone might turn to us," a court filing showed.

The government alleged that Elling emailed himself a reminder to "delete old pur documents from laptop," and that a forensic analysis of the laptop confirmed he removed an email folder named "Purdue Pharma" and a Windows folder named "Purdue."

A month after the consulting firm cut its plea deal with prosecutors, Elling also copped to one criminal count.

In the government's sentencing memo, prosecutors argued that this is a "rare case" in which a well-educated senior partner at one of the world's top consulting companies was caught destroying documents amid the "tragic backdrop of the opioid crisis."

"Such serious conduct, in such a serious context, by a man who certainly knew better, warrants a sentence greater than what the [sentencing guideline] suggests," the memo says.

Since the odds are generally low that executives would be caught destroying evidence, when such an evidence-destruction scheme is successfully prosecuted a substantial sentence is necessary to deter similar bad conduct by others, prosecutors argued.

"A rational white-collar executive who perceives that an investigation may threaten his livelihood and reputation may well choose to destroy evidence if he believes that the worst possible consequence is something less than incarceration," the government's sentencing memo says.

But Elling's sentencing memo recounts the former executive's life growing up in Connecticut and his lengthy educational background. In 1988, he received a master's degree in international relations from Yale University, and he later received a Fulbright Scholarship to study at the Ludwig Maximilian University of Munich, in Germany, the memo says.

He earned a law degree from Harvard Law School in 1992 and during law school he served as president of the International Law Society, transforming it into "one of the largest and most active student organizations on campus," the defense memo says.

After graduating from law school, in 1993, Elling began his career at McKinsey, where he "quickly developed a reputation among colleagues and clients for being hardworking, ethical and kind," the memo says.

Throughout his career, Elling traveled extensively, and he served as McKinsey's head of learning, a role in which he helped advocate for corporate investments in learning infrastructure in Asia, the defense memo says.

That experience is what inspired him to move to Thailand in 2019, two years before McKinsey terminated his employment, and in Thailand, he's helped the local community, serving on the local Rotary Club and donating generously to local temples, charities, orphanages and nonprofits, according to the memo.

The memo adds that sentencing Elling to a prison term would have the "severe" effect of likely causing his visa to be revoked and barring him from ever returning to Thailand.

"Martin has truly made Bangkok his home," the memo says. "Taking that away from him would be extraordinarily punitive."

Elling's sentencing is currently set for May 22 at 12 p.m. in Abingdon, Virginia. Elling's counsel and representatives for the government didn't immediately respond to requests for comment on Friday.

Elling is represented by Thomas J. Bondurant Jr. and Jessiah S. Hulle of Gentry Locke and John F. Hundley, Marjorie J. Pearce, and Katherine L. Oaks of Ballard Spahr LLP.

The government is represented by Randy Ramseyer of the U.S. Attorney's Office for the Western District of Virginia.

The case is USA v. Elling, case number 1:24-cr-00045, in the U.S. District Court for the Western District of Virginia.

--Additional reporting by Julie Manganis and Ben Zigterman. Editing by Emily Kokoll.

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Insurer Asks 7th Circ. To Revise BIPA Coverage Ruling

By Hope Patti

Law360 (May 16, 2025, 7:01 PM EDT) -- A Hanover Insurance unit urged the Seventh Circuit on Friday to revise a ruling that it must indemnify a condiment manufacturer in an underlying biometric privacy suit if notice was timely, saying the court improperly relied on a settlement that wasn't part of the trial record.

In a **petition for rehearing**, Citizens Insurance Co. of America asserted that the panel should omit any reference to the underlying settlement that Mullins Food Products Inc. entered into with its former employee Ricardo Galan while the appeal in the instant action was pending. Because the indemnity issue was not ripe in the lower court, the panel erred in finding Citizens will have a duty to indemnify Mullins under its 2015 policy if the company provided timely notice of the Galan suit, the insurer said.

"The **panel's finding** with respect to the duty to indemnify was also premature because the district court has not yet adjudicated whether Mullins has met its burden of proof under Illinois law to establish Citizens has a duty to indemnify the Galan settlement," said Citizens.

Galan sued Mullins in Cook County Circuit Court in February 2021, alleging the company violated Illinois' Biometric Information Privacy Act by using biometric scanning and time-tracking devices to monitor and manage workers without adequately informing them that their data was being collected.

Citizens denied coverage for Galan's proposed class action and **filed** the coverage dispute in March 2022.

U.S. District Judge Jorge Alonso **initially held** that Citizens could not rely on exclusions for recording and distribution of information in violation of law, employment practices and access or disclosure of confidential information to bar coverage. However, the judge **reversed course** in February 2024 in response to a state appeals decision concerning a nearly identical violation-of-law exclusion.

In an email to Law360 on Friday, Mullins' counsel, David B. Goodman, said the district court's February 2024 order granting summary judgment to Citizens caused Mullins "to carry the defense expense including the cost of the settlement for an extra fourteen months."

"Citizens' petition is not well-founded, and it is our hope that it will [be] denied quickly so that we can proceed to a trial on the merits without further delay," Goodman added.

Earlier this month, a three-judge panel for the Seventh Circuit vacated Judge Alonso's most recent ruling and remanded for further proceedings. The panel held that Citizens had no duty to defend or indemnify Mullins under policies issued in 2016 and 2017 because of the disclosure of information exclusion; however, the panel said the 2015 policy did not include that exclusion and the violation-of-law exclusion did not relieve the insurer of its coverage obligations.

A representative of Citizens did not immediately respond to a request for comment Friday.

Citizens is represented by Kelly M. Ognibene and Jeffrey A. Goldwater of Lewis Brisbois Bisgaard & Smith LLP.

Mullins is represented by David B. Goodman of Goodman Law Group.

The case is Citizens Insurance Co. of America v. Mullins Food Products Inc., case number 24-1524, in

the U.S. Circuit Court for the Seventh Circuit.

--Editing by Nick Petruncio.

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Insurer Owes \$3.8M For Honda Airbag Class Counsel Costs

By **Hope Patti**

Law360 (May 16, 2025, 5:36 PM EDT) -- A Tokio Marine unit must pay over 5.4 million Canadian dollars (\$3.8 million) for class counsel fees that Honda Canada Inc. incurred in underlying class actions over airbag deficiencies, but is off the hook for CA\$2.9 million in settlement administration costs, a Canadian court affirmed.

Justice Jennifer K. Penman of the Ontario Superior Court of Justice **said Monday** that an arbitral tribunal correctly determined that Honda's Canadian subsidiary is entitled to reimbursement for class counsel fees under an umbrella liability policy issued by Tokio Marine & Nichido Fire Insurance Co. Ltd.

"Tokio breached its duty to defend. This cannot now provide a basis for Tokio to avoid liability owing under the contract. If the wording supports the payment of class counsel fees, Tokio cannot refuse to defend the action to then avoid paying those costs," the justice said.

According to the ruling, several class actions were brought against Honda and other auto manufacturers over alleged deficiencies in airbag actuator components.

Tokio Marine, which insured Honda under primary commercial general liability and umbrella liability policies, offered to defend the company subject to a reservation of rights, but Honda ultimately retained its own counsel, the ruling stated. Honda agreed to settle the claims against it in January 2019.

In March 2021, Tokio Marine agreed to reimburse Honda's defense costs; however, the insurer refused to cover over CA\$5.4 million in class counsel fees, disbursements and taxes, according to the ruling.

The coverage dispute went to arbitration, and in March 2024, the tribunal found that Tokio Marine breached its duty to defend Honda. The tribunal also held that the class counsel fees were not covered under the CGL policy but were covered under the umbrella policy's supplementary payments provision, which is a separate agreement that "creates an insurer's obligation to pay the taxed costs and to do so outside the limits of insurance."

Coverage afforded by the provision is explicitly connected to Tokio Marine's duty to defend, Justice Penman said Monday, rejecting the insurer's contention that coverage should be tied to the insurer's duty to indemnify like the CGL policy.

"They are not the same and the wording matters," the justice said of the policies. "The parties could have agreed to exclude class counsel fees from coverage and drafted language to reflect any such agreement. They did not do so."

The tribunal also correctly concluded that nearly CA\$2.9 million that Honda incurred to administer the settlement were not covered under the policies because the costs related to the administering of excluded product recall and withdrawal programs, Justice Penman held.

"The money paid to administer this program was not related to claims of bodily injury, property damage or advertising liability. On the plain wording of the policies, the tribunal was correct in finding that the settlement administration costs were excluded," the justice said.

Honda is also entitled to more than CA\$820,000 in pre- and post-judgment interest on the class counsel fees, the justice ruled.

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

Tokio Marine is represented by Andrew Evangelista and Jennifer L. Kent of Evangelista Barristers & Solicitors.

Honda Canada is represented by Marcus B. Snowden and Dean P. Bartlett of Snowden Kamayah LLP.

The case is Tokio Marine & Nichido Fire Insurance Co. Ltd. v. Honda Canada Inc., court file number CV-24-00719561-0000, in the Ontario Superior Court of Justice.

--Editing by Leah Bennett.

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Parents Sue Colgate Over Alleged Dangers Of Fluoride Rinse

By **Mike Curley**

Law360 (May 16, 2025, 7:59 PM EDT) -- A proposed class of buyers of oral rinses is suing Colgate-Palmolive Co., alleging it misleadingly advertises its Hello Kids Fluoride Rinse as safe despite the U.S. Food and Drug Administration considering it too dangerous for children under 6 years old.

In a **complaint** filed in Illinois federal court on Thursday, the proposed class led by named plaintiff Josh Cook said that fluoride is toxic if swallowed, and the FDA has advised against rinses using fluoride for children because they have not developed the control to avoid swallowing it unintentionally.

Cook added that the products are more dangerous than adult rinses, as they contain the same concentration of fluoride but are sold in candy and fruit flavors that entice children to swallow the products.

Swallowing the fluoride could lead to vomiting, intoxication and nausea, according to the complaint, which says that each bottle of the products contains enough fluoride to kill a small child.

In addition, the rinses can cause dental fluorosis, a defect in the tooth enamel that causes visible and sometimes disfiguring staining and affects the calcification of teeth. According to the complaint, fluorosis can only occur while the teeth are still developing, and as such is only a risk for young children, particularly those under 6.

According to the complaint, while the FDA recognizes this risk, it does not mandate warnings about the condition because children under 6 are not supposed to be using fluoride rinses in the first place.

Cook further said that there are no demonstrated benefits to fluoride rinses in that age group because the health risks are so severe that scientists have never attempted to study the potential effects.

Under the Food, Drug and Cosmetic Act, companies are required to place a prominent warning on fluoride rinses to clearly instruct consumers to read the directions, but according to the complaint, Colgate's products contain no such warnings.

In the suit, Cook aims to represent a class of all residents of Arizona, California, Connecticut, Florida, Hawaii, Idaho, Illinois, Minnesota, Missouri, New Jersey, New York, Virginia, Washington state and the District of Columbia that purchased the rinses for their children under 6, and he makes claims for violations of the Illinois Consumer Fraud and Deceptive Trade Practices Act.

Representatives for the parties could not immediately be reached for comment Friday.

The proposed class is represented by Michael Connett, Aaron Siri, Elizabeth A. Brehm and Lisa Considine of Siri & Glimstad LLP.

Counsel information for Colgate was not available Friday.

The case is Cook v. Colgate-Palmolive Co., case number 1:25-cv-05448, in the U.S. District Court for the Northern District of Illinois.