

Litigation

Reckitt Investor Sues Over Impact of Enfamil Formula Lawsuits

June 6, 2025, 8:26 AM PDT

- **COURT:** S.D.N.Y.
- **TRACK DOCKET:** No. [1:25-cv-04708](#) (Bloomberg Law subscription)

Reckitt Benckiser Group PLC was accused in a proposed class action of failing to warn investors and consumers that its Enfamil baby formula might be tied to a deadly health condition and related financial risks.

The company's US share prices fell after jury verdicts about cow's-milk based formulas' potential impact on premature infants, according to a retirement fund's complaint filed Thursday in the US District Court for the Southern District of New York.

The formula was good for bulking up low-weight infants quickly, but recent research has found strong links between cow-based products and necrotizing enterocolitis, a gastrointestinal condition in premature babies that can contribute to serious health complications or death, the Elevator Constructors Union Local No. 1 Annuity & 401(k) Fund said.

Reckitt instead touted Enfamil's safety, concealing that infants might be at an increased risk of developing NEC by drinking cow's-milk products, the retirement fund said. The company and top brass failed to warn investors that when potential risks were revealed, it would hurt Enfamil sales and expose the company to lawsuits, it said.

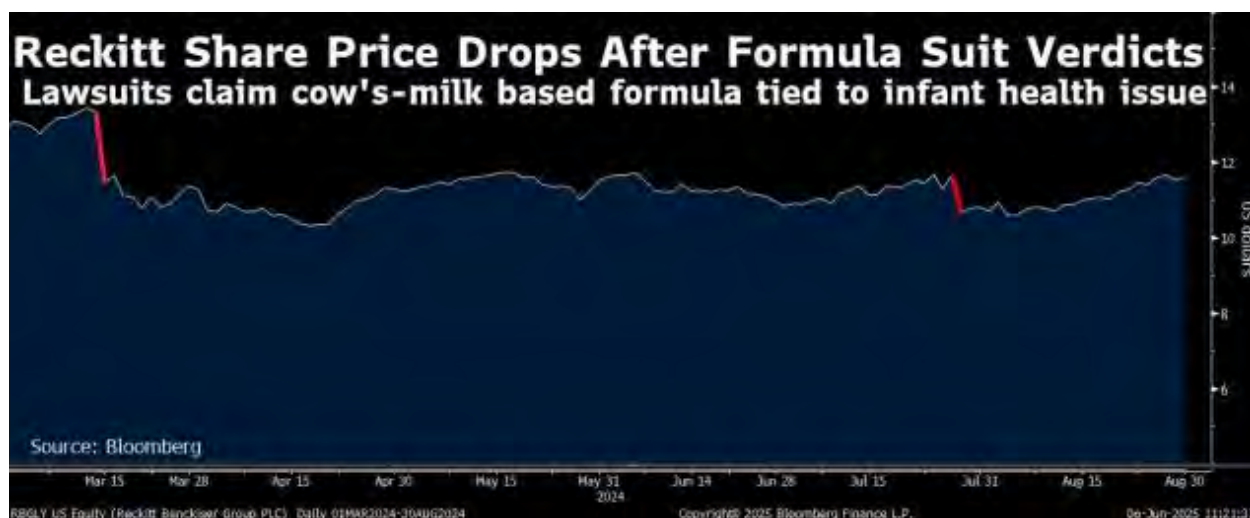
UK-based Reckitt, a consumer goods company with products ranging from cleaning supplies to nutritional supplements, acquired baby-formula maker Mead Johnson Nutrition in 2017.

In March 2024, an Illinois jury rendered a \$60 million verdict in favor of a mother, finding that Mead Johnson was negligent and failed to warn about the risk of an infant developing NEC from drinking the formula, the complaint said. Reckitt said March 15, 2024, that it stood by its products' safety after the verdict, rejecting the idea that any caused NEC.

That same day, Reckitt's American Depository Share price dropped more than 14% to close at \$11.44.

Then in July, a Missouri jury awarded \$495 million in a case against Abbott Laboratories over its cow's-milk based formulas' alleged contribution to NEC in an infant. An Abbott spokesman said that day that the company "strongly disagreed" with the verdict.

Reckitt's share price dropped almost 9% to close at \$10.64 the next trading day, July 29, 2024.



This past March, a Missouri judge granted a new trial in a different case against Mead Johnson and Abbott. The companies have seen a deluge of legal complaints related to their infant formulas.

The Elevator Constructors Union fund is seeking to represent a class of those who obtained Reckitt American Depository Shares from Jan. 13, 2021, through July 28, 2024.

Scott+Scott Attorneys at Law LLP represents the fund, which is asking for damages and other relief for alleged Securities Exchange Act of 1934 violations by Reckitt and five current and former top executives.

Reckitt didn't immediately respond to an email seeking comment.

The case is Elevator Constructors Union Local No. 1 Annuity & 401(k) Fund v. Reckitt Benckiser Grp. plc , S.D.N.Y., No. 1:25-cv-04708, complaint filed 6/5/25 .

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Class Action

Deep Dive

Alphabet's \$500 Million Settlement Heightens Risk Oversight Need

June 6, 2025, 8:06 AM PDT

- **Google parent to use \$500 million for compliance changes**
- **Settlement shows need for active board monitoring, derivatives**

Alphabet Inc. board's \$500 million commitment to improve its global regulatory compliance structure should alert companies to ensure their corporate overseers are actively and clearly monitoring risks, attorneys say.

And it's a reminder of the force of shareholder derivative actions such as the ones now settled by Google's corporate parent to compel internal reform, they add.

Alphabet shareholders last week asked a federal court to preliminarily approve the accord, which would include the creation of a new board committee dedicated to risk and compliance, as the company and its Google LLC face antitrust regulators' scrutiny.

The agreement lands as another US judge weighs how to curtail Google's dominance—potentially by divesting its Chrome browser—after finding it held an illegal monopoly of the online search market in a case brought by the US Justice Department. Another federal judge found Google had an illegal monopoly in two markets through its online advertisement technology in April. Meanwhile US regulators investigate whether Google violated antitrust law through a deal to use artificial intelligence technology from a popular chatbot maker.

Breaking out a separate risk committee from Alphabet's audit one "should help ensure that directors are not forced to divide their attention between financial oversight and compliance matters," said Veronica Root Martinez, a Duke University School of Law professor.

"More generally, I view the settlement as an interesting and potentially innovative example of how shareholder litigation can catalyze meaningful compliance reforms within a large, multinational corporation," she said.

The agreement is still subject to the approval of San Francisco federal court Judge Rita F. Lin. And it will likely come under heavy scrutiny from her and other shareholders, said Justin A. Kuehn, founder of Kuehn Law, adding that the US District Court for the Northern District of California is very familiar with stockholder litigation.

Ephemeral Communications

The investors' derivative suit, filed against Alphabet's leadership, ostensibly on the company's behalf, alleged those leaders let it engage in various anticompetitive practices. This put the company at risk for billions of dollars in fines, damaged its reputation, and exposed it to antitrust investigations and enforcement actions by the Justice Department, state attorneys general, federal lawmakers, foreign governments, and private plaintiffs.

As part of the agreement, Alphabet will spend about \$500 million over the next 10 years on its compliance and risk monitoring, including for new committees at different levels of the company and to preserve communications that the investors said were "previously ephemeral."

The massive funding commitment fits with Alphabet's size, but is unique, said the lead attorney for the shareholders. "The amount of money that Google/Alphabet has, if you compare that to the Facebook/Meta's of the world, it really sends a message that it's a commitment to be taken seriously," said Patrick Coughlin, who's with Scott & Scott Attorneys at Law LLP, the law firm that leads the litigation.

"Over the years, we have devoted substantial resources to building robust compliance processes," Google spokesperson Peter Schottenfels said in an email. "To avoid protracted litigation we're happy to make these commitments as we continue to prioritize our compliance obligations."

Board Committees

In context, the amount of money makes sense for a commitment at this large company "to have real teeth," Kuehn said. But what the deal demonstrates is potentially wider adoption of risk committees—which would be a good trend to help alleviate some of the responsibilities balanced by traditional audit committees, Kuehn said, noting his surprised that a company of Google's size didn't already have one.

Companies often monitor such undertakings of their peers, Martinez said. "One company's innovation is likely insufficient to establish industry practice, but if others adopt similar reforms, we may witness the emergence of Risk and Compliance Committees as a broader governance trend among large corporations," she said.

The deal is a reminder that board members should purposefully monitor evolving risks to the institution, which could "be different in the future based on the global economic environment, the geopolitical factors," said Jim Kramer, a partner at Orrick, Herrington & Sutcliffe LLP.

"Generally, the lesson here is board members need to be purposeful," Kramer said. "They need to consistently be aware of risks facing the company, ensure that information to allow them to monitor that risk is making its way to the board, and when it does, that there's a clear record that the board is going to own protecting the company from that risk."

And boards should pay attention to changes in international antitrust regulators' rules and enforcement. "Their boards should be updated on how this has changed—not just how the laws have changed, but how enforcement is approached," Kramer said.

Derivatives Outlook

Coughlin, who said the Alphabet settlement was hotly negotiated for well over a year, said he wasn't sure whether this would attract more shareholder derivative litigation, given the time and expense.

"First of all, you have to get by the demand, and everything else aside from making records' requests. So you can spend \$10 million and not be anywhere. It's not cheap litigation. So we're not necessarily sure this action will lead to more litigation," he said. "I think what it'll do is kind of wake up companies."

Working on remedies like this is difficult, Kuehn said, particularly with large companies that don't necessarily want to be told what to do: "To get any company to agree to governance is no small feat, but especially so with a company like Google."

Any state limitations on shareholder litigation pose serious risks for investors in being able to engage with a company, and this case "demonstrates the value of what can be accomplished," he said.

Still, boards should be prepared for it, because shareholder derivative litigation isn't likely to cool down, said Orrick's Kramer. "The Google case is a continuation of the trend that these cases are real, and the plaintiffs' lawyers are looking very hard at how boards are monitoring risk and responding to risk," he said.

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Securities Law

Hayward Holdings Beats Some Investor Claims in Supply Chain Suit

June 5, 2025, 12:50 PM PDT

- **Claims over comments on channel sales, inventory levels axed**
- **Statements downplaying issues with demand, sales may proceed**

Pool-supply company Hayward Holdings Inc. successfully warded off most fraud claims relating to comments its officers made to investors concerning its supply chain after the pandemic, a federal court said.

Lead plaintiff Fulton County Employees' Retirement System's claims involving forward-looking guidance given during the class period from Oct. 27, 2021, to July 28, 2022, as well as statements made about the company's cancellation/return of channel orders, inventory levels, and risk disclosures, were dismissed Wednesday by Judge William J. Martini of the US District Court for the District of New Jersey. But Martini permitted claims to proceed regarding Hayward's statements denying or downplaying issues with channel inventory.

The demand for Hayward's products spiked during the pandemic as more people stayed home and sought outdoor activities, according to the plaintiffs' complaint. Hayward's revenue grew by 20% year-over-year in 2020 and it had an initial public offering on March 11, 2021, it said.

During the pandemic, distributors loaded up on inventory, and by mid-2021, the distribution channel had two years' worth of inventory on hand, the plaintiffs said. But as the demand for products slumped, Hayward offered discounts and promotions, and it used pressure tactics to get distributors to submit future orders, they said.

Customers started canceling their orders in March 2022, the plaintiffs said. Hayward's officers tried to conceal the issues by making material misrepresentations to create the false impression that the business was strong and artificially inflated prices, they said.

Hayward disclosed the problems with the over-saturated channel in July 2022, Martini said.

The plaintiffs claimed, among other allegations, that Hayward committed securities fraud in violation of Section 10(b) of the Securities Exchange Act and Securities and Exchange Commission Rule 10b-5.

Statements that amounted to forward-looking guidance, such as the officers were confident about the growth of the company, were protected by the safe harbor provision of the Private Securities Litigation Reform Act, Martini said.

Statements that downplayed Hayward's excess inventory weren't actionable, to the extent the plaintiffs relied on allegations of confidential witnesses that were based on rumor and were otherwise unreliable, Martini said.

But other claims that were based on “enough reliable CW statements that taken together, corroborate one another and support Plaintiff’s claims that statements denying excess channel inventory, downplaying the improvement of order backlogs, and portraying demand as ‘sustained,’ ‘robust,’ or ‘healthy,’ were false or misleading,” Martini said.

The plaintiffs also didn’t plausibly plead that statements that Hayward was still focused on increasing production were false or misleading or made with the requisite intent, Martini said. Hayward’s risk disclosure statements weren’t actionable, because the plaintiffs’ claims were conclusory and not particularized, he said.

The plaintiffs said that a stock buyback plan during the class period showed that the defendants knew about the issues with the channel and allowed some officers to make millions of dollars. But Martini said that the “stock transactions and financial gains do not show motive to commit fraud and does not weigh heavily in favor of a scienter inference.”

Cohn Lifland Pearlman Herrmann & Knopf LLP represented Fulton County. Latham & Watkins LLP represented Hayward.

The case is City of Southfield Fire & Police Retirement Sys. v. Hayward Holdings Inc. , 2025 BL 193203, D.N.J., No. Civ. No. 2:23-CV-04146 (WJM), 6/4/25 .

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Class Action

UnitedHealth's 401(k) Settlement Spurs \$23 Million Fee Request

June 6, 2025, 6:43 AM PDT

The lawyers who negotiated a \$69 million settlement with UnitedHealth Group Inc. over the Wells Fargo & Co. target date funds in its 401(k) plan asked a federal judge for \$23 million in attorneys' fees.

The request represents one-third of the settlement in fees, along with \$735,163 in expenses and a \$50,000 service award for class representative Kim Snyder. The \$69 million deal is the "largest-ever ERISA settlement alleging breach of fiduciary duty for failure to remove underperforming investment options," and it represents up to 25% of the case's potential damages, they told Judge John R. Tunheim in a motion filed Thursday in the US District Court for the District of Minnesota.

- The class action says the target date funds in UnitedHealth's 200,000-member 401(k) plan significantly underperformed other options and should have been replaced
- Tunheim ruled last year that portions of the case could go to trial, saying UnitedHealth may have prioritized its relationship with Wells Fargo—which isn't a party to the case—over workers' interests

Sanford Heisler Sharp McKnight LLP and Halunen Law represent the class. Kirkland & Ellis LLP and Faegre Drinker Biddle & Reath LLP represent UnitedHealth.

The case is Snyder v. Unitedhealth Grp., Inc. , D. Minn., No. 0:21-cv-01049, motion 6/5/25 .

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Securities Law News

Supreme Court Keeps Rejecting Class Action Cases After Arguments

June 6, 2025, 1:45 AM PDT

- Justices think they shouldn't have taken case
- Pattern emerges in class actions this term

The US Supreme Court agreed to hear several cases corporate America brought seeking to rein in class actions this term only to later say they shouldn't have taken the appeals.

In an unsigned opinion on Thursday, the justices "dismissed as improvidently granted" Labcorp's bid to limit who can join a class action that accuses the health-care company of discriminating against blind people. A so-called DIG occurs when the justices think they never should have taken up the case in the first place.

It was the third "DIG" of the term after securities fraud class actions involving Meta Platforms Inc.'s Facebook and Nvidia Corp. were also dismissed.

It's an emerging and potentially worrisome pattern that has litigants expending resources to argue cases the court should've rejected. It appears the justices haven't quite figured out a way, despite efforts, to vet cases before deciding to hear them.

"The court seems pretty eager to take up cases in which the plaintiffs have prevailed in class actions below and that may be coloring their vision as to whether the court should take the case until they actually get down to it in the merits," said Alan Morrison, a George Washington University Law professor who's argued 20 cases before the court.

Procedural Hurdle

Gupta Wessler founder Deepak Gupta, who represented the plaintiffs in defending their class certification against Labcorp's challenge, noted the similarities in all three cases.

"The three DIGs were all in class action cases, all from the Ninth Circuit, all from petitions filed by repeat-player Supreme Court advocates at large corporate law firms," Gupta said.

The first two came early in the term in *Facebook v. Amalgamated Bank* and *Nvidia Corp. v. E. Ohman J:or Fonder AB*. In both, the justices initially agreed to resolve what were teed up as circuit splits on how investors could successfully plead fraud class actions against corporations.

At the time, securities law experts told Bloomberg Law that the dismissals were likely due to potential unintended consequences that arose during oral arguments.

The latest, involving Labcorp, sought to put limits on who could join a class action. Labcorp argued classes can't include people who haven't been injured by the self-serve kiosks that blind patients claim violate the Americans with Disabilities Act.

Cory Andrews, of the Washington Legal Foundation, noted that a potential procedural hurdle was similarly identified during arguments in Labcorp. In particular, the class that Labcorp appealed was later redefined in a subsequent class certification order. That seemed to trouble several of the justices during arguments.

"We now know that those justices who doubted whether Labcorp's case was suitable to resolve the circuit split carried the day," Andrews said.

Wasting Resources

The justices try to avoid DIGs as they are seen as a waste of both the parties' and the court's resources.

About a decade ago, after a high number of DIGs, the court instituted a new step in scrutinizing cases for review known as a relist.

The justices now routinely consider the case in at least two of their private conferences before granting them, presumably to check if there are any procedural quirks that might prevent them from resolving the case.

"That doesn't seem to have solved the problem," Morrison said, adding it might be because law clerks are the ones checking for potential issues.

"If you're asking law clerks, who are basically two or three years out of law school, to see these jurisdictional and other flaws, they aren't likely to be very good at it," he said.

Justice Brett Kavanaugh made the somewhat rare move of dissenting from the decision to dismiss Labcorp's case.

"The Court presumably dismisses the case because the Court does not want to tackle the threshold mootness question that plaintiffs have raised," he said.

Typically, the order dismissing the case is one sentence: "The writ of certiorari is dismissed as improvidently granted."

"Historically the Court has only indicated in less than half of the cases why it was DIGing," University of Cincinnati law professor Michael Solimine said.

Solimine called Kavanaugh's explanation a good thing. The court should be more transparent about why it's dismissing a case, especially since "the parties and the Court itself expended resources and time dealing with the case," he said.

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Class Action

California Cookies Might Mean Companies Get Hauled Into Court

June 6, 2025, 1:30 AM PDT

Step toe's Jennifer Quinn-Barabanov and Zachary Schreiber explain how e-commerce companies can avoid getting hauled into court across the country after the Ninth Circuit's Shopify decision.

Companies relying on e-commerce need to keep a close eye on a recent Ninth Circuit decision that forum-shopping plaintiffs will likely use to try to steer online privacy claims to sympathetic courts across the 50 states. The decision adds to the challenges faced by companies battling class-action lawsuits claiming that commonplace internet technologies such as cookies, pixels, and functionalities like searches result in unlawful disclosures, eavesdropping, and other alleged privacy violations.

In *Briskin v. Shopify Inc.*, an en banc panel of the US Court of Appeals for the Ninth Circuit substantially expanded the scope of specific personal jurisdiction for nationwide e-commerce platform and website operators. The Ninth Circuit held that installation of a cookie on plaintiff's browser when defendants allegedly knew that plaintiff was located in California was sufficient to trigger specific personal jurisdiction

Specific jurisdiction, as any first-year law student should know, requires a nonresident defendant—typically one who is neither incorporated nor has its principal place of business in the forum state—can only be hauled into court there if it has sufficient “minimum contacts” to satisfy due process.

Briskin's **Bad Facts**

As is often the case, *Briskin's* bad facts likely contributed to what is a bad outcome from a defendant's perspective.

Brandon Briskin purchased clothing from an online retailer that allegedly didn't disclose its use of Shopify's nationwide online e-commerce platform to facilitate sales. Shopify allegedly installed cookies that communicated with its servers and remained on Briskin's device to collect data about his geolocation, browser, IP address, and purchases across Shopify's network—data that was subsequently sold by Shopify without his knowledge.

Courts in the Ninth Circuit and elsewhere have long held that “‘something more’ than mere passive nationwide [website] accessibility” is required to satisfy the express aiming element of minimum contacts for specific personal jurisdiction over tort claims. In *Briskin*, the en banc Ninth Circuit overruled its prior precedent suggesting that something more requires differential targeting of the forum state, as compared to others.

The court held that Shopify was properly subject to specific personal jurisdiction over claims arising from its installation of cookies on Briskin's device because it knew that he was located in California. The court determined the intentional installation of cookies on the devices of users known to be in California qualified as “express aiming” sufficient to support personal jurisdiction.

Briskin's unfavorable facts, particularly Shopify's alleged sale of user data and the absence of disclosures related to its involvement, could provide grounds for distinguishing it from future cases.

However, plaintiffs will likely rely on *Briskin*'s reasoning to challenge Ninth Circuit precedent holding that online advertising, standing alone, is insufficient to support specific jurisdiction. After all, many websites target advertising. Some, such as social media websites, customize content using the same types of tracking technologies and information such as geolocation data and IP addresses that the Ninth Circuit cited to support specific jurisdiction in *Briskin*.

For now, the Ninth Circuit's *Briskin* decision is an outlier. The First and Third Circuits both concluded in cases involving session replay technology that the "express aiming requirement" wasn't met.

Both courts explicitly relied on the absence of allegations that the defendants knew about the plaintiffs' location. Plaintiffs will likely try to avoid this deficiency in future cases by including allegations related to knowledge of geolocation data and IP address.

Minimizing Risk

Faced with this potential erosion of the minimum contacts required for exercising personal jurisdiction in the virtual world, here's what defendants can do to minimize the risk of litigating online privacy claims in the courts of all 50 states.

Don't rely on differential targeting or status as a passive website as a rationale to forgo making disclosures and obtaining consent through cookie banners and privacy policies. Recognize that tailoring disclosures and consents to a particular state may be used to support plaintiffs' arguments that you are expressly aiming your activities and should be subject to specific jurisdiction there. Be prepared to oppose those arguments by arguing that you have complied in an abundance of caution.

Use forum selection clauses and choice of law provisions to maximize the likelihood that you won't be hauled into court in a jurisdiction you want to avoid. Many companies' terms of service choose the substantive law and the federal or state courts of the state where they are incorporated or have their principal place of business.

Many states honor these forum selection and choice of law provisions, but their enforceability can vary based on factors such as the substantive state law claim at issue (for example, whether it's waivable or non-waivable) and the substantive law of the proposed alternative forum. Make sure these provisions are drafted broadly enough to cover statutory claims.

Ensure vendors aren't deploying data collection and tracking technologies without your knowledge.

Website operators should perform an onboarding assessment of vendors that identifies what data they will collect from customers and how they will collect it. To avoid surprises, vendor agreements should prevent vendors from changing agreed-upon practices without the website operator's consent. Vendor agreements should also allocate responsibility for obtaining any necessary consents as well as any potential liabilities from data collection and tracking.

Consider geofencing where appropriate. Some website functionalities can be limited based on the location of the user. Consider whether to avoid using collection and tracking technologies in states with greatest risks.

Practical Impacts

Briskin has “lowered the bar” to exercise specific personal jurisdiction over e-commerce companies in the Ninth Circuit. As a practical matter, *Briskin*’s impact is likely limited for consumer-facing companies because most have terms of service that include forum selection clauses specifying their preferred location for litigating disputes.

The impacts may be more significant for back-end service providers because their involvement may not be transparent to the user. Service providers don’t typically have an opportunity to present their terms of service and obtain consent from website users.

In light of *Briskin*, back-end vendors should consider requiring their customers who operate websites to provide the necessary disclosures and consents to permit the data collection and tracking the vendor undertakes. Otherwise, vendors risk being taken to court for online privacy claims wherever their customers take them shopping.

This article does not necessarily reflect the opinion of Bloomberg Industry Group, Inc., the publisher of Bloomberg Law and Bloomberg Tax, or its owners.

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Homeowners accuse AAA and USAA of wildfire underinsurance

DJ [dailyjournal.com/articles/386003-homeowners-accuse-aaa-and-usaa-of-wildfire-underinsurance](https://www.dailyjournal.com/articles/386003-homeowners-accuse-aaa-and-usaa-of-wildfire-underinsurance)

Jun. 6, 2025

Homeowners affected by the Eaton and Palisades fires accuse AAA and USAA of underinsuring properties, alleging systemic undervaluation of replacement costs and misleading assurances of adequate coverage.

Eaton and Palisades fire victims have accused two automobile club insurers -- AAA and USAA -- of systematically misleading them about the adequacy of their insurance coverage, which they claim is well below the replacement costs of their homes.

Bentley & More LLP filed the two lawsuits in Los Angeles County Superior Court on Tuesday, saying their clients found after the fires that they were underinsured.

"This underinsurance problem was due to the fact that USAA, for years, had been systematically under-estimating the replacement cost of its policyholders' homes, despite representing that policyholders were adequately insured and did not need--and could not purchase--additional insurance," states the complaint signed by Gregory L. Bentley.

Two of the homeowners suing USAA say the company calculated that it would cost approximately \$342 per square foot to rebuild their home on Bienveneda Avenue in the Pacific Palisades. Initial estimates to replace their home with a similar structure range from \$850 to \$1,000 per square foot, according to the complaint.

"These companies promised peace of mind, but instead left their members stranded, homeless, and hopeless," Bentley said in a statement.

The complaints say it's a pervasive issue, and the cost estimator software that the industry uses is partly responsible. It mentions a 2008 California Department of Insurance investigation of the four largest insurers. The investigation showed that most policy holders' coverage limits matched the insurer's own coverage calculator, which understated the amounts needed to rebuild 80% of the time, the lawsuits allege.

"Ultimately, and as the insurance industry has known for decades, even with extended replacement cost, most homeowners find themselves underinsured following a wildfire, and the problem is the insurer's point-of-sale replacement cost estimates," the complaint states.

The plaintiffs claim seven causes of action: breach of the implied covenant of good faith and fair dealing; breach of contract; negligence; negligent misrepresentation; fraud; unfair competition; and reformation. *James R. Fulker, et al. v. Interinsurance Exchange of the Automobile Club*, 25STCV16244 (L.A. Super. Ct., filed June 4, 2025). *Ethan Alexander, et al. v. United Services Automobile Association*, 25STCV16247 (L.A. Super. Ct., filed June 4, 2025).

Bentley said they sued CSAA on similar grounds following the Sonoma fire and resolved the matter successfully for all parties. He said they are reviewing hundreds of policies from insureds in the Eaton and Palisades fires, and expect to file more lawsuits against AAA, USAA and other carriers on behalf of individual plaintiffs.

AAA and USAA representatives did not immediately respond to requests for comment.

The Palisades and Eaton Canyon (Altadena) wildfires tore through parts of Los Angeles County for several days in January, leaving behind scorched landscapes, damaged homes and significant financial tolls. Combined, these fires led to the destruction of more than 15,000 structures, the evacuation of over 100,000 residents, and an estimated \$28 billion in insured losses.

In April, insurance companies were accused of colluding with each other to deny coverage and push homeowners onto the California FAIR Plan, where they allegedly got substandard coverage.

California's FAIR Plan -- short for Fair Access to Insurance Requirements Plan -- is a state-mandated insurance program designed to provide basic property insurance to homeowners and businesses who can't get coverage through the regular insurance market, usually because they live in high-risk areas for wildfires or other disasters.

#386003

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Securities Law News

Mattel Settles Baby Sleeper Death Suits Before Start of a Trial

June 5, 2025, 5:00 AM PDT

Mattel Inc. and its Fisher-Price unit have settled lawsuits alleging their recalled Rock 'n Play baby sleeper was so defectively designed that it led to the deaths of infants.

The agreement, disclosed in a Delaware court filing last week, resolves lawsuits over six death cases and four allegations the faulty design of the Rock 'n Play product led to babies suffering flattened heads when they rolled against the product's side, said Michael Trunk, an attorney representing victims who settled their cases. He declined to provide financial terms.

Among the cases settled was a suit filed by Ameena Brown over the death of her son, identified in court filings only as AB. Jury selection in her case was slated to start Thursday in Delaware. There are at least four other such cases pending in Delaware Superior Court.

A representative of Mattel declined to comment. Mattel acquired Fisher Price in 1993 in a deal valued at \$1 billion.

Carl Tobias, a University of Richmond law professor who teaches about product-liability law, called the settlement a positive step, but said "the company should have done more to ensure that this product was safe for infant use before it put it on the market in the first place."



A Rock 'n Play baby sleeper.

Source: US Consumer Product Safety Commission

Product Recall

Mattel started selling the Rock 'n Play Sleeper in October 2009. Over the next 14 years, the product was tied to around 100 deaths, according to court filings in Delaware. Mattel and Fisher-Price pulled it off the market in 2019 and offered refunds for 4.7 million sleepers. It reiterated its recall in 2023.

Earlier this year, Mattel agreed to settle investors' claims that it hid the sleeper's risks in a \$17 million deal. As part of the accord, the company agreed to make changes to the way directors and executives handle safety issues. That followed Mattel's agreement to pay \$19 million to Rock 'n Play purchasers as part of a class-action settlement in federal court in Buffalo, New York. A judge approved that deal in March.

In Brown's case, her lawyers alleged in their complaint that Rock 'n Play's inclined design forced "children to tilt their heads to one side, thereby increasing the risk of neck and head injuries, asphyxiation, suffocation, and death."

Brown found her infant son dead in the sleeper – which she got as a second-hand gift – in 2018 after he'd rolled over on his side and pressed his face against the soft-padded side, the filing said. He'd been born prematurely the year before his demise.

"The conclusion of these cases marks an important milestone for the families as they move forward from litigation and begin a new chapter," Trunk said in an emailed statement. He's a partner in the Philadelphia-based law firm of Kline & Specter PC.

Fisher-Price employees warned the company in internal memos three times in 2008 and 2009 that safety research was needed before bringing the Rock 'n Play to market, a US House of Representatives committee investigation found. The committee found no such checks were done. In response to the House's report, Fisher-Price officials said they formed a medical council of pediatricians to focus more on the safety of their products.

Mattel officials argued in their court filings that Brown failed to use the Rock 'n Play's restraints when she put her son in it — despite a warning sewn on the product — and that medical examiners attributed his death to Sudden Infant Death Syndrome rather than the sleeper. Mattel also said the child's health issues may have played a role in his death.

The Delaware case is Brown v Fisher-Price, No. N-20C-01-067, Delaware Superior Court (Wilmington).

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Securities Law News

Poultry Firms Get Final Approval of \$398 Million Settlement Fund

June 5, 2025, 3:12 PM PDT

- Perdue, Tyson Foods accused of suppressing worker pay
- Judge grants attorneys' fees of roughly \$133 million

Perdue Farms Inc., Tyson Foods Inc. and Butterball LLC are among a group of poultry processors that won final approval of \$398 million worth of settlements in a yearslong wage-fixing conspiracy case.

Judge Stephanie A. Gallagher of the US District Court for the District of Maryland on Thursday granted final approval of the deals, saying there were no objections to the agreements from members of the settlement class and that there were "substantial risks and delays associated with continued litigation against the Settling Defendants."

The ruling marks a milestone in a case filed by low-income worker plaintiffs in 2019 who alleged the poultry firms violated the Sherman Act by conspiring to drive down their hourly wages and salaries at poultry processing operations.

Agri Stats Inc. and Webber, Meng, Sahl & Co. Inc. also allegedly served as conduits to the conspiracy, pooling together the defendant companies' data.

Gallagher also on Thursday awarded plaintiffs' counsel attorneys' fees of roughly \$133 million, equal to 33.33% of the overall settlement fund.

The settlement deals mark the largest financial recovery for an antitrust class action in the Fourth Circuit. "Unlike many antitrust class actions, Plaintiffs' Counsel identified and investigated the allegations in this case without the benefit of a prior government investigation," Gallagher said in her order awarding the attorneys' fees.

Instead, the Department of Justice brought its own follow-on lawsuits alleging the same conduct.

The plaintiffs are represented by firms including Hagens Berman Sobol Shapiro LLP, Cohen Milstein Sellers & Toll PLLC, and Handley Farah & Anderson PLLC.

The poultry companies are represented by firms including Womble Bond Dickinson LLP, Jones Day, and Dykema Gossett PLLC.

The case is Jien v. Perdue Farms Inc. , D. Md., No. 1:19-cv-02521, 6/5/25 .

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Litigators of the Week: Knocking Out Class Certification for a Second Time in the Marriott Data Breach MDL

 [law.com/litigationdaily/2025/06/06/litigators-of-the-week-knocking-out-class-certification-for-a-second-time-in-the-marriott-data-breach-mdl](https://www.law.com/litigationdaily/2025/06/06/litigators-of-the-week-knocking-out-class-certification-for-a-second-time-in-the-marriott-data-breach-mdl)

Ross Todd

June 6, 2025

Twice, a certified class of Marriott International Inc. guests whose personal information was hacked in 2018 has gone up to the Fourth Circuit.

And this week, for the second time in less than two years, the appellate court granted defendants in the multidistrict litigation a rare interlocutory win, scuttling class certification.

Back in August 2023, the appellate court found that U.S. District Senior Judge Paul Grimm in Greenbelt, Maryland, erred by granting class certification before considering whether the plaintiffs had signed valid and enforceable class-action waivers. "The time to address a contractual class waiver is before, not after, a class is certified," Circuit Judge Pamela Harris wrote for the panel at the time, remanding the case to consider the waiver issue.

On Tuesday, with Grimm retired and the MDL reassigned to U.S. District Judge John Preston Bailey in Wheeling, West Virginia, the Fourth Circuit reversed class certification entirely. Bailey had ruled that Marriott waived its class action waiver argument by proceeding with the MDL, and, even if it hadn't, the provision would be invalid and unenforceable.

This week, Circuit Judge Pamela Harris wrote for the unanimous panel—the same three judges who heard the prior appeal in the case—saying they read the waiver provision differently. "Parties in an MDL do not act in a representative capacity, and pretrial MDL consolidation does not strip cases of their 'individual' nature," Harris wrote. "We can find no other court holding that a defendant's participation in an MDL deprives it of the right to rely on a contractual class-waiver defense, and we will not be the first."

Our Litigators of the Week are **Matthew Hellman** and **Lindsay Harrison** of **Jenner & Block**, who represent Marriott, and **Devin Anderson** and **Craig Primis** of **Kirkland & Ellis**, who represent Accenture, the IT service provider that managed the hacked database.

Lit Daily: How would you characterize what was at stake here for your clients?

Matt Hellman: This one was pretty big. A nationwide MDL certifying a really large class. The parties had been litigating for years, and now we were finally going to learn if our class defenses were valid. Not only were the classes at issue huge, but they were bellwether classes. Whatever happened here was going to affect an even larger number of claims down the line.

Devin Anderson: For our client, Accenture, the district court's decision to certify "issue" classes on just two elements of a cause of action set up the prospect of a class trial that would not even resolve a single plaintiff's claims, and would at least theoretically pave the way for millions of follow-on individual trials to resolve complex issues of injury, causation and damages. We did not think that procedure was supported by Rule 23 or workable as a practical matter, and we are gratified that the Fourth Circuit rejected that approach in this case.

How did this matter come to you and your firms?

Lindsay Harrison: We are fortunate to have a longstanding relationship with Marriott dating back to when Matt and I were young associates. Because we know the company so well, when Marriott first announced the data security incident in November 2018, they brought us in to help manage the response alongside the incredible team at Marriott. There was a lot of incoming, which included the class action lawsuits that were ultimately sent to the MDL. Our co-counsel at **Baker & Hostetler** ably handled the litigation in the MDL, and then we came back in for the appeals—one after the first class certification order, and then this one again.

Craig Primis: We have had a long and productive working relationship with Accenture, and our team has had a lot of success fending off class actions more generally. When plaintiffs added Accenture as a defendant in this case in the summer of 2019, our team was a natural fit.

Who all was on your team and how did you divide the work?

Primis: Devin and I have been on this matter from day one, and Devin has led our team alongside our partner **Emily Long** for the past six years through motions to dismiss, fact discovery, expert discovery, class certification and appeal. Devin argued all the key motions and appeals in this case and achieved a great outcome for Accenture. We have had a great team at our client, Accenture, as well.

Hellman: We had the kind of team that makes Jenner special. In addition to Lindsay and me, the team had three appellate all-stars—our partner **Liz Deutsch** and two of our associates, **Mary Marshall** and **Emanuel Powell**. We didn't divide up the work so much as serially work through all the issues in the case together. We traded many (many) drafts back and forth. Between the lengthy case history and number of issues in play, the challenge in the briefing was to tell a clear story that kept the court focused on the big reasons why we thought we were right. And all of this work built on the superb work that Jenner lawyers had done over the years from the prior appeal. And of course we had the benefit of the Baker team, which knew everything there was to know about the proceedings in the district court and were thought partners throughout. And we also coordinated well with the Accenture team, which presented separate but related issues in their briefs.

What's important in this decision to data breach defendants and other defendants at the class certification stage?

Anderson: As a lawyer who spends a lot of time in both trial and appellate courts in data-breach cases, I can say that this decision is very important. It is the first data-breach appellate decision to grapple with these issues of injury, class waiver and the use of issue classes. Both the Fourth Circuit's decision rejecting the use of issue classes in this case and the district court's decision below, which rejected plaintiffs' theory that they experienced class-wide harm to the "value" of their personal information, signal that defendants in data-breach cases may have strong defenses at class certification.

Harrison: A defendant facing an onslaught of class action litigation shouldn't have to prove dozens of times that the class waiver its customers agreed to is enforceable. But that was the implication of the position taken by the plaintiffs in this case. They argued that by agreeing to have all the cases put into an MDL for pretrial proceedings, Marriott had waived its contractual right to litigate individually, without class actions. So they were saying you have to choose between an MDL and enforcement of a class waiver. If that were upheld, it would put companies in a terrible position. And given how many class actions are filed today, this could have been disastrous for businesses. The plaintiffs also seemed to think that the class waiver here was not enforceable because it wasn't coupled with an arbitration clause, but that argument went against a wall of precedent enforcing class waivers. If that had been affirmed, it would have rendered a huge number of class action waivers unenforceable.

With this decision in-hand, what are the moments from oral argument that stand out to you?

Hellman: There were a few things that I can remember—although it's mostly a haze. It felt a little bit like a reunion because we were back in front of the same panel in the same courtroom as the first go-around. The panel asked their characteristically sharp questions, but it felt like they had fewer for me than I was expecting. So I felt pretty good when I sat down. Some of the Marriott law department's senior leaders were in attendance at both oral arguments, so it was nice to deliver a pair of wins—the first being temporary, and this one a little longer-lasting ...

Anderson: We have been litigating class certification issues in this case for nearly four years, and this was our second trip to the Fourth Circuit on interlocutory review. When I stood up for rebuttal, I decided to make a plea for the court not to send the class issues back to the district court to "try again." I'm not sure whether that did the trick, but we are pleased that the Fourth Circuit made clear that this class phase of proceedings is complete.

You've been up at the circuit court twice on interlocutory appeal now. Is this the MDL process working or malfunctioning?

Primis: This was just one part of the overall MDL process, which seems to be working. The provision for interlocutory review of class-certification decisions is there for circumstances precisely like these, where there are important issues that can have a significant impact on the shape of a case. The fact that the Fourth Circuit granted review both times the district court made rulings that in our view were outlier positions shows that the process is working.

Hellman: It's taken awhile, but I think this decision will help it work better in the future. The Fourth Circuit clarified that just because it's an MDL, that doesn't mean that normal rules for raising defenses, or the normal applicability of class waivers, are somehow changed. That kind of regularity and predictability should make the MDL process faster and more efficient going forward.

What comes next here?

Harrison: The case will be remanded back to the district court. The Fourth Circuit was clear that the class waiver is broad and applies to all the plaintiffs' claims, including under consumer protection statutes, negligence claims and contract claims. Absent a certified class, all that remains are individual claims by individual litigants. Because there's no evidence that any of the individual plaintiffs were injured, and the plaintiffs didn't even try to demonstrate anything like identity theft resulting from this incident, we can't imagine there is much left for individual plaintiffs to fight over.

Anderson: We are back to the trial court, where I'm sure there will be further discussion of what proceedings will follow.

What can others take from what you accomplished?

Hellman: The Fourth Circuit gave us the opportunity not once, but twice, to explain why the certification orders here had to be reversed. The panel could not have been more prepared each time, and the result was a decision that we obviously think is correct for our case, but which will also illuminate how these kinds of cases are supposed to work going forward.

Anderson: The importance of making sound strategic decisions in fact and expert discovery. Behind every successful appeal is a lot of hard work in the trial court. The work the defense side did in fact and expert discovery to knock down plaintiffs' theories of harm during these earlier phases of the case set us up for success on appeal.

What will you remember most about this matter?

Hellman: The way the team honed our arguments over not just one, but two, appeals—each with its own 23f petition before we briefed the merits. It's so satisfying in our profession to work with really, really smart people to identify the best arguments, test them and then keep

on refining them so that our clients are in the best possible position. That really never gets old, and we're so proud to have achieved this victory for Marriott.

Harrison: The way the result grew out of an incredible amount of collaboration. Collaboration internally at Jenner, but also with Marriott, with Baker and with Kirkland. Our arguments continued to get better every time we collaborated with our colleagues and clients and co-counsel, so I will remember this as a true collective achievement.

Anderson: I do a lot of class action and data-breach work in both trial and appellate courts, so I'll remember the interesting and knotty class-certification issues that we briefed and litigated before the district court and the Fourth Circuit. Judge Niemeyer suggested the case might be a lawyer's paradise at oral argument, and he wasn't wrong.

Primis: As a senior litigator at this firm, what I'll remember most about this case is watching a partner like Devin, whom I've mentored over the years, take charge and develop a winning strategy over this long-running case. There is nothing better.

Ohio Senate GOP budget bill would loosen state's ban on political spending by corporations, unions

 [cleveland.com/news/2025/06/ohio-senate-gop-budget-bill-would-loosen-states-ban-on-political-spending-by-corporations-unions.html](https://www.cleveland.com/news/2025/06/ohio-senate-gop-budget-bill-would-loosen-states-ban-on-political-spending-by-corporations-unions.html)

<https://www.facebook.com/jeremypelzernews>

June 5, 2025

Language in the budget bill unveiled this week by Republicans in the Ohio Senate would eliminate the state's ban on corporations and labor unions making independent expenditures for or against political candidates, as well as end contribution limits to independent dark-money groups. David Petkiewicz, cleveland.com

By

Jeremy Pelzer, cleveland.com

COLUMBUS, Ohio—Language tucked into Ohio Senate Republicans' new state budget plan would eliminate the state's ban on corporations and labor unions making independent expenditures for or against political candidates, as well as end contribution limits to independent dark-money groups.

At the same time, the budget bill would also impose new limits on contributions to ballot-issue campaigns, which Democrats have used during the past couple years to pass liberal policies despite GOP dominance over state government.

The proposed changes, which still have a ways to go before becoming law, come as state lawmakers have done nothing over the past five years to strengthen state ethics or campaign-finance laws in response to the House Bill 6 scandal.

Your feedback matters

Should corporations and labor unions be allowed to give unlimited amounts of money to dark-money groups, so long as the groups only make independent expenditures?

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In that scandal, the FirstEnergy corporation gave \$60 million in bribes via a network of dark-money groups to then-Ohio House Speaker Larry Householder and his political allies.

If the Senate GOP budget becomes law, corporations like FirstEnergy would be able to spend a similar amount of money to support or oppose state lawmakers like Householder (a Perry County Republican who's now serving a 20-year prison sentence for his role in the HB6 scandal) was -- so long as the cash goes to groups that only make independent expenditures and don't send any money to campaigns, political parties, and partisan caucus funds.

In that case, prosecutors successfully argued there was a quid pro quo agreement in which FirstEnergy transferred money to Householder and his political operation in exchange for passing the bill.

The alterations would bring Ohio law into line with federal election law following the U.S. Supreme Court's 2010 ruling in *Citizens United v. FEC*, which overturned federal bans on corporations and unions making independent expenditures and advocating for the election or defeat of specific candidates.

But state Sen. Kent Smith, a Euclid Democrat, said the budget proposal would open the door to another HB6 scandal in Ohio.

"On the heels of the largest bribery and money laundering scandal in Ohio history, this budget will just make sure that bribery and money laundering is no longer illegal," Smith said.

The change, if passed, could also work against Republicans, as labor unions (which, with notable exceptions, are traditionally aligned with Democrats) would also be permitted to spend unlimited money on independent expenditures.

- Ex-lawmaker Kathleen Clyde poised to lead Ohio Democrats after main rival exits race
- Ohio leaders move toward greater state oversight over colleges and universities in financial trouble: Capitol Letter
- Theft charges dropped against ex-FirstEnergy executives in HB6 bribery scandal

At the same time, the Senate's budget bill would make ballot-issue campaigns abide by the same limits on incoming and outgoing contributions that campaigns have to follow, including a maximum donation limit of \$16,615.67 per person.

Right now, ballot-issue campaigns have no contribution or spending limits.

This isn't be the first time legislative Republicans have moved to restrict ballot-issue spending after Ohio voters passed measures in 2023 to legalize recreational marijuana and enshrine abortion rights in the state constitution.

Last year, GOP lawmakers passed a bill in a special session to expand the state's ban on political contributions from foreign nationals to include ballot-issue campaigns. That legislation came in response to billionaire Hansjörg Wyss, a Swiss citizen who lives in

Wyoming, giving millions of dollars to a dark-money group that helped Democrats score the ballot wins.

When Senate President Rob McColley, a Northwest Ohio Republican, was asked Wednesday afternoon for the rationale behind the proposed campaign-finance changes, he referred comment to the Senate Republicans' legal counsel.

"Off the top of my head, I'm not familiar with the subject matter," McColley said.

Senate GOP spokesman John Fortney, asked to comment, said in a statement Wednesday, "This change in the law would provide full disclosure, transparency, and accountability regarding where contributions are coming from."

The Plain Dealer/cleveland.com has reached back out to Fortney following McColley's comments.

The proposed changes come as Republican state lawmakers are also looking at overhauling how campaign-finance violations and other elections complaints are handled.

Right now, such cases are handled by the Ohio Elections Commission, but several Republican lawmakers have complained that the commission moves slowly and is largely toothless.

Under both the Ohio House's budget bill and the Senate's initial budget draft, the commission would be abolished. Instead, under the Senate's bill, the Ohio secretary of state's office would hear accusations of election-related violations.

The Senate's budget plan would also create a new five-member Ohio Election Integrity Commission, made up of appointees from the secretary of state and the top Republican and Democrat in each legislative chamber, to hear appeals.

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Judge Rules Law Firm in Litigation With Musk Can Hire Ex-SEC Chief Litigation Counsel

 [law.com/newyorklawjournal/2025/06/05/judge-rules-law-firm-in-litigation-with-musk-can-hire-ex-sec-chief-litigation-counsel](https://www.law.com/newyorklawjournal/2025/06/05/judge-rules-law-firm-in-litigation-with-musk-can-hire-ex-sec-chief-litigation-counsel)

Michael A. Mora

June 5, 2025



U.S. AIR FORCE ACADEMY, Colo. -- Tesla Inc. Chief Executive Officer Elon Musk speaks with Lt. Gen. Richard Clark, Superintendent of the U.S. Air Force Academy, during the Ira C. Eaker Distinguished Speaker Presentation in the Academy's Arnold Hall on April 7, 2022 in Colorado Springs, Colo. Photo: Trevor Cokley/U.S. Air Force via Wikimedia Commons

News

“For similar reasons, we find that Tenreiro’s ‘likes’ of social media posts do not create an appearance of impropriety, particularly since the posts have nothing to do with the SEC enforcement action against Musk or the instant litigation,” U.S. Magistrate Judge Gabriel W. Gorenstein ruled.

5 minute read

Securities Litigation

The U.S. District Court for the Southern District of New York ruled Thursday that Bernstein Litowitz Berger & Grossmann can hire as a partner Jorge G. Tenreiro, who held a number of positions at the U.S. Securities and Exchange Commission, including chief litigation counsel, and, most recently, served in the agency’s Office of Information Technology.

Defendant Elon Musk argued that the “extremely short time” that elapsed between the filing of an SEC action over the billionaire’s purchase of Twitter Inc. and Tenreiro’s outreach to BLB&G, which is lead counsel for the plaintiff, the Oklahoma Firefighters Pension and

Retirement System, in a class action over the Twitter acquisition, created an “appearance of impropriety.”

But U.S. Magistrate Judge Gabriel W. Gorenstein disagreed.

“[T]he timing of Tenreiro’s departure appears to have been precipitated by his being assigned to detail in an office with a focus unrelated to his prior work and the agency’s offering of a voluntary separation package,” Gorenstein found. “More to the point, given that Tenreiro did not know that BLB&G was counsel in this case until sometime between March 15 and March 17, 2025, the length of the period between Tenreiro’s alleged involvement with SEC actions against Musk and outreach to BLB&G is immaterial.”

Oklahoma Firefighters brought the underlying case, alleging that the defendants, who include Musk, committed securities fraud when Musk concealed his ownership stake in the social media platform X, then operating as Twitter. The putative class action is on behalf of investors who sold Twitter securities between March 25, 2022, and April 4, 2022.

And on April 22, BLB&G asked the Southern District of New York to approve a “routine ethical screen” of Tenreiro, court records show. BLB&G later clarified that the ex-SEC employee accepted an offer of employment from the law firm contingent on the court’s approval of the screening procedures, according to the opinion and order.

Historically, Tenreiro was employed by the SEC from December 2013 to April 2025. Between October 2022 and November 2024, he secured several rulings against prominent digital asset companies as the deputy chief of the SEC’s Crypto Assets and Cyber Unit. In December 2024, Tenreiro was promoted to the agency’s chief litigation counsel.

During Tenreiro’s tenure as chief litigation counsel, the SEC sued Musk in connection with his purchase of Twitter shares. Tenreiro claimed that he did not “substantively participate in the SEC investigation” or any related matter.

The SEC under the Biden administration had drastically different priorities regarding digital assets than the agency does now under the Trump administration. Digital asset companies, which donated hundreds of millions of dollars to the Trump campaign, urged the new administration to remove staff from the SEC who had pursued cases against the companies, largely for the sale of unregistered securities on cryptocurrency exchanges.

In January, Tenreiro began looking for outside work and was transferred to the IT department before his departure from the agency. The next month, an ex-classmate of Tenreiro’s connected him to BLB&G, and Tenreiro claimed that he first became aware of the law firm being counsel in the underlying case in mid-March.

And in the opinion and order, Gorenstein found that the conflict check—which included Tenreiro identifying the cases brought by the law firm and ones connected to the SEC, and a consultation from a “professional legal ethics expert”—was sufficient under the Code of Professional Responsibility.

“For similar reasons, we find that Tenreiro’s ‘likes’ of social media posts do not create an appearance of impropriety, particularly since the posts have nothing to do with the SEC enforcement action against Musk or the instant litigation,” Gorenstein ruled. “Accordingly, we conclude that BLB&G’s screening procedures cure Tenreiro’s conflict of interest.”

Neither the plaintiffs nor the defendants responded to a request for comment.

Gerard Filitti, senior counsel in New York at the [Lawfare Project](#), an international non-profit legal think tank and litigation fund, characterized the ruling as refuting an attempt to limit the employment of lawyers leaving government service—in essence, attempts to “punish” them by restricting their ability to join firms that “do work even remotely related to their government service.”

“These attempts don’t just presuppose that former government lawyers don’t understand, and can’t abide by, the rules of ethics,” Filitti observed. “They play into a popular perception of lawyers as unethical beings that can’t be trusted, and give credit to a growing perception in some political circles that government service irrevocably taints the people who perform it. This is inherently dangerous, not just for the legal profession, but for the justice system.”

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[Latest](#)

New Suit - Securities Class Action

Nike was hit with a class action on June 6 in New York Eastern District Court over allegations it conducted an unregistered securities offering through its NFT program before abandoning the project. The suit, brought by the Rosen Law Firm, accuses Nike of generating tens of millions in revenue by selling Nike-themed NFTs and taking transaction fees from secondary market sales, only to announce in December 2024

that its subsidiary RTFKT would shut down operations, causing NFT values to plummet. The suit, which seeks over \$5 million in damages, alleges that purchasers of Nike's NFTs would not have bought them had they known Nike would abandon the project. The case is 1:25-cv-03169, Fernandez v. Nike, Inc.

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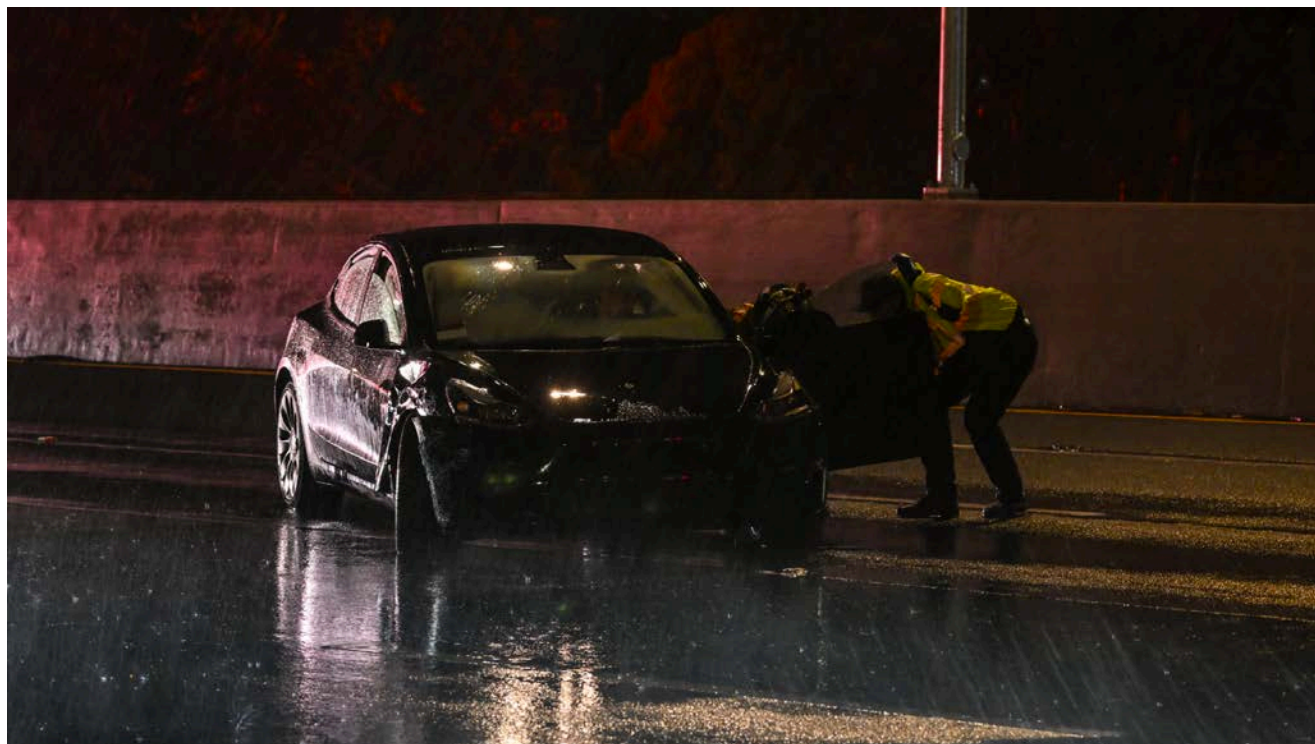
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Elon Musk's Tesla Cries 'Competitive Harm' Over Self-Driving Crash Data Disclosure

[thedrive.com/news/elon-musks-tesla-cries-competitive-harm-over-self-driving-crash-data-disclosure](https://www.thedrive.com/news/elon-musks-tesla-cries-competitive-harm-over-self-driving-crash-data-disclosure)

Byron Hurd

June 5, 2025



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Lawyers for Tesla have filed a motion asking a judge to throw out a public information request that would require the U.S. National Highway Traffic Safety Administration to release data about crashes that occurred while its vehicles were under the control of automated or semi-automated driving systems. Tesla misleadingly calls its systems Autopilot and Full-Self Driving. Tesla asked the judge to dismiss the motion on the grounds that competitors could use the data to “assess the efficacy” of Tesla’s hardware and software, which could lead to “financial and economic harm.”

The Freedom Of Information Act (FOIA) suit was brought by *The Washington Post* last year in an effort to obtain additional data about vehicles that were under the control of driver assistance systems (either Autopilot or Full Self-Driving) when a crash occurred, *Reuters* reports. With Tesla lobbying the Trump administration to end existing reporting requirements for self-driving vehicle accidents, it’s a case with a lot of eyes on it.

Tesla's motion argues that competitors would normally have to pay a lot of money to learn what Tesla has over the course of developing its driver aids, and that by releasing crash data, NHTSA would effectively be handing a watered-down version of that (valuable) accumulated data to competitors, allowing them to essentially "read ahead" in their own development process by learning from Tesla's progress (or perhaps more accurately in this case, its public mistakes).

"These are precisely the types of competitive harms long recognized by courts in this circuit," Tesla argued in the motion.

But it really comes down to this: if NHTSA releases Tesla's crash data to the public, it may (whether directly or indirectly) deter people from buying its cars, and it would be unfair to compel the company to reveal them.

"Tesla has explained (and as NHTSA has concurred), competitors may review the disclosed information and draw speculative conclusions about the quality of Tesla's ADAS technology with respect to a certain version or feature—which may very well be flawed given that the disclosed information may reflect only preliminary investigations—and use that to improve or tout their technology at the expense of Tesla's," the motion says.

"Thus, even under Plaintiff's articulation, Tesla and NHTSA have established a reasonable likelihood of disparagement harm resulting from the disclosure of the withheld information," it concludes.

It's a neatly packaged argument that has the benefit of support from the very agency the *Post* is suing, but it compels us to ask a far more fundamental question: Is NHTSA's duty to protect the private interests of a multi-billion-dollar corporation, or the public safety of America's roadways?

Got a tip? You can send it here: tips@thedrive.com

Tesla seeks to block city of Austin from releasing records on robotaxi trial

 [reuters.com/business/autos-transportation/tesla-seeks-block-city-austin-releasing-records-robotaxi-trial-2025-06-06](https://www.reuters.com/business/autos-transportation/tesla-seeks-block-city-austin-releasing-records-robotaxi-trial-2025-06-06)

Chris Kirkham

June 6, 2025

Tesla electric vehicles are parked at a Tesla dealership, after Tesla, Inc. released its financial results for the first quarter of 2025, in Berlin, Germany April 23, 2025. REUTERS/Annegret Hilse/File Photo Purchase Licensing Rights, opens new tab

June 6 (Reuters) - Tesla is trying to prevent the city of Austin, Texas, from releasing public records to Reuters involving the EV maker's planned launch of self-driving robotaxis in the city this month.

The news agency in February requested communications between Tesla and Austin officials over the previous two years. The request followed CEO Elon Musk's announcement in January that Tesla would launch fare-collecting robotaxis on Austin public streets. Austin public-information officer Dan Davis told Reuters on April 1 that "third parties" had asked the city to withhold the records to protect their "privacy or property interests." Austin officials on April 7 requested an opinion on the news agency's request from the Texas Attorney General's office, which handles public-records disputes.

On April 16, an attorney for Tesla (TSLA.O), opens new tab wrote the AG objecting to the release of "confidential, proprietary, competitively sensitive commercial, and/or trade secret information" contained in emails between Tesla and Austin officials. The Tesla attorney wrote that providing the documents to Reuters would reveal "Tesla's deployment procedure, process, status and strategy" and "irreparably harm Tesla." Tesla and the Texas Attorney General's office did not respond to Reuters' requests for comment.

Neal Falgoust, who oversees public records issues for Austin's Law Department, said the city "takes no position on the confidential nature of the information at issue" but is required to seek the Attorney General's opinion when "a third-party asserts that their information is proprietary and should not be released."

Musk has staked Tesla's future on self-driving vehicles he has promised for a decade but hasn't delivered, making Austin's robotaxi launch closely watched as a potential milestone. Some analysts and investors attribute the majority of Tesla's stock market value to hopes for robotaxis and humanoid robots it has yet to deliver.

Little is known about Tesla's plans in Austin. The company has said it aims to initially deploy between 10 and 20 driverless robotaxis in restricted geographic areas of Austin, which it has not publicly identified.

In an April 23 response to Tesla's letter, a Reuters lawyer wrote that Tesla's intent to deploy the unproven technology on Texas roadways makes its plans "an issue of enormous importance to Texas and the public at large" and underscored the public's right to know.

Falgoust, the Austin law department official, did not respond to questions about whether the public was entitled to information about Tesla's driverless technology.

Texas state law requires the Attorney General's office to decide within 45 business days, which would be next week.

Reporting by Chris Kirkham in Los Angeles; Editing by Brian Thevenot and Anna Driver

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Chris Kirkham is a business reporter in Los Angeles who writes about Tesla, electric vehicles and the wider automotive industry. He previously worked at The Wall Street Journal and the Los Angeles Times, and has covered topics including tobacco, worker safety, gambling, and the economy over a two-decade career. Contact him at chris.kirkham@thomsonreuters.com or on Signal at [chris_kirkham.51](https://signal.me/#x1abc2chris_kirkham)

Elon Musk's Feud With President Trump Wipes \$152 Billion Off Tesla's Market Cap

 [wired.com/story/musk-trump-breakup-tesla-stock-price](https://www.wired.com/story/musk-trump-breakup-tesla-stock-price)

Kylie Robison, Aarian Marshall

June 5, 2025



It took only a few hours to wipe \$152 billion of value from Tesla's market cap and more than \$100 million in value from TrumpCoin.

The end of the bromance between Elon Musk and President Donald Trump has been brewing for weeks, but on Thursday the breakup went nuclear. Musk took to the platform he owns, X, to lambast Trump's "One Big Beautiful Bill," which includes provisions that restrict immigration, limit green energy subsidies, and is estimated to increase the US deficit by \$2.4 trillion. Trump shot back on Truth Social, the platform he owns, to say that Musk is against the bill only because it would take away electric vehicle tax credits that Musk's company, Tesla, benefits from. It quickly devolved into dozens of posts, most of them from Musk, who claimed Trump is in the Epstein Files—which is, he claims, why they haven't been made public.

Tesla's stock is down roughly 14 percent at the time of writing, which is the biggest single-day hit to its market cap in years. Trump's crypto coin is down nearly 10 percent.

This is a high-stakes divorce for everyone involved. Trump claimed he would terminate Musk's governmental subsidies and contracts, which help rake in billions of dollars for companies like Tesla and SpaceX. In return, Musk posted that he would decommission SpaceX's Dragon spacecraft, which is used by NASA to transport cargo and astronauts to the International Space Station, "immediately." Steve Bannon, a Trump ally and vocal critic of Musk, told The New York Times that he "is advising the president to cancel all of Musk's contracts and launch several investigations."

"They should initiate a formal investigation of his immigration status because I am of the strong belief that he is an illegal alien, and he should be deported from the country immediately," Bannon said. It has been reported that Musk may have lied on his visa forms, which would likely have made it illegal for him to work in the United States in the 1990s.

Tesla's stock drop comes at a delicate time for the electric-vehicle maker. This month, the company is due to debut its long-awaited (and much-delayed) robotaxi service in Austin, Texas. Musk has said that investors should think of Tesla as a robotics and autonomous vehicle technology company rather than an electric automaker—putting its self-driving tech and humanoid robot ambitions, rather than new car models, at the center of its now \$916 billion market capitalization. Bloomberg reported that the company has internally targeted next week for a launch. Musk has repeatedly claimed that his AI company, xAI, would also soon release a new model, though the launch has been delayed.

Tesla's latest quarterly results, posted in April, were its worst in years as production, deliveries, and sales fell, particularly in Europe. The company has scaled down its ambitions to produce a more affordable electric vehicle, nixing plans to use new and advanced manufacturing techniques. Musk attempted to placate worried investors by announcing that he would leave his so-called Department of Government Efficiency (DOGE) post and return to his companies, including Tesla, mostly full-time.

Musk denied Thursday that his about-face on Trump has anything to do with electric vehicle subsidies. Musk has maintained since he joined Trump's campaign that Tesla does not need federal tax credits, which can reach \$7,500 per car, to sell its vehicles. But in an X post, Musk betrayed the first inklings of annoyance with Trump's EV policy. "Keep the EV/solar incentive cuts in the bill, even though no oil & gas subsidies are touched (very unfair!!), but ditch the MOUNTAIN of DISGUSTING PORK in the bill," he wrote.

Since February, thousands of protesters opposing Musk's and Trump's politics—everything from their climate stances to the actions of DOGE—have gathered outside of Tesla showrooms and service centers across the world. What began as a grassroots movement now has a central organization and a name: the Tesla Takedown. On Thursday afternoon, organizers put out a three-word statement: "Sell, Sell, Sell."

Most Popular

Securities Law

Musk Dust Up Lays Bare Tesla's Vulnerabilities: Liam Denning

June 6, 2025, 7:44AM PDT

After the world's [least surprising](#) blowup, we the people are reportedly to be treated to its [least convincing truce](#). Investors in Tesla Inc., nominally run by Elon Musk, the chief-buddy-turned-chief-critic of President Donald Trump, are apparently relieved. The stock bounced in trading Friday after Thursday's epic slide took Tesla's value back below \$1 trillion.

There are relief rallies and there are delusion rallies. This one bears a striking resemblance to the latter. Tesla's valuation, largely an extension of Musk himself, has lately also become an extension of his relationship with Trump – which he has now trashed. Regardless of any bromides on Friday, the bust-up has laid bare the enumerable risks to which Tesla is exposed by Musk's politicking. And all this on the eve of its robotaxi launch, now relegated to a side show.

Amid the back-and-forth accusations of seeking government subsidies, causing a recession and consorting with a deceased sex offender, one post from Trump stands out:

"The easiest way to save money in our Budget, Billions and Billions of Dollars, is to terminate Elon's Governmental Subsidies and Contracts. I was always surprised that Biden didn't do it!"

That threat of giving Musk's companies a dose of government efficiency came exactly seven months after the election that returned Trump to the White House, with Musk in tow. The political era for Tesla's stock, a series of extreme swings predicated mostly on vibes, would appear to be at an end. Thursday's fountain of online bile is less a coda and more the opening of a new, darker chapter.

When Musk swung his support behind then-candidate Trump, Tesla's core electric vehicle business was struggling due to its ageing lineup. Backing a candidate openly hostile to EVs seemed odd, but it made a certain kind of sense given Tesla's hard pivot toward launching autonomous vehicles. A friendly White House and Congress could help constrain pesky regulators and perhaps enable legislation promoting robotaxis (see [this](#) and [this](#)). Today, Tesla's EV business is in [even worse shape](#), facing anti-MAGA blowback in a blue-tinged product segment as well as the sheer [competitive heft of Chinese rivals](#). The imminent launch of a robotaxi service in Austin, [however limited in scope](#), is critical to keeping faith in the stock even as earnings forecasts have slumped.

Musk's attack on Trump, and the wider Republican party, has not merely burned bridges but also blown up the pilings. His call for the ultimate sanctions, impeachment and a midterms wipeout will not be forgotten, regardless of any public patch-up.

Musk's wealth and corporate empire spanning autos, rockets, communications, artificial intelligence and his weaponized social media platform make him a formidable opponent, and an unpredictable one at that. But so is the US president, especially one with Trump's capacity for bearing grudges. Musk's [prior entanglements](#) with agencies such as the Securities and Exchange Commission may fit the pattern but are quaint in comparison.

What Musk appears to have forgotten is that his wealth, while gargantuan, is also contingent, and in ways that the most powerful man on Earth can exploit if necessary. Musk's now largest holding, in Space Exploration Technologies Corp., or SpaceX, looks most obviously exposed given its web of government contracts. He notably announced on Thursday the decommissioning of its workhorse Dragon spacecraft, used by NASA to ferry cargo and people to the International Space Station, before walking back the threat.

Musk's Tesla stake, his most liquid asset and valued at more than \$100 billion, is also vulnerable. This goes way beyond Trump reportedly considering selling the Tesla he got when he briefly [turned the White House into a showroom](#) in March. For starters, any hope of the federal EV tax credit slashed in the House tax bill being saved in the Senate now looks gone – a roughly \$1.2 billion hit to Tesla's full-year profit, JPMorgan Chase & Co. analysts estimate. That's pressure Tesla could do without given it's already dealing with lower volumes and deep discounts (Trump may not get much for that slightly used Model S). This comes alongside Republican legislation gutting California's EV mandate, thereby cutting the value of EV credits that masked Tesla's [underlying loss from operations](#) last quarter. In other words, Trump could kick the company's main business while it's already down.

Meanwhile, it seems very unlikely that Musk's newfound distance from Trump would somehow repair Tesla's relationship with liberal-leaning, green-minded EV buyers in markets such as California, beyond the margin. The same day the two were trading insults, analysts at Goldman Sachs Group Inc. cut their estimate of Tesla's EV sales this year to less than 1.6 million, far below 2023 levels, in part because of lingering brand damage. Indeed, with his curse on both political houses, Musk appears to have adopted an unorthodox strategy of confining Tesla's addressable market in the US to the vanishing swing voter segment.

There's more. Tesla's valuation rests to a large degree on the idea that it will dominate autonomous vehicles, despite years of missed deadlines. Forget about the federal AV bill Musk was pushing; how hard would it be for the Trump administration to apply pressure via traffic safety regulators? There are huge questions hanging over the viability of Tesla's "generalized," sensor-lite model of autonomy, with the limited nature of the Austin launch itself an admission that much remains to be proved. For example, a regulation mandating that AVs use the lidar systems that Musk disdains – a measure that would be entirely defensible, as [recent reporting](#) from my Bloomberg News colleagues demonstrates – would represent a huge setback for a company that insists millions of the vehicles it has sold are essentially robotaxi-ready.

It would be a huge setback, too, for Musk and those investors along for the ride. Despite losing more than \$150 billion of value in a single day, Tesla is still valued at 130 times forward earnings, bigger than your average auto stock by a factor of 10. That is a lot of belief that a motivated president could wring out, with direct implications for Musk, who had pledged 58% of his own stake as collateral for loans as of the last disclosure just over a year ago. And the more that value is eroded in full public glare, the more feeble an opponent Musk would become.

As baffling as all this may seem, it has deep roots in Musk's long history of [erratic behavior](#) and penchant for [picking needless battles](#) . Plus, of course, the Tesla board's remarkable [power of invisibility](#) . One reason this has all been tolerated is Musk's own superpower: Namely, to make Tesla a [meme stock](#) , borne aloft by an ever shifting narrative of EVs, robotaxis and, of late, raw political power. That last one, unfortunately, has now bound Tesla's fate to the whims and needs of another man with a talent for memes, a short fuse – and control of a bureaucracy that may not be efficient, but has its uses.

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Tesla Is Being Eaten Alive by Rivals It Inspired: Liam Denning

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Securities Law

Musk's Empire at Risk After Trump Feud Opens Multi-Front Fight

June 6, 2025, 9:18 AM PDT

What began as Elon Musk's embrace of right-wing populism has become a defining – and potentially harmful – chapter in his business career.

By endorsing Donald Trump's MAGA movement and far-right parties in Europe, Musk alienated a big portion of his original customer base, eroding Tesla's brand, sales and market share around the globe. Then came this week's rupture: a personal and public breakup with Trump that prompted threats of retaliation from a man with control over the world's most powerful government.

By simultaneously burning bridges with both his customers and now the political movement he funded and amplified for months, Musk now faces a rare convergence of threats: collapsing brand loyalty, shaky revenues, and mounting legal and regulatory risk.



A Tesla Cybertruck at the company's store in Colma, California.

Photographer: David Paul Morris/Bloomberg

Tesla Inc.'s sales are already stumbling under the weight of partisan baggage. SpaceX, long seen as a [strategic national asset](#), is facing new scrutiny as political winds shift. And the green shoots at X – Musk's \$44 billion "free speech" experiment– that were fueled by Musk's proximity to the White House and the ad dollars that followed, may soon disappear.

"Elon isn't functioning to the benefit of his shareholders," said **Ross Gerber**, the chief executive officer of Tesla shareholder Gerber Kawasaki, which has been reducing its Tesla holdings over the last few years.

Speaking on Bloomberg Television on Thursday while the meltdown was still going on, Gerber said Musk's behavior is leading to the "dismantling of the Musk empire in real time."

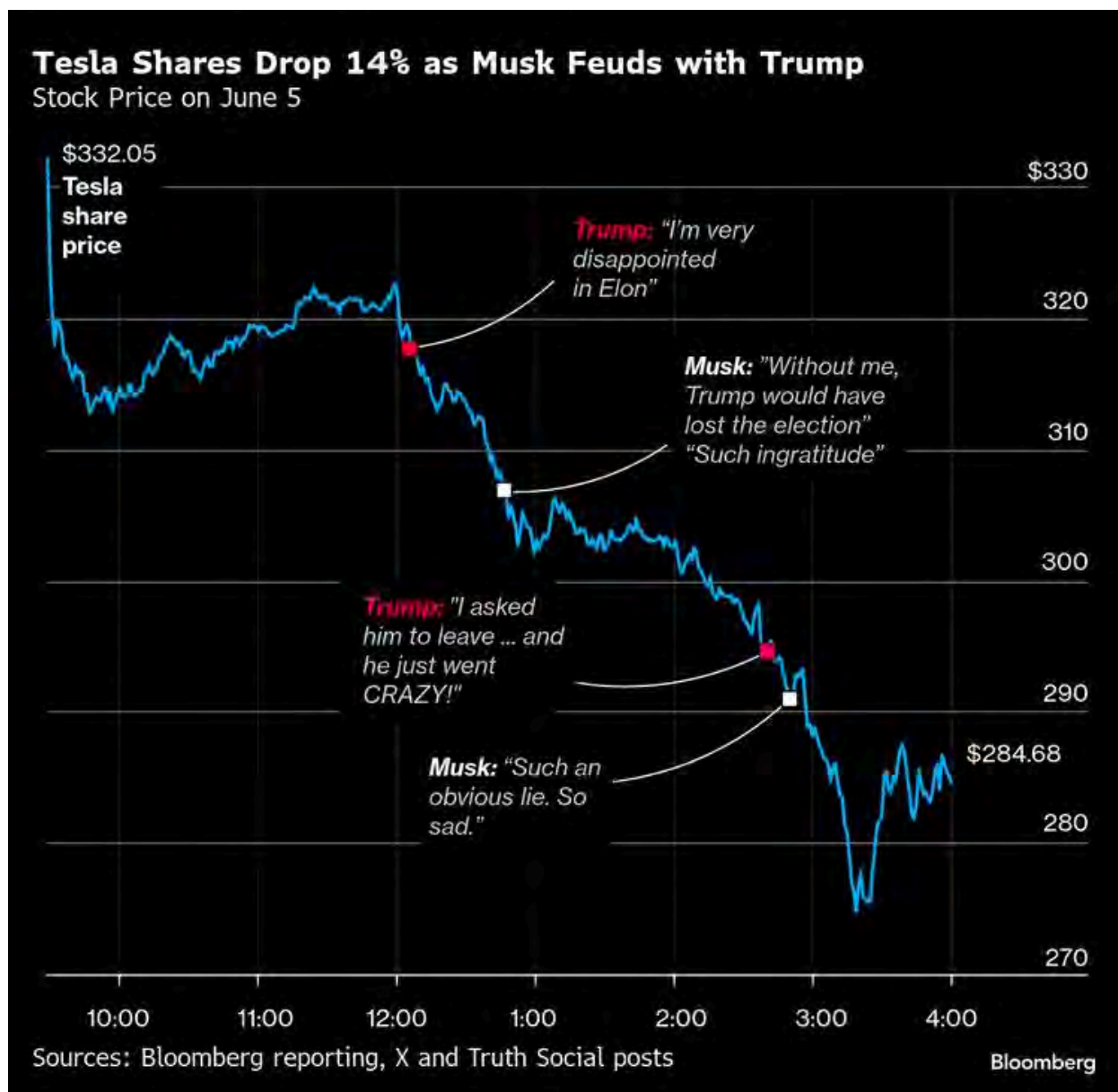
With enemies on both flanks, Musk finds himself at the center of a storm fueled by consumer revolt and political hostility.

"Nobody on the right is gonna buy a Tesla, nobody on the left is gonna buy a Tesla. Elon is a man without a country," said Steve Bannon, an outside adviser to Trump who has long been critical of Musk, in an interview.

Bannon says he is "in continual conversations at the most senior levels" of the Trump administration to push them to revoke Musk's security clearance and use the Defense Production Act to seize SpaceX and Starlink on grounds they're vital to US national security.

Even if Trump doesn't take such extreme measures, there is no shortage of retaliatory options for the White House. The president could try to wield the power of agencies like the US Securities and Exchange Commission, the National Highway Traffic Safety Administration and the Federal Aviation Administration to inflict real harm – or even just incessant regulatory morass – onto all of Musk's businesses and the source of his wealth.

In just one day, the Musk-Trump spat shaved \$34 billion from his personal net worth, the second-largest loss ever in the history of the Bloomberg Billionaires Index of the 500 wealthiest people on the planet. The only bigger wealth hit: his own wipeout in November 2021. Tesla lost \$153 billion of market value on Thursday, with shares reversing course on Friday after Musk began to simmer down.



Musk has faced deep stretches of pain before. There are flanks of skeptics who have, over the years, called for his impending demise only to be proven wrong by the world's richest man and his cult following of fans and funders willing to throw ever-growing sums of money at his ambitions.

Most famously, Tesla [flirted with bankruptcy](#) only to reverse course and become the biggest electric vehicle seller in the world. Musk's \$44 billion purchase of X was widely panned as the company's debt languished on banks' books, only to see those fortunes reversed after Trump's election.

"Musk has a habit of teetering on the edge of destruction and pulling himself back just in the nick of time," said **Nancy Tengler**, whose firm holds 3.5% of its growth portfolio Tesla stock, in a Friday interview on Bloomberg Television.

Tengler, CEO and chief investment officer of Laffer Tengler Investments, said her firm has been adding Tesla shares in recent months but now has a "full position."

"He needs to dial down the rhetoric and the drama and get back to the business," she says, as investors own Tesla stock for growth, not for "the histrionics."



To pull off a rebound this time around, Musk is going to have to convince people to start buying his electric vehicles at a faster clip and reverse the painful sales slide in the US, Europe and around the world.

He's also going to have to attract riders to his new robotaxi service in Austin as the company makes a gigantic bet on artificial intelligence, robotics and self-driving cars.

Musk has lobbied lawmakers to help clear a path for driverless vehicles, something Trump initially endorsed. It's now unclear if the Trump-Musk fallout complicates the regulatory environment for autonomous vehicles and potentially slows the path forward for Tesla's robotaxi network.

"The disagreement will not help Tesla demand but could potentially (temporarily) alienate multiple sides of the political spectrum," said Morgan Stanley analyst **Adam Jonas** in a research note entitled "Well That Escalated Quickly..."

Jonas said emotions are "running high" and that he's sticking to his long-term \$410 price target on Tesla's share price but is bracing for near-term volatility and is "prepared for the stock to give up more."

Read More: [A Fatal Tesla Crash Shows the Dangers of Full Self-Driving](#)

Other tests in the coming weeks may include a \$5 billion debt offering of the billionaire's AI company, xAI Corp. , as well as funding rounds for xAI and SpaceX. Musk recently closed a \$650 million late-stage [raise](#) for his neurotechnology company Neuralink from big investors including Sequoia Capital , ARK Investment Management and Founders Fund .

From a legal and regulatory perspective, there's even more at stake for Musk if the Trump administration turns on the billionaire and claws back contracts like the president threatened on Thursday.



Elon Musk

Photographer: Jamie Kelter Davis/Bloomberg

SpaceX, one of the world's most valuable startups with a market value of \$350 billion, has received more than \$22 billion in unclassified contracts from the Defense Department and NASA since 2000, according to data from Bloomberg Government. It launches critical national security satellites for the Pentagon and the US is depending on the Musk-led company to develop a spacecraft to put American astronauts on the moon in as little as two years.

Musk's vow to decommission its all-important Dragon spacecraft, which ferries cargo and people to the International Space Station for the US, sent shock waves throughout the industry. Following through with the threat, which Musk later walked back, would sever a vital part of the US space program.

"It is untenable to have a CEO of a prime defense and aerospace contractor threaten to shut down services the government has contracted with them to perform," said Lori Garver, a former NASA deputy administrator under former President Barack Obama.

Garver says NASA needs SpaceX, but that SpaceX's business model also depends, in part, on the US government.

"Elon has already walked back decommissioning Dragon, because they do require now, as a big part of their business plan, government contracts. But they provide a service for those contracts. So it's a symbiotic relationship," Garver said.

On a more day-to-day basis, government agencies could try to inflict pain on Musk's businesses by delaying everything from space launches to satellite service to robotaxi expansion. Investigations into publicly traded Tesla or the finances of his companies could include the SEC, as well as antitrust probes and Federal Trade Commission interest around social media moderation, data use or AI.



So far, Musk and Trump may be trying to at least press pause on the public spectacle.

White House officials say Trump plans to focus his attention on inflation and the economy rather than speak to Musk, and insinuated without evidence that the billionaire was agitating for a call with the president. (In a pair of posts on his social media platform Friday morning, Trump intensified his push for Federal Reserve Chair Jerome Powell to lower rates.)

As for pulling Musk's government contracts, Trump hasn't yet pursued any steps to follow through with his threats, one of these people said. He is, however, thinking of getting rid of his Tesla.

--With assistance from Josh Wingrove and **Akayla Gardner**.

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<https://www.wsj.com/politics/policy/musk-trump-fallout-stakes-51bf1b5c>

POLITICS | POLICY

What Musk and Trump Risk Losing in Their High-Stakes Breakup

The billionaires' battle royal could exact steep costs to their empires

By [Brian Schwartz](#) [Follow](#) and [Micah Maidenberg](#) [Follow](#)

June 5, 2025 10:58 pm ET

The aftermath of [Donald Trump](#) and [Elon Musk's](#) showstopping breakup raises the question: Who has the most to lose?

In one of the most consequential moments, Trump threatened to pull billions of dollars in federal contracts from Musk's companies. If that happened, it would ripple across Musk's business empire, including SpaceX, which launches astronauts for the National Aeronautics and Space Administration and satellites for the Pentagon.

Underneath [the drama](#) is genuine political and financial risk for both billionaires.

[Tesla](#), the electric-vehicle company that Musk helms as chief executive, lost \$152.4 billion of market value Thursday—the biggest one-day decline in its capitalization in the company's history. Trump can't lose more than three votes from Republican House members or his "big, beautiful bill" will be derailed. Members of the House Freedom Caucus have already been difficult to corral, airing concerns about the bill's contributions to the deficit, the same argument Musk has made against it.

Here's what's at stake:



Donald Trump and Elon Musk at a UFC event in New York last year. PHOTO: CHRIS UNGER/ZUFFA LLC/GETTY IMAGES

Elon Musk

Musk, the CEO of Tesla, SpaceX and xAI, has billions of dollars in government contracts and is pushing for changes to federal regulations to deliver on his promise to investors that he will transform Tesla into an [AI and robotics giant worth trillions of dollars](#).

Trump threatened to terminate government contracts with Musk's companies on Thursday—an idea the president's allies have been pushing since the SpaceX CEO started attacking Trump's cornerstone legislative bill earlier this week, according to a person close to the president.

Musk's SpaceX has worked closely with the government for years, building close connections with the Pentagon, the intelligence community and NASA. The company frequently blasts off military payloads, and NASA is largely beholden to SpaceX for some of its most high-profile missions.

An administration official said Musk will find it extremely difficult to find a sympathetic voice in the Trump administration now.

A man in the back of his Tesla Cybertruck in Texas last month waited to watch the SpaceX Starship rocket launch. PHOTO: SERGIO FLORES/AGENCE FRANCE-PRESSE/GETTY IMAGES

Tesla

To roll out a nationwide fleet of self-driving cars, Tesla needs regulatory changes at the federal level, which he has been pushing for. Currently, states control whether self-driving vehicles operate on public roads.

In April, Transportation Secretary Sean Duffy visited Tesla's headquarters in Austin. "We're here in Austin, Texas, at the Tesla factory with Elon Musk, the great," Duffy said in a video posted on X. "Obviously, it would be wonderful for the United States to have a national set of rules for autonomous driving," Musk said in the video.

Tesla is expected to roll out its first taxi service powered by self-driving cars in Austin later this month, as it gears up [to compete with Waymo](#).

Musk has long blamed regulatory hurdles for the company's inability to roll out autonomous driving features. Many of Tesla's investments in self-driving cars and humanoid robots are fueled by Tesla sales, which have fallen sharply in the U.S. and across Europe in recent months as Musk and Trump's relationship grew closer.

A bigger blow to Tesla could come from White House efforts to weaken fuel economy and emissions rules. Tesla [earns hundreds of millions of dollars](#) every quarter from regulatory credit sales to rival carmakers who need to buy them to avoid fines for exceeding tailpipe emissions caps. Last month, Congress voted to eliminate California's ability to set its own limits on tailpipe emissions, effectively killing one of [the biggest drivers of EV investment in the U.S.](#)

SpaceX's rocket Starship is prepared for a test flight from Texas. PHOTO: ERIC GAY/ASSOCIATED PRESS

SpaceX

SpaceX works hand-in-glove with the U.S. government across multiple contracts worth billions and billions of dollars. Several government agencies use its Falcon rockets, in-orbit space vehicles and Starlink, a network of more than 7,500 internet satellites that has also drawn attention for its role supporting Ukraine's battle against Russia.

SpaceX needs air-safety regulators to review its flight plans and environmental agencies help regulate company plans for launch sites. In April, it landed a \$5.9 billion contract to launch national-security payloads for the military.

Musk's company is the only U.S. space firm regularly transporting astronauts to and from the International Space Station. In 2022, NASA awarded SpaceX five more crewed space-station flights, bringing the company's total contract for such operations to nearly \$5 billion.

SpaceX is also a big part of NASA's flagship human-exploration program, with about \$4 billion in contracts to develop its Starship vehicle for future astronaut visits to the moon. NASA picked SpaceX to work on a spacecraft that would allow it to safely deorbit the space station in 2030—a deal worth up to \$843 million.

SpaceX has struck agreements with U.S. spy agencies, too, including a \$1.8 billion classified deal with the National Reconnaissance Office, an agency that operates surveillance satellites.

Musk had looked likely to win more significant deals under the Trump administration. SpaceX, working with two others, wants in on the president's missile-defense

program called [Golden Dome](#) for America.

Donald Trump

Trump has pushed his entire legislative agenda into one massive bill, a mix of tax cuts, funding for the border and cuts to programs such as Medicaid and food stamps. The bill narrowly passed the House by a vote of 215-214 and is now working its way through the Senate before it will be voted on again by the House. Musk's opposition to the legislation could derail it.

Musk said the bill would add \$2.5 trillion to [the federal deficit](#), calling it a “disgusting abomination” and threatening to fire politicians “who betrayed the American people.” His arguments could resonate with deficit-minded lawmakers.

The billionaire could also tap the massive war chest he used to support Trump in last year's election, funding primaries against lawmakers who support the bill, or putting his money to work in more subtle ways to sway Republicans to vote against the bill. Musk donated more than \$250 million toward re-electing Trump, and said Thursday that Trump would have lost the election without his support. “Such ingratitude,” he posted on X, the social-media platform he owns.

Senate Majority Leader John Thune (R., S.D.). PHOTO: ERIC LEE/BLOOMBERG NEWS

As legislators tried to parse the vitriolic rhetoric Thursday, most Republicans still appeared to be galvanized behind the president. But Musk only needs to pull away a handful of dissenters.

White House aides said they feel Musk's broadsides against Trump would weaken those Republicans who had initially viewed the billionaire's comments about the bill

as helpful to their cause. The thinking is that Trump voters will, as they have time and again, rally to the side of the president.

Musk has received public support from only three House Republicans, including Reps. Thomas Massie (R., Ky.) and Warren Davidson (R., Ohio), who previously voted against the bill. Rep. David Schweikert, an Arizona Republican who missed the first vote, told The Wall Street Journal on Thursday that he wanted “multiple changes” to the bill before he would support it.

“Is this the moment where Republicans and everyone in the country start to understand the threat and the scale of financing this debt?” said Schweikert, who is seen as vulnerable in the midterm elections next year. On the debt, he said: “Musk is absolutely right.”

A senior Republican member of the House Financial Services Committee said that Musk’s comments aren’t helpful in trying to pass Trump’s bill. He added the argument with the president will likely have negative residual effects on Musk’s relationship with Republican lawmakers.

Longer term, a permanent split between Musk and Trump could hurt Republicans’ chance at maintaining their razor-thin majority in the House in the 2026 midterm elections given the importance of having the support of the businessman’s massive following on X for the GOP to pick up wins in the midterms.

On Thursday, Musk mused about starting a new political party, asking his 220.5 million followers on X if they would support creating one. By Thursday night, more than 81% of the roughly 3.5 million respondents were in favor.

Write to Brian Schwartz at brian.schwartz@wsj.com and Micah Maidenberg at micah.maidenberg@wsj.com

Videos

Tesla shares gain after \$152 billion selloff, but Trump-Musk truce uncertain

 [reuters.com/business/autos-transportation/tesla-shares-rise-politico-reports-musk-white-house-hold-call-2025-06-06](https://www.reuters.com/business/autos-transportation/tesla-shares-rise-politico-reports-musk-white-house-hold-call-2025-06-06)

Reuters

June 6, 2025

Tesla shares rebound as Musk–Trump row shows signs of cooling

- Tesla lost \$150 billion in market cap due to Musk-Trump spat
- Trump not interested in talks with Musk - White House official
- Broader market hit by feud, futures rise with truce signs

president was not keen on talking to his former ally.

The stock (TSLA.O), opens new tab rose 4% after a steep fall in the previous session that wiped out \$152 billion in market value when the world's most powerful man and its richest publicly entered a war of words over the tax and spending bill.

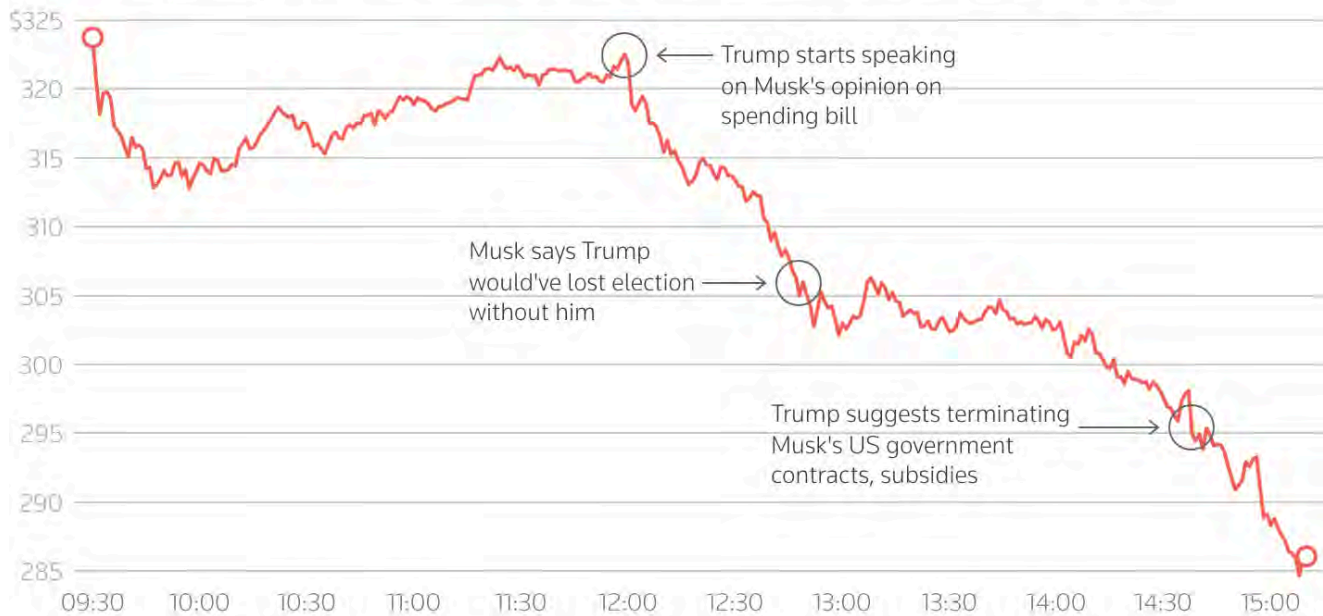
Earlier, a Politico report had said Trump and Musk were likely to talk later in the day. Musk had signalled on X he was open to easing tensions with the president, agreeing with calls for a detente from users on the social media platform.

But Trump told CNN on Friday, "I'm not even thinking about Elon," adding the billionaire has "got a problem".

Tensions escalated on Thursday after Musk stepped up his criticism of Trump's sweeping tax bill, which proposed largely ending the popular \$7,500 EV tax incentive by the end of 2025. In response, Trump suggested cuts to the government's contracts with Musk's companies, including rocket maker SpaceX.

Tesla shares slide as Trump hits back at Musk over spending bill

Musk was upset because the bill takes away tax benefits for EV purchases, Trump says



By Akash Sriram • Source: LSEG

Tesla shares slide as Trump hits back at Musk over spending bill

"It might be a bit too hopeful to think their relationship will ever go back to what it once was, but if cooler heads prevail and the tension eases, that would definitely be a big improvement for Tesla," said Tesla shareholder Matthew Britzman, who is an analyst at Hargreaves Lansdown.

LOFTY STOCK VALUATION

An open clash with Trump could pose multiple hurdles for Tesla and the rest of Musk's sprawling business empire.

The U.S. Transportation Department regulates vehicle design standards and would have a big say in whether Tesla can mass-produce robotaxis without pedals and steering wheels.

Tesla did not immediately respond to a request for comment on the call.

Tesla stock is down 29.5% this year after a 14% drop on Thursday. Still, the shares trade at 120 times expected earnings, a lofty multiple compared to other automakers and even tech giants such as Nvidia (NVDA.O), opens new tab.

The shares have been on a turbulent ride since last July when Musk backed Trump's White House bid. They surged initially as investors bet on less regulatory pressure for robotaxis, but tumbled due to soft sales and brand fallout from Musk's political stance.

Stronger sales from potential Republican customers were expected to offset a liberal boycott, but analysts warned that Musk's recent actions may erode that buffer too.

"With Musk alienating Republicans, there is no one left to prop up consumer sentiment towards Tesla, which could lead towards a full-scale collapse in brand perception," said political strategist Evan Roth Smith, co-founder of Slingshot Strategies.

Reporting by Akash Sriram and Shashwat Chauhan in Bengaluru, Amanda Cooper and Samuel Indyk in London; Additional reporting by Purvi Agarwal; Editing by Tomasz Janowski and Arun Koyyur

Our Standards:

Securities Law

Tesla Shares Recover Some Losses as Musk-Trump Tension Eases (1)

June 6, 2025, 6:35 AM PDT

Tesla Inc.'s shares rose Friday after Elon Musk suggested he was open to making amends with President Donald Trump, easing tensions after their simmering feud erupted into a public war of words a day earlier.

The chief executive officer of Tesla and SpaceX agreed with a user on social media platform X that he should "cool off and take a step back for a couple days." Later, in a separate reply to billionaire **Bill Ackman**, an ally of Trump and Musk who said they should "make peace for the benefit of our great country," Musk [responded](#) that Ackman was "not wrong."

Tesla shares climbed 4.3% at 9:33 a.m. in New York. The stock had plunged 14% on Thursday, its biggest decline in almost three months, wiping out \$153 billion from the electric-vehicle maker's market value.

Investors had been spooked by the prospect of a falling out between Musk, who oversees a vast business empire, and Trump, whose government doles out billions to those companies. The president said Thursday that he was "very disappointed" in Musk's criticism of his tax policy bill and that he had asked the Tesla leader to leave the administration.

Musk fired back in several social media posts, saying in one that "without me, Trump would have lost the election." Musk went a step further, saying he would [decommission](#) a SpaceX craft used by the US – a threat he [walked back](#) late Thursday.



The spectacle of the world's richest person and the leader of the free world lobbing insults toward one another on social media marked a stunning breakup of a once formidable political alliance.

Musk spent more than \$250 million to help secure Trump's return to the White House. Trump in turn deputized Musk to lead a sweeping effort to slash government spending and reshape the federal bureaucracy before the mercurial billionaire stepped back from that role last week.

Ross Gerber, the CEO of Tesla shareholder Gerber Kawasaki, sharply criticized Musk's behavior in a Bloomberg TV interview Thursday, saying it could lead to lawsuits from the automaker's investors and cut the value of SpaceX in half.

"Elon isn't functioning to the benefit of his shareholders," said Gerber, whose firm has substantially reduced its Tesla holdings over the last few years. The meltdown is leading to the "dismantling of the Musk empire in real time."

The conflict has raised the specter of Trump wielding government powers to retaliate against Musk's companies, similar to actions the president has taken to attack other perceived enemies such as Harvard University .

It also injects doubts about whether Trump's administration will deliver key policy changes Musk has sought – namely, a framework that would liberalize deployment of autonomous vehicles that Musk has said are critical to Tesla's future and its market value.

Already, policies being advanced by Trump and Republican lawmakers put are putting billions of dollars at risk for Tesla, which is by far Musk's largest business.

Trump's massive tax bill would largely eliminate a credit worth as much as \$7,500 for buyers of some Tesla models and other electric vehicles by the end of this year, seven years ahead of schedule. That would translate to a roughly \$1.2 billion hit to Tesla's full-year profit, according to JPMorgan analysts.

After leaving his formal advisory role in the White House last week, Musk has been on a mission to block the president's signature tax bill that he described as a "disgusting abomination." The billionaire has been lobbying Republican lawmakers – including making a [direct appeal](#) to House Speaker Mike Johnson – to preserve the valuable EV tax credits in the legislation.

Separate legislation [passed by the Senate](#) attacking California's EV sales mandates poses another \$2 billion headwind for Tesla's sales of regulatory credits, according to JPMorgan.

Taken together, those measures threaten roughly half of the more than \$6 billion in earnings before interest and taxes that Wall Street expects Tesla to post this year, analysts led by **Ryan Brinkman** said in a May 30 report.

Tesla didn't respond to requests for comment.

The House-passed tax bill would aggressively phase-out tax credits for the production of clean electricity, and other sources years earlier than scheduled. It also includes stringent restrictions on the use of Chinese components and materials that analysts said would render the credits useless and limits the ability of company's to sell the tax credits to third parties.

Tesla's division focused on solar systems and batteries separately criticized the Republican bill for gutting clean energy tax credits, saying that "abruptly ending" the incentives would threaten US energy independence and the reliability of the power grid.

The clean energy and EV policies under threat were largely enacted as part of former President Joe Biden's Inflation Reduction Act. The law was designed to encourage companies to build a domestic supply chain for clean energy and electric vehicles, giving companies more money if they produce more batteries and EVs in the US. Tesla has a broad domestic footprint, including car factories in Texas and California, a lithium refinery and battery plants.

With those Biden-era policies in place, US EV sales rose 7.3% to a record 1.3 million vehicles last year, according to Cox Automotive data.

(Updates with share trading beginning in first paragraph.)

Elon Musk

Silicon Valley aghast at the Musk-Trump divorce

Tech industry fears fallout from breakdown in relationship between Tesla boss and US president



Key figures on the tech right have tried to play down the permanence of the rift between Donald Trump and Elon Musk © Roberto Schmidt/AFP/Getty Images

Joe Miller in Washington, **George Hammond** and **Hannah Murphy** in San Francisco

Published 44 MINUTES AGO



As Donald Trump and Elon Musk’s “bromance” broke apart on Thursday, tech industry figures who had backed both men raced to contain the fallout.

“Elon isn’t taking calls from anyone,” complained one Silicon Valley financier and major donor to Republican candidates. “Not from people who have billions invested in his companies . . . The Valley is losing their shit.”

At stake was an alliance between the tech world and the populist right that not only helped return Trump to office but also one that founders and investors had hoped would herald an era of tax cuts and deregulation, as well as an open door to crypto and artificial intelligence.

Musk's role in the Trump administration had also paved the way for several Silicon Valley figures to take prominent positions in government — roles that could now be in peril.

The sudden deselection of Jared Isaacman, a Musk ally and tech founder who had been nominated to lead Nasa, was just the start of an expected “purge”, one person close to the administration said, threatening tech's hard-won influence in Washington.



Jared Isaacman alongside the recovered first stage of a SpaceX Falcon 9 rocket © Patrick T. Fallon/AFP/Getty Images

Some of those considered to be at risk were crypto and AI tsar David Sacks, policy adviser Sriram Krishnan, and Michael Grimes, Musk's former banker at Morgan Stanley, now an official at the Department of Commerce.

As Musk's relationship with the White House worsened, key figures on the tech right tried to play down the permanence of the rift.

“USA is VERY lucky to have both E and Pres Trump,” Joe Lonsdale, a co-founder of Palantir and investor in Musk's companies wrote on X.

Hedge fund manager Bill Ackman urged the duo to “make peace for the benefit of our great country”, pleading: “We are much stronger together than apart.”

David Friedberg, a co-host of the All-In podcast that often features Musk and that has become a sounding board for the Trump-aligned tech world, suggested there was a broader cost to America from the spat between the US president and the Tesla boss. “China just won,” he posted.

Behind the scenes, prominent Silicon Valley figures were desperately trying to prevent Musk from appearing on an emergency episode of the podcast, according to two people familiar with the matter, out of concern that the billionaire would make the dispute even worse and poison the relationship with tech’s most powerful ally in Washington, vice-president JD Vance.

“It’s going to be a disaster with Musk in this frame of mind,” one of the people warned.

One of the podcast co-hosts, David Sacks, was “shell-shocked”, the second person added, and needed to be protected from public scrutiny until things calmed down. Sacks, usually a frequent poster on social media, has remained silent since the Musk-Trump relationship imploded. He did not immediately respond to a request for comment.

David Sacks is said to be 'shell-shocked' by the rift © Ian Maule/AFP/Getty Images

Elsewhere, other prominent tech figures debated whether reconciliation was possible and, if not, what life beyond the break-up would look like.

Ryan Selkis, founder of a crypto platform who became a prominent Trump backer, told the Financial Times: "Elon will be back in the fold in a matter of weeks, but it will be a chastened Elon."

Delian Asparouhov, a space tech founder who co-runs the Hill & Valley Forum, which links Silicon Valley and Washington, said: "I don't think there is going to be a de-escalation here." He expressed concern to tech news site TBPN that smaller space companies that work with Musk's SpaceX could encounter "more resistance" from the White House.

Others bemoaned the souring of the tech community's Trump bet. "Maybe Silicon Valley got played by Trump. He got what he wanted," said one West Coast venture capital founder, citing Musk's \$250mn donation to Trump's campaign.

The person lamented the ongoing economic volatility — caused by tariffs and Trump’s unpredictability — during a presidency that they had been promised would be a boon to business. “We’re all experiencing a liquidity crunch,” they said. “We need public markets to open.”

Cracks in Silicon Valley and Washington’s marriage of convenience had been appearing for weeks, particularly over the Trump tax bill that so irked Musk. Deficit hawks balked at the legislation adding trillions to the US debt pile, while more socially progressive tech figures bridled at proposed cuts to entitlement programmes like Medicaid.

“I am fully for pursuing the elimination of waste and fraud,” said Jon McNeill, a former Tesla president who worked alongside Musk and now runs start-up incubator DVx Ventures. “But at the same time, I don’t want a tax break so badly as to make the most vulnerable suffer. And from what I’m hearing, a lot of my peers feel the same way.”

The public bust-up could now open the door for others in Silicon Valley to replace Musk as tech’s de facto ambassadors in Washington, especially his arch-rival, OpenAI’s Sam Altman.

“Tech is not represented by one person,” an investor in Musk’s companies said. “Engagement between tech and government is not because JD is a tech guy or because Trump is, it’s because tech is so important,” they added. “This doesn’t end because of one person, even if he’s the most prominent person in the world.”

Additional reporting by Alex Rogers in Washington

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Wall Street Calls Trump-Musk Spat 'Disaster' for Embattled Tesla

June 6, 2025, 1:14AM PDT

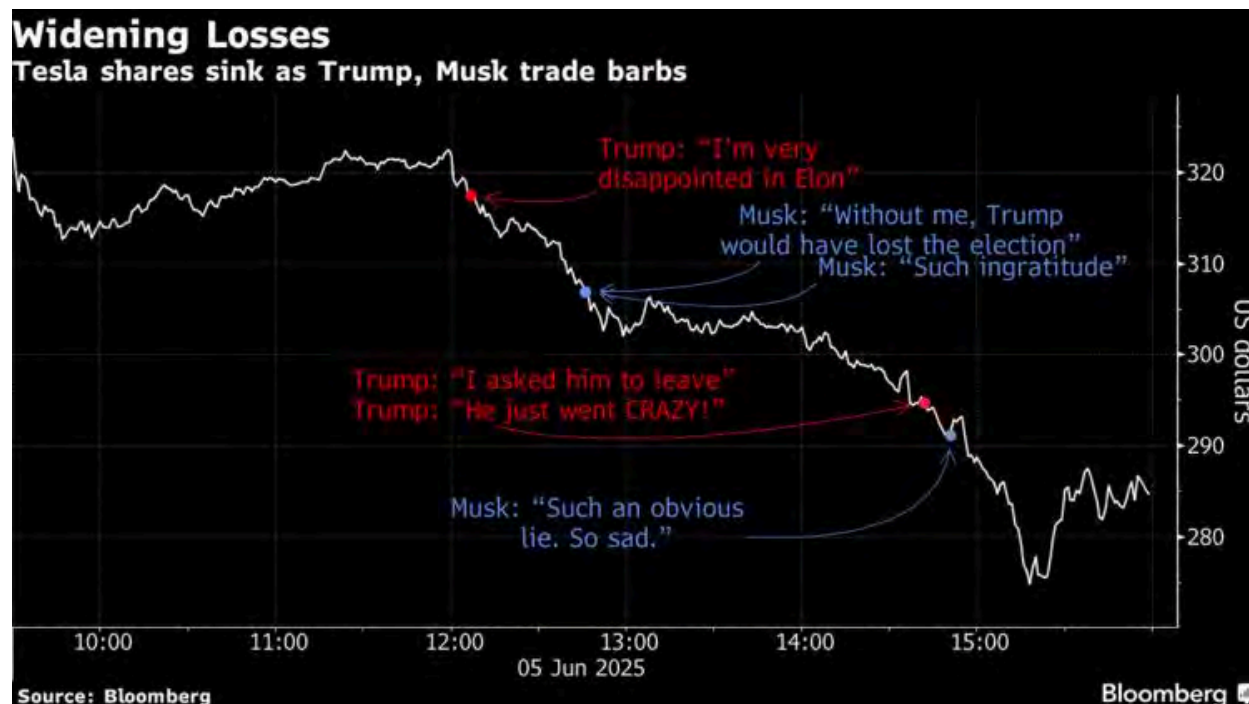
For months, Tesla shareholders were tormented by Elon Musk's role in the administration of President Donald Trump. But any relief brought by his formal government exit last week quickly turned to fear as the electric-vehicle maker's chief executive traded barbs with his former boss.

Tesla Inc.'s stock plummeted 14% on Thursday after a rift over Trump's proposed tax legislation exploded into an all-out public feud with the president threatening to end government contracts and subsidies for Tesla and Musk's Space Exploration Technologies Corp. The rout shed \$153 billion from Tesla's market value, the biggest one-day drop on record, while yielding short sellers \$4 billion in gains, according to data from S3 Partners.

In premarket trading on Friday, the shares showed some signs of rebounding – rising 4.7% at 4:01 am in New York. Bullish analysts like Wedbush Securities analyst **Daniel Ives** notes that the feud does not change his view of the stock but "clearly does put a fly in the ointment of the Trump regulatory framework going forward."

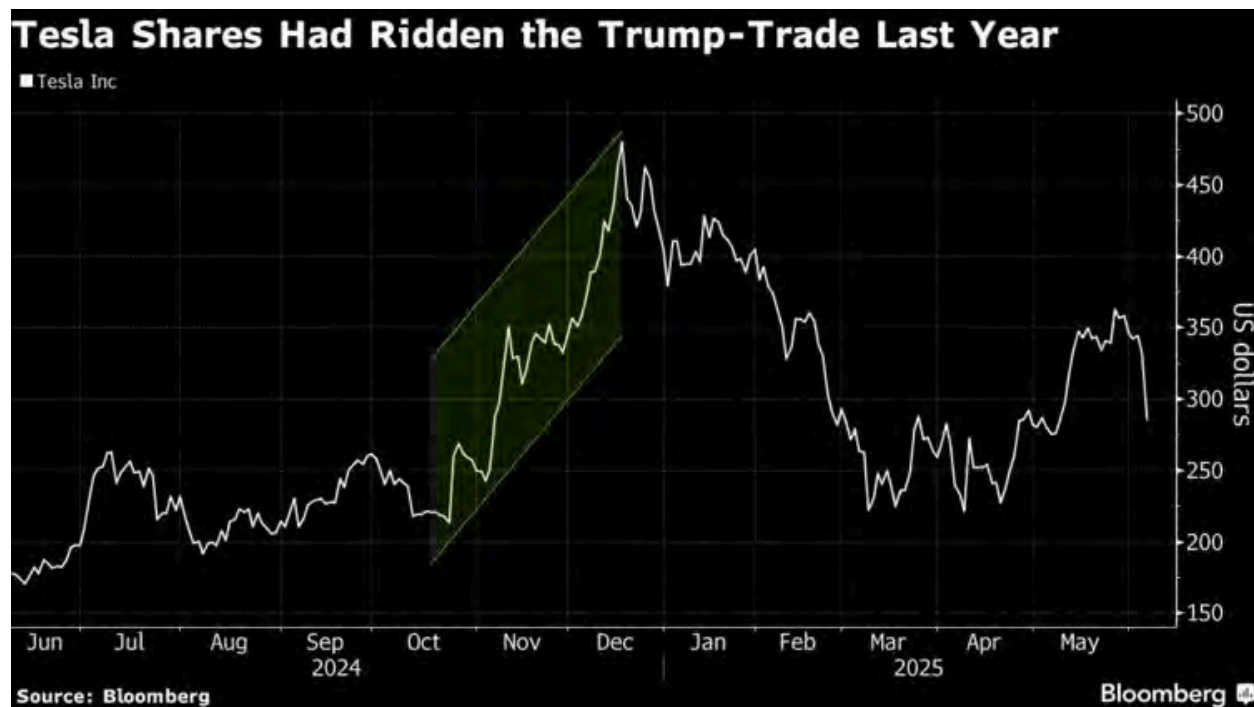
Read more: [Musk's Feud With Trump Spurs One of Worst Wealth Losses Ever](#)

While Tesla shareholders are no strangers to stomach-churning swings, Thursday's slump showcased just how pronounced Musk's influence over his company's stock is. And while the rout may eventually present a buying opportunity, some market watchers say it's too risky to try to catch a falling knife.



Read: [Tesla Plunges After Conflict Erupts Between Musk and Trump \(2\)](#)

Shares of Tesla had surged following Trump's election victory, which many expected to be a boon for the company, given Musk's proximity to the then president-elect.



In the background, however, the outlook for its EV business has been weakening, and Musk's involvement in political controversies both in the US and abroad has repelled some car buyers and spurred protests against the company. With Thursday's slide, the stock is down 41% from its all-time high in December.

Here's what's next for the electric-vehicle maker's shares, according to market observers.

Wayne Kaufman, chief market analyst at Phoenix Financial Services:

"The whole thing is idiotic. People in these kinds of positions should know better than to act like kids in junior high. What makes this especially hard for Tesla is that you can't separate the value of the company from him. Tesla has always traded on Musk. When he looked like a visionary, it rallied. When he did DOGE, it got killed. When he left DOGE, it rebounded. Musk is the guy who made the stock go, so obviously the stock will drop when Musk becomes the issue like this. No one knows what will happen next. However, if there was huge intrinsic value in Tesla, it wouldn't be plunging the way it is now. It has never traded on fundamentals."

Adam Sarhan, chief executive officer at 50 Park Investments:

"Clearly Elon and Trump are no longer aligned. We don't know the ramifications of this, and that's why people sold. This isn't the kind of issue where there will be an all-clear or a resolution. If this escalates, I think it really has the potential to hurt Tesla's earnings. These are two of the largest personalities on the planet, and if there's a battle of egos, Trump will come out victorious. The impact for the stock is unknowable. It's pure gambling at this point, and that's before we get to how Tesla was already pretty expensive. It is probably becoming more attractive as it sells off, but I cannot in good conscious say that it is cheap."

Ross Gerber, chief executive officer of Gerber Kawasaki Wealth and Investment Management, said on Bloomberg TV:

"This is a disaster for Musk. I don't know if I can spin it in a positive way because it's just so beyond any intelligent business man's behavior would be. I can't imagine after putting Trump in there that he would then turn Trump into an enemy of all things. The board isn't going to do anything, nobody is going to protect Tesla shareholders and the way you protect yourself is by selling stock, and I personally sold some Tesla stock today. And we've been sellers for years and continue to be sellers of Tesla."

Dave Mazza, chief executive officer at Roundhill Financial:

"It's pretty bearish short term obviously. It introduces an added level of complexity that the name doesn't need right now. People have ignored the issues with car sales because robotaxis are coming and people are willing to give a long leash on that. Now if they're going to be targeted and Musk personally is going to be targeted then you're going to take the dream premium down significantly and that's what we saw today."

Tom Orlik, chief economist for Bloomberg Economics:

"Striking against Musk's companies would put US technology leadership at risk. From SpaceX satellites to Grok AI and the Tesla electric vehicle, Musk's firms have given the US a competitive edge across strategic sectors. That would be a lot to give up."

(Updates with premarket stock move, Wedbush commentary, chart.)

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Musk, Trump Feud Explodes Into Burst of Threats, Recriminations

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Elon Musk said he would end use of Space Exploration Technologies Corp.'s Dragon spacecraft and called for the impeachment of President Donald Trump, as a disagreement between the former allies exploded into an all-out public feud.

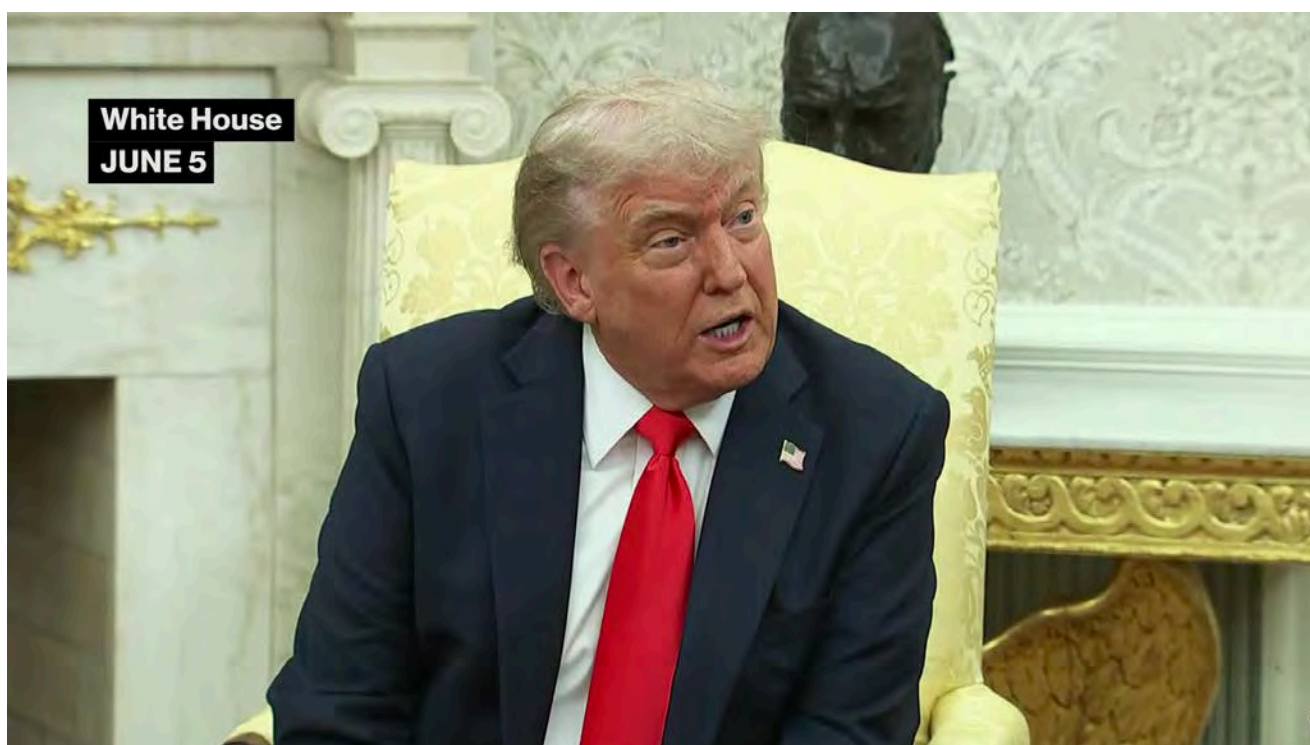
Musk's Thursday ultimatum came after Trump proposed cutting the billionaire's government contracts, following his onetime adviser's repeated exhortations for Republicans to vote against the president's signature tax legislation because of the cost.

"The easiest way to save money in our Budget, Billions and Billions of Dollars, is to terminate Elon's Governmental Subsidies and Contracts," Trump wrote to his social media site.

Tesla's shares fell as much as 18% on Thursday, extending earlier losses after Trump floated ending Musk's federal relationships.

The back-and-forth, which also saw Musk insinuate that Trump was withholding the release of files related to disgraced New York financier Jeffrey Epstein because of his own presence in them, represented a remarkable falling out among two men who spent months working together to reshape the federal government.

It capped off a whirlwind day that began with a call between Trump and Chinese President Xi Jinping designed to reset trade discussions that grew acrimonious over the past few weeks, as well as an Oval Office meeting with German Chancellor Friedrich Merz to discuss the US's tense relationship with Europe.



WATCH: President Trump says he's very disappointed in Elon Musk.

Source: Bloomberg

The dispute over the GOP tax legislation devolved into personal bickering when Musk called Trump an ingrate and suggested the president would have never won the election. Trump responded by threatening a main source of the billionaire's wealth. Musk's Tesla Inc. and SpaceX have benefited from federal contracts and subsidies.

Ending contracts with Musk's companies could prove legally and practically unwieldy, given they are deeply intertwined with US space and defense operations. The Dragon spacecraft carries crew and cargo to and from the International Space Station.

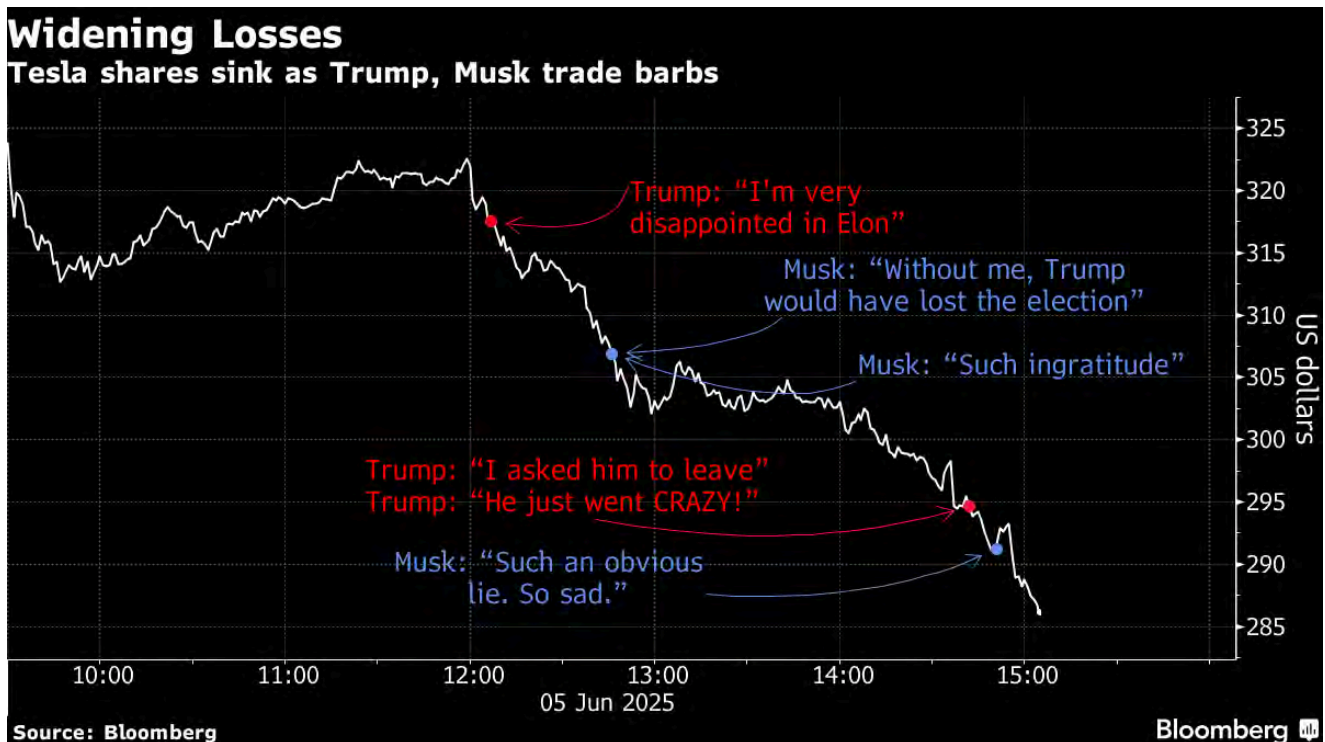
Read more: Trump-Musk Alliance Unravels in Split Over 'Big Beautiful Bill'

Total revenue for SpaceX and Tesla from federal unclassified contracts since fiscal year 2000 is \$22.5 billion, according to Bloomberg Government data.

"Go ahead, make my day," Musk posted on X in response to Trump's threat. Later, he responded "yes" to a Twitter user's suggestion Trump be impeached and replaced by Vice President JD Vance and argued that the president's tariff regime would tip the country into a recession by the end of the year. Musk also needled Trump over his past relationship with Epstein.

"Time to drop the really big bomb: @realDonaldTrump is in the Epstein files. That is the real reason they have not been made public. Have a nice day, DJT!" Musk wrote.

The White House declined to comment on the Epstein accusation.



Trump said Musk's opposition to the bill was rooted in a provision that would scale back electric vehicle tax credits that benefitted Tesla.

"Elon was 'wearing thin,' I asked him to leave, I took away his EV Mandate that forced everyone to buy Electric Cars that nobody else wanted (that he knew for months I was going to do!), and he just went CRAZY!," Trump posted.

Musk responded that Trump's claim he was asked to leave was "such an obvious lie" and "so sad."

Trump first voiced animosity toward Musk earlier Thursday, saying that he was "disappointed" by the billionaire's criticisms of the GOP bill, saying its cuts to electric-vehicle tax credits drove his opposition.

"I'm very disappointed in Elon. I've helped Elon a lot," Trump said earlier during an Oval Office meeting with Merz. "He said the most beautiful things about me, and he hasn't said bad about me personally, but I'm sure that'll be next."

In a remarkable scene, Musk rebuked Trump in real-time, firing off rebuttals on social media as the president spoke.

"Such ingratitude," Musk posted, citing his financial support for Republicans during the 2024 election. "Without me, Trump would have lost the election, Dems would control the House and the Republicans would be 51-49 in the Senate."

Musk floated the idea of creating a new political party “that actually represents the 80% in the middle.”



US President Donald Trump, right, and Elon Musk, chief executive officer of Tesla Inc. in the Oval Office on May 30.

Photographer: Francis Chung/Politico/Bloomberg

Musk denied that motivation in a post on X, saying he was fine with reducing the EV credits if lawmakers “ditch the MOUNTAIN of DISGUSTING PORK in the bill.”



Since leaving government, Musk has criticized the Republican package — Trump’s “one big beautiful bill,” as he calls it — because it is forecast to add to the US budget deficit.

The legislation would eliminate a credit worth as much as \$7,500 for buyers of some Tesla models and other electric vehicles by the end of 2025, seven years ahead of schedule. That would cause a roughly \$1.2 billion hit to Tesla’s full-year profit, according to JPMorgan analysts.

"I'm very disappointed because Elon knew the inner workings of this bill better than almost anybody sitting here," the president said. "All of the sudden, he had a problem and he only developed a problem when he found out we're going to have to cut the EV mandate."

Musk, in another retort, said he was not aware of the details. "This bill was never shown to me even once and was passed in the dead of night so fast that almost no one in Congress could even read it!" he said in a post on X, formerly known as Twitter before he purchased it.

Trump also said his initial pick to lead the National Aeronautics and Space Administration, Jared Isaacman, was a barrier, in part because of his past supports for Democrats. Isaacman was an associate of Musk. "I didn't think it was appropriate," Trump said. "He wanted that person, a certain person, and we said no."

The exchange is the latest in what has been a relatively swift break with Musk, who served as a Special Government Employee overseeing cost-cutting efforts before leaving.

Just last Friday, Trump staged an event for Musk in the Oval Office, celebrating his tenure and thanking him.

Trump recalled that in Thursday's meeting with Merz, noting that Musk was sporting a black eye at the time.

"I said do you want a little makeup? We'll get you a little makeup. but he said 'no, I don't think so,' which is interesting and very nice," Trump said Thursday. "He wants to be who he is."

Tesla stock tanks 14% as Musk-Trump spat escalates

 [cnbc.com/2025/06/05/tesla-shares-musk-trump.html](https://www.cnbc.com/2025/06/05/tesla-shares-musk-trump.html)

Lora Kolodny, Chris Eudaily

June 5, 2025

Key Points

- Shares of Tesla fell 14% on Thursday as President Donald Trump threatened to pull government contracts for CEO Elon Musk's companies.
- The move dropped the EV maker \$152 billion in value, putting it below the \$1 trillion benchmark and settling Thursday at \$916 billion.
- "Without me, Trump would have lost the election, Dems would control the House and the Republicans would be 51-49 in the Senate," Musk posted on X.



Elon Musk reacts during a press event with U.S. President Donald Trump (not pictured), at the White House in Washington, D.C., U.S., May 30, 2025.

Nathan Howard | Reuters

Shares of Tesla fell 14% on Thursday as President Donald Trump threatened to pull government contracts for CEO Elon Musk's companies, escalating a war of words over the spending bill.

The move dropped the EV maker \$152 billion in value, the biggest hit to its market cap ever, putting it below the \$1 trillion benchmark and settling Thursday at \$916 billion.

"Elon was 'wearing thin,' I asked him to leave, I took away his EV Mandate that forced everyone to buy Electric Cars that nobody else wanted (that he knew for months I was going to do!), and he just went CRAZY!" Trump wrote on Truth Social.

Trump spoke from the Oval Office earlier Thursday and said Musk was upset that EV credits were not included in the bill.

"Elon and I had a great relationship. I don't know if we will anymore," Trump said in the Oval Office on Thursday. "I was surprised."

"Whatever," Musk fired back as the president spoke.

“Without me, Trump would have lost the election, Dems would control the House and the Republicans would be 51-49 in the Senate,” he posted on X.

Musk, the world’s richest man, in recent days has threatened to make lawmakers who vote for the bill face primary elections and called the bill a “disgusting abomination,” marking a significant shift in his comments about the administration.

The fall in shares comes after the EV maker saw a 22% rally in May despite weak sales numbers, with Musk wrapping up his time as head of Trump’s so-called Department of Government Efficiency, or DOGE.

Shares are down nearly 18% this week as Musk has continued to rail against the budget bill. This year, shares are down nearly 30% and well off the high of \$488.54 reached Dec. 18.

Since Musk’s special government employee term ended Friday, he’s appeared at odds with the Trump administration and gone on a full assault against the president’s signature tax-cut bill.

“One of the things about Elon is when he goes all in, he goes all in,” Walter Isaacson, author of a Musk biography, told CNBC’s “Squawk Box” on Thursday.

“He is somebody who’s not exactly calibrated in these things and he is seriously upset,” Isaacson said.

Musk, who also runs SpaceX and xAI, posted a stream of attacks against the Trump bill on X Wednesday.



NBC News reported that Musk had tried to convince Trump and other GOP members of the administration to change aspects of Trump’s bill that would curtail EV and residential solar tax credits, which generate profits for Tesla.

The measure would also impose a new annual \$250 fee on EV drivers.

Tesla Inc

RT Quote | Last NASDAQ LS, VOL From CTA | USD

299.62+14.92 (+5.24%)

Last | 1:32 PM EDT

Tesla 1-year stock chart.

Tesla is facing more fundamental problems, with plummeting sales of its electric vehicles in major markets in Europe and a declining brand reputation in the West.

Tesla is also under pressure to launch a long-delayed, driverless ride-hailing service this month in Austin, Texas.

Musk has said that Tesla is testing driverless vehicles in that market, but its primary competitor Waymo is already operating a major commercial robotaxi service there in partnership with Uber.

Isaacson said Thursday that Musk was also annoyed with members of the Trump administration who worked against the nomination of Jared Isaacman as head of space agency NASA.

“That, to Musk, was just infuriating because they were doing, they were going after Jared Isaacman ... to get at Musk,” Isaacson said Thursday.

Isaacman’s nomination was pulled over the weekend.

Isaacman led two private spaceflights through Musk’s SpaceX, in 2021 and 2024, commanding crews on trips around the Earth. His payment tech company Shift4 said in financial filings that as of June 30, 2021, it had invested \$27.5 million in SpaceX as well.

Tesla Inc

Tesla's market value suffers biggest one-day drop after Trump-Musk spat

US president and world's richest man trade insults as their alliance collapses



Tesla's stock is down 25% since the start of the year © Charles Platiau/Reuters

George Steer in New York

Published YESTERDAY



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Tesla's market value suffered its biggest one-day drop on record on Thursday as an escalating feud between Donald Trump and Elon Musk triggered a sharp sell-off in the carmaker's shares.

The electric vehicle group's shares closed down more than 14 per cent, erasing \$153bn from its market capitalisation, after the US president signalled [he could terminate](#) US government contracts with Musk's companies.

"The easiest way to save money in our Budget, Billions and Billions of Dollars, is to terminate Elon's Governmental Subsidies and Contracts," Trump wrote on his platform Truth Social.

Thursday's drop left [Tesla](#)'s share price down 25 per cent since the start of the year.

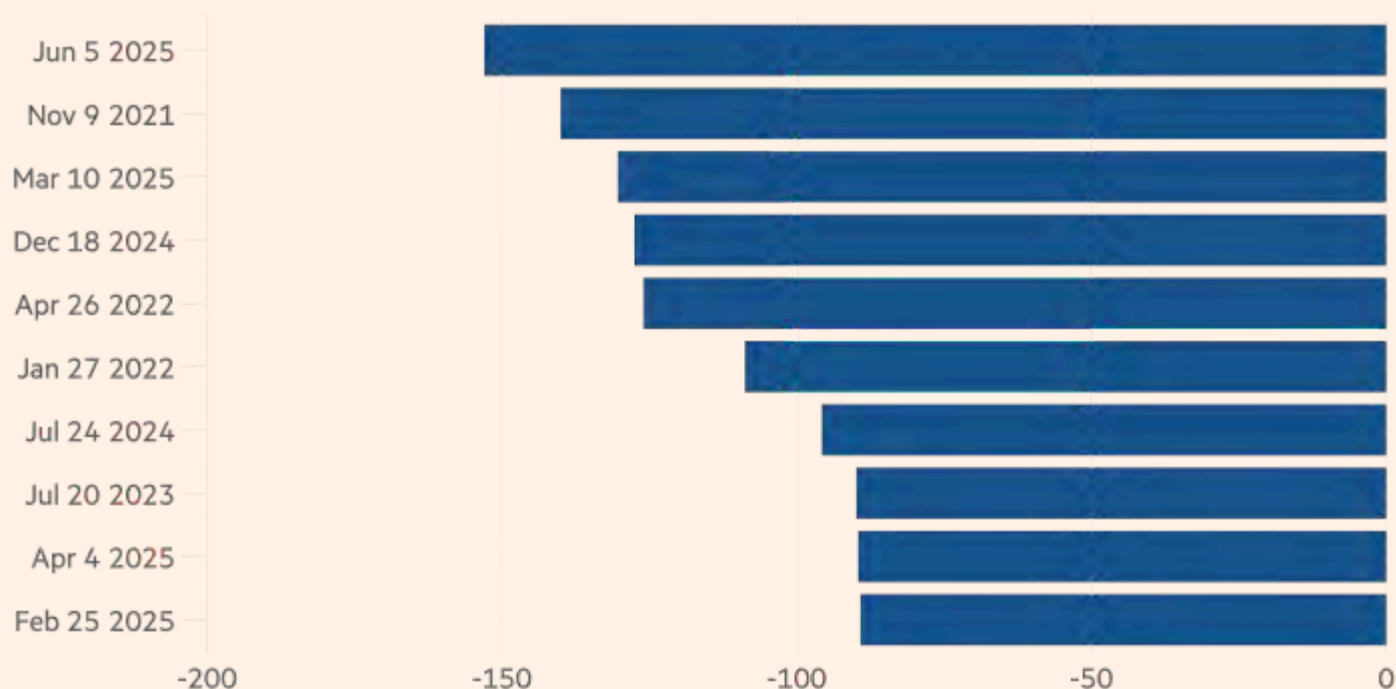
The spat between two of the world's most powerful men included repeated barbs from Musk on his platform X and Trump's comment that the billionaire, who has been a close ally since the election, was "wearing thin".

The Tesla sell-off reverberated through US stock markets, with the S&P 500 and the tech-heavy Nasdaq Composite ending the session down 0.5 per cent and 0.8 per cent respectively. Both indices began to decline at around midday, when Trump and Musk began exchanging insults.

The pair's "petulant drama shook up the stock market", said Mike Zigmont, co-head of trading and research at Visdom Investment Group. "The bond market didn't care, nor should it."

Trump-Musk feud wipes billions from Tesla's valuation

Biggest one-day drops in Tesla market capitalisation (\$bn)



Sources: @_PeterWells, Bloomberg

Tesla investors have had a rollercoaster few months. The stock rallied hard in the final quarter of last year after Trump won his second term as president, but fell between mid-December and early March amid a broader market sell-off fuelled by Trump's trade war.

Shares in rivals to Musk's space exploration group SpaceX and its satellite broadband network subsidiary Starlink rose on Thursday as Tesla fell. AST SpaceMobile gained 7.5 per cent while communications group EchoStar jumped 17.4 per cent.

The breakdown of Musk's relationship with Trump comes as his public interventions in European politics, including support for far-right parties, have contributed to falling car sales across Europe.

In March, JPMorgan strategists wrote in a note to clients that they "struggle[d] to think of anything analogous in the history of the automotive industry, in which a brand has lost so much value so quickly".

The cuts Musk made to federal government spending as head of the so-called Department of Government Efficiency also sparked a backlash. The Tesla boss stepped back from his government role at the end of May, having blamed "blowback" against his businesses.

Some investors said the market should have anticipated Musk's feud with Trump, despite their earlier bonhomie. Renowned short seller Jim Chanos said on X that it was the "Most. Predictable. Breakup. Ever."

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FT Edit

Tesla Inc

Updated 2 hours ago

I. Tesla Stock Today: How is Elon Musk's Company Faring After Trump Breakup?

A breakdown in relations between President Trump and Elon Musk slammed Tesla stock Thursday, along with assets associated with the U.S. leader. Tesla shares regained some ground early Friday.

Shares of Musk's electric-vehicle maker rose around 4% in morning trading. The stock sank 14% Thursday.

Shares in Trump Media gained around 3% Friday morning. The company behind the president's Truth Social platform fell 8% yesterday, when the [Trump Coin cryptocurrency also weakened](#).

The dispute could raise questions over the \$5 billion debt sale launched for Musk's company, xAI, this week. That is scheduled to close later this month, [The Wall Street Journal reported](#).

Musk lost about \$27 billion from his [net worth Thursday](#), but remains the world's richest man with an estimated net worth of about \$396 billion, according to the Forbes Real Time Billionaires List. Trump's net worth is estimated at \$5.4 billion.

Musk and Trump: A tale of the tape

	Followers on X	Net worth	Forbes Billionaires ranking	June 5 stock price
Musk	220.3 million	\$388 billion	#1	▼14% (TSLA)
Trump	105.5 million	\$5.4 billion	#700	▼8% (DJT)

Sources: X.com (followers), Forbes (worth and ranking), FactSet (stocks)

<https://www.wsj.com/livecoverage/trump-elon-musk-feud/card/how-is-tesla-stock-faring-after-the-musk-trump-breakup--PuBRAAj2zRimkctuElaA>

19 hours ago

II. Trump Coin, Trump Media Shares Fall Amid Musk Feud

By

Jack Pitcher

It wasn't just Musk-related investments taking a hit on Thursday. Shares of Trump Media & Technology Group, the Truth Social parent company majority owned by the president, dropped 8% Thursday, extending declines as Trump and Musk feuded online in the afternoon.

Meanwhile, Trump Coin, the meme cryptocurrency backed by the president, was down 12% in afternoon trading.

Trump Media & Technology Group Corp.

DJT (U.S.: Nasdaq)
\$20.85 USD **0.733.63%**

Securities Law News

Trump Crypto Feud Heats Up With Cease-and-Desist Letter

June 5, 2025, 10:55 AM PDT

Tensions between the competing factions of Donald Trump's ever-growing crypto empire are ramping up, with a company owned in part by the president's sons sending a cease-and-desist letter to the organization behind his lucrative memecoin.

World Liberty Financial, which the Trump family has a major stake in, sent the letter to Fight Fight Fight, the company responsible for the memecoin, which is run by the president's long-time friend and promoter, **Bill Zanker**, according to a person familiar with the matter who asked for anonymity, because the letter hasn't been made public.

The infighting started after Fight Fight Fight announced Tuesday that it is developing "\$TRUMP Wallet," which will let users trade and hold the meme coin and other digital assets. The company is working with the marketplace Magic Eden, which also got the cease-and-desist letter, the people said.

After the wallet promotions went up, Donald Trump Jr. quickly took to social media to slam it and Eric Trump wrote: "I would be extremely careful using our name in a project that has not been approved and is unknown to anyone in our organization." The Trump-backed World Liberty Financial, has been readying its own wallet, which will let users earn yield on their tokens.

The evolving tensions were evident from the new wallet's website and social media account, which have been taken up and down over the past few days. As of Thursday morning in New York, the website — www.trumpwallet.com — was back online but the account on X was suspended.

World Liberty and Magic Eden declined to comment. Fight Fight Fight didn't return a request for comment about the cease-and-desist letter. A spokesperson for the White House deferred comment to World Liberty.

Wallets have traditionally acted as a gateway into crypto trading, lending and other functions. Many successful crypto wallets also run their own crypto exchanges and offer a slew of other services. Both projects are vying for the attention of Trump fans, many of whom are venturing into the volatile world of digital assets for the first time.

The Zanker-linked company has been integral to building the Trump family's crypto wealth. In January, Fight Fight Fight launched the Trump memecoin, which has, since then, generated more than \$300 million in fees for the owners, according to data firm Chainalysis. Fight Fight Fight and another Trump affiliate, CIC Digital LLC, retained 80% of the token supply. Their memecoins are currently worth about \$1.7 billion, according to crypto tracker CoinMarketCap.com.

To boost usage and interest, Zanker has pushed for the token's use in e-commerce and, more notably, organized a controversial dinner last month just outside Washington where Trump spoke to some of the token's largest holders.

The upcoming wallet is using similar tactics to win over users. The website and social media accounts advertised a memecoin giveaway for people who signed up for a waiting list for the wallet.

Trump and his sons launched World Liberty last year and it is part of their growing network of crypto businesses, which includes a new Bitcoin mining project.

World Liberty Financial has raised about \$550 million in token sales, and also issued its own stablecoin, USD1. The token, which is pegged to the dollar, has a \$2.2 billion market value, according to CoinMarketCap.com. A company affiliated with Trump receives 75% of net revenue as a fee, including proceeds of the token sales, according to offering documents. The Trump family owns 60% of the equity share of World Liberty through their company DT Marks DeFi LLC.

A one-time crypto skeptic, Trump initially entered the industry thanks to Zanker, who has said he came up with the idea of issuing nonfungible tokens with Trump's name and likeness. Trump and Zanker have since sold four collections of NFTs, and leveraged dinners for NFT holders to ensure support from the crypto industry for Trump's second presidential campaign. Magic Eden has worked with Zanker on the Trump NFTs.

--With assistance from **Stephanie Lai**.

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Donald Trump Jr. distances himself from \$TRUMP meme coin

[cnbc.com/2025/06/03/donald-trump-jr-meme-coin.html](https://www.cnbc.com/2025/06/03/donald-trump-jr-meme-coin.html)

MacKenzie Sigalos

June 3, 2025



Key Points

- Donald Trump Jr. denied involvement in the \$TRUMP meme coin — but claimed blockchain anonymity makes it harder to exploit for influence.
- President Donald Trump’s \$TRUMP token has become the centerpiece of the family’s expanding crypto empire.
- Trump Jr. said the family went all in on crypto out of necessity after banks stopped taking their calls, framing decentralization as a safeguard against financial discrimination.

Donald Trump Jr. is distancing himself from his father’s meme coin — while defending the family’s broader foray into crypto as a response to being frozen out of the traditional banking system.

“I wasn’t involved in the meme coin,” Trump Jr. said in an interview on CNBC’s “Squawk Box.” “I’m more focused on the stablecoin, the bitcoin mining.”

Meme coins are a class of cryptocurrency fueled by social media buzz and celebrity hype rather than real-world utility. They often skyrocket in value before crashing just as quickly — a pattern that’s drawn concern from regulators, particularly when high-profile figures are involved.

President Donald Trump’s \$TRUMP token, 80% of which is controlled by the Trump Organization and affiliated entities, has become the centerpiece of the family’s expanding crypto empire. Trump Jr. noted that the token was launched before his father returned to office.

The coin went live three days before the Inauguration, eventually soaring to a \$15 billion market cap before erasing most of those gains. Still, the project creators get a fee for every trade.

Between January and the end of April, more than \$324 million in trading fees were routed to wallets tied to the project's creators, according to Chainalysis. The token's code automatically directs a cut of each transaction to these addresses, allowing the team to profit from ongoing activity.

The blockchain analytics firm said it stopped tracking the president's meme token in early May, citing a need to refocus resources on paying clients.

The Trump family's deepening involvement in crypto has drawn widespread criticism — including concerns that a sitting president with ties to tokens could create new avenues for influence peddling or foreign capital flows.

Trump Jr. didn't dispute the potential for abuse but framed blockchain anonymity as a mitigating factor.

"You don't know who's actually doing any of these things," he said. "It's hard to influence if you don't actually know where this stuff's coming from."

In January, Tron blockchain founder Justin Sun upped his stake in World Liberty Financial's WLF tokens to \$75 million. A court filing the following month showed that Sun and the Securities and Exchange Commission were exploring a resolution to the regulator's civil fraud case against the crypto entrepreneur.

Sun later purchased the president's meme token, winning a contest for top holders, and raising his stake in Trump family-tied tokens to at least \$97 million.

Trump Jr. emphasized that the family's broader embrace of crypto was not a vanity move, but a response to being debanked after his father's political rise.

He said he and his brother saw crypto as a more equitable system — one that could protect even well-established players like themselves from arbitrary exclusion.

"I could call any single banker in New York City," he said. "They'd pick up the phone, I'd be able to get a loan for whatever real estate project I was doing across the street. Then we got into politics, and all of a sudden they wouldn't take your call. You couldn't get financing. We were debanked."

That shift, he said, pushed the Trumps to explore decentralized alternatives "out of necessity."

That philosophy, he added, now underpins the family's stablecoin initiative USD1, launched through World Liberty Finance. The token claims to be fully backed by U.S. Treasuries and aims to serve as a compliant dollar-pegged asset.

Trump Jr. argued that stablecoins like USD1 could support U.S. financial dominance, not threaten it:

"They're literally some of the biggest buyers of U.S. Treasuries in the world, replacing a lot of the countries that would have been traditionally doing that," he said, referencing crypto firms like Tether, which controls nearly 70% of the global stablecoin market.

At nearly \$120 billion in U.S. government debt on its books, according to its latest self-attestation, Tether now ranks among the top 20 holders of U.S. Treasuries — ahead of countries like Germany and the UAE.

"Stablecoins could be the savior of U.S. currency," he said.

Securities Law News

Opinion

Matt Levine's Money Stuff: Bankruptcy Was Good for 23andMe

June 5, 2025, 11:16 AM PDT

23andMe

Sometimes a public company has a controlling shareholder who wants to take it private by buying out all of the other shareholders, and that's always messy. The controlling shareholder will to some extent be negotiating with herself: She will want to buy the company for a low price, but the company's shareholders will want to get a high price, but she's the controlling shareholder and can vote for the low price. There are standard solutions to the problem, but they are only partial solutions:

1. The company's board of directors negotiates the deal with the controlling shareholder, and has fiduciary duties to the minority shareholders. It will generally appoint a special committee of independent directors to negotiate with her, and empower that committee to reject a deal that isn't in the best interests of shareholders. But of course if the controlling shareholder is unhappy with the board's negotiating position, she can fire the directors and elect new ones, which undermines their negotiating leverage.
- 2. The company can try to shop itself to other potential buyers, but any sale would have to be approved by shareholders, which means that the controlling shareholder can block any deal she doesn't like. That undermines any other potential buyer's incentive to make a bid.
- 3. If the minority shareholders are unhappy with the deal, they can always sue, but that's sort of a roll of the dice.

In the past few months, I have written a few times about 23andMe Holding Co. as an illustration of these problems. 23andMe is a publicly traded genetic testing company that was once worth about \$6 billion, but it has now fallen on hard times. Its founder, Anne Wojcicki, owns about 49% of the voting power of the stock, making her effectively a controlling shareholder. She offered to buy all the stock she didn't own, to take the company private and fix its problems "outside of the short term pressures of the public markets." But the board of directors, whose job was to find an "actionable proposal that is in the best interests of the non-affiliated shareholders," didn't think her offer was good enough.

But they were in a tough situation: They couldn't force Wojcicki to offer more, and she could always fire them. So they all quit, leaving Wojcicki as the sole director. That was awkward! And she went and appointed a new board of directors, and the new board created a new special committee to negotiate with her, and she put in a new bid that was *lower* than her first proposal — just 41 cents per share, down from a previous bid of \$2.53 — and the new board once again said no.

But they were still in a tough situation. What could they do? Well they came up with a pretty clever answer. Or perhaps I should say: They were forced into choosing a terrible answer that actually turned out to be pretty clever. But in any case, what they did was *file for bankruptcy* in March.

Filing for bankruptcy is generally a bad sign, but it has some advantages. One thing it does is buy breathing room from creditors. But another thing it does is put the company under court supervision: The company can still go out and try to find someone to buy its assets, but now a judge is involved and gets to supervise the bidding process and approve the final deal. If you are the board of directors, the controlling shareholder is effectively your boss, and you can't really overrule her. But once you're in bankruptcy, there is a new, higher boss — the judge — and maybe he will be on your side. "We have determined that a court-supervised sale process is the best path forward to maximize the value of the business," said the board chairman.

We talked about this at the time, and what I said was: "Whoops!" Because one interpretation of this outcome was that Wojcicki was offering 41 cents per share, the board was holding out for more, but in fact the company was a melting ice cube and, by holding out for more, the shareholders ended up with zero. Bankruptcy is usually bad! Shareholders normally do end up with zero in bankruptcy. Wojcicki said that she would still try to buy the company's assets, and I wrote:

I assume that her next bid will come out to \$0.00 per share, but that is not investment advice and the stock was trading at about \$0.89 at noon today so who knows.

Well, I was wrong and the shareholders were right. 23andMe found a buyer, and now:

23andMe has a path to a higher purchase price than the \$256 million offered by biotech giant Regeneron after the genetic-testing company's former chief executive pushed a bankruptcy court to reopen its sale process.

23andMe was set to sell itself in bankruptcy to Regeneron before former CEO Anne Wojcicki bid \$305 million after the auction ended through her recently founded nonprofit TTAM Research Institute. Wojcicki's bid dwarfs her previous offer to acquire the company for \$40 million just ahead of its March bankruptcy filing. ...

Because 23andMe has a relatively small amount of debt on its balance sheet, its equity holders could walk away with a recovery, a relative rarity after bankruptcy. Its stock has rallied to a market capitalization of over \$100 million.

There will be a new auction that might get a higher price, but the \$305 million seems like a floor. The stock — again, in bankruptcy — traded at \$4.91 per share at noon today, a roughly 1,100% premium to Wojcicki's last pre-bankruptcy bid. As Julian Klymochko tweeted:

A phenomenal job done by 23andMe's board of directors that will become a case study on how to deal with a coercive and shareholder-unfriendly bid from a controlling shareholder.

A masterful bankruptcy filing led to a 663% increased offer from the company's founder.

You never really want to be on a board of directors where the clever strategic move is to file for bankruptcy, but sometimes it really is the right move.

Builder.ai

The great arbitrage is that nobody cares about a hot startup's *profits*, but everybody cares about its *revenue*. If you sell \$5 billion of artificial intelligence widgets, that's amazing: It means that you have found product-market fit, that people love your AI widgets, that you will be able to scale and achieve a leading position in the AI widget space. If you have \$6 billion of research and marketing costs, that's *fine*, that's *great*, venture capitalists will love you, they will understand that you have to invest a lot now to build the business; the profits can wait.

Whereas if you sell \$10 million of AI widgets and have \$5 million of costs, that is a higher net income, but not as exciting to investors looking for a home run.

And so if you are in the business of selling AI widgets, you might go to your mom and say "hey mom would you buy \$1 billion of AI widgets from me," and she would say "I'd love to honey but I don't have \$1 billion," and you would say "that's okay I'll just buy \$1 billion of cookies from you, which will give you the money to buy the widgets," and she would say "but I'd have to bake a lot of cookies," and you would say "no just bake one, the cookies are so good that I'll pay a billion dollars for one," and she would say "okay but do you have \$1 billion," and you would say "no but it's fine we'll just net the transactions." Or variations on that theme. We have discussed some of those variations, which play a crucial role in a lot of tech market bubbles. As long as investors are investing on revenue rather than profitability, someone will find a way to pay for revenue.

It would be very weird if there was *none* of this in the AI boom. Here's the Financial Times on Builder.ai:

London-based Builder.ai collapsed last month after an internal investigation found evidence of potentially bogus sales, with revenues previously reported under [founder Sachin Dev] Duggal's watch restated to just a quarter of previous estimates. ...

Now, interviews with former employees and documents seen by the FT suggest that Builder.ai is suspected of using a broader range of methods to inflate some of its revenues, including improperly booked discounts, tiny upfront deposits and seemingly circular transactions with key customers. ...

Several ex-employees said it was commonplace for staff at Builder.ai to offer large discounts to customers while booking the full value of the contract under its sales.

One said they saw revenues based on these inflated prices presented in a company-wide meeting and a slide deck given to shareholders, who were seemingly unaware that the figures did not account for discounts. ...

Former employees said that Builder.ai sometimes booked discounts as a marketing or sales cost.

There are also claims of circular transactions with customers. If you can find someone willing to pay you \$1 for an AI widget, and you bill them \$1 million and then pay them \$999,999 out of your marketing budget, that's better than just billing them \$1. But also worse.

Strategy widowmaker

As I often write around here, right now the US stock market will pay \$2 for \$1 worth of Bitcoin. This is most famously demonstrated by MicroStrategy Inc. (or just Strategy), a company with a \$60 billion pot of Bitcoins and a \$118 billion equity market capitalization, but we have talked about lots of other "Bitcoin treasury companies" (or other crypto treasury companies) that also trade at premiums to their Bitcoin stashes.

I talk about this a lot, because it is weird and I have no good explanation for it. But if you think "this is weird and there is no good explanation for it," you can do more than just talk about it. You can do something about it: You can *bet* that, if it's weird and there is no good explanation for it, it has to stop. Specifically, you can buy \$2 worth of actual Bitcoin and short \$2 worth of Bitcoin treasury company stock. If this anomaly stops, the Bitcoin treasury company stock will go down to \$1, and you will make money. This is not investment advice! Not at all! This is a famous widowmaker trade — Strategy's premium has been really persistent — but here's Jim Chanos doing it:

"I haven't seen an arbitrage like this in this size in years, years and years," Chanos said during a recent interview on the Risk and Return podcast, referencing the trade he disclosed on CNBC in early May. ...

Chanos, known for his prescient bet against Enron Corp. 20 years ago, emphasized that his current favored trade isn't a wager against Bitcoin or Strategy, but rather a mirror of Saylor's own playbook: selling equity and raising capital to buy more digital assets. The core opportunity, he said, lies in the divergence between Strategy's market price and the company's Bitcoin-adjusted book value.

"The fact of the matter is, this is a Bitcoin holding company," Chanos said on the podcast explaining the premium dislocation. Buying Strategy shares at their current price of around \$400, he said, is effectively equivalent to buying Bitcoin at about two times its value — "paying around \$220,000 for Bitcoin that trades at \$110,000. But the company is doing everything it can to close that spread, which is great — there's a catalyst."

Ahahaha he's kind of right about that: The very biggest player in this trade, the trader who buys the most Bitcoin while selling the most Strategy stock, is Strategy itself. In theory, as Strategy sells stock to buy Bitcoin, that should bring down the premium (bringing up the price of Bitcoin and bringing down the price of Strategy). In practice, as I have written, even "selling as fast as it possibly can, MicroStrategy *still* can't sell enough stock to close the premium."

To be fair, I wrote that in December. Since then, Strategy has stopped selling much common stock; now it is selling weird convertible preferred shares ("perpetual strike" and "perpetual strife" preferred stock, which are less equity-sensitive), and its latest thing is a non-convertible 10% preferred stock ("perpetual stride," why not). Strategy is *not* doing the simple arbitrage — sell MSTR, buy Bitcoin — anymore. On the other hand tons of other companies really are doing a related trade — selling *their* stock at a premium to buy Bitcoin — and maybe that will bring down the premium for everyone. Or maybe not. This whole thing is weird and I have no good explanation for it, which means that I have no good intuition for when it will stop.

Limits to arbitrage

Here's a fascinating post by Eric Neyman from March that has been making the rounds recently. Polymarket, the prediction market, lists a contract on "Will Jesus Christ return in 2025?" It trades today at what is conventionally called a "3% chance": You can bet about 3 cents on "Yes" and get \$1.00 on Dec. 31 if Christ returns, or you can bet about 97 cents on "No" and get \$1.00 on Dec. 31 if he doesn't.

Nothing in this newsletter is ever eschatological advice, but that 3% chance seems high. For one thing, over the last few centuries, the realized probability of Jesus Christ returning is considerably below 3% per year. Also, if Jesus Christ does return this year, are you really going to want to go to the online crypto prediction market to collect your gambling winnings?

So let's say you think the actual probability is lower. Say you are completely confident that the actual probability of Christ returning this year is exactly 0%. How should you bet on that? What is the *correct* price of the No contract?

Well, the bet is that you put some money in now, and on Dec. 31, 2025, if you're right, you get back \$1. There's a US Treasury bill that matures on Dec. 26, 2025, that has a yield of about 4.07%, meaning you can buy it for 97.7 cents today and get back \$1 at the end of December. Surely you should not be willing to put *more* into a Polymarket bet today to get back \$1 at the end of December. So 97 cents on the dollar — about a 5.2% yield — feels like a plausible price for this contract, if you're sure you're right.

That is a function of interest rates, though. In a world of zero or near-zero interest rates, you might pay 99 or 100 cents on the dollar; a dollar in seven months would be worth as much as a dollar now. In a world of very high interest rates, you might pay only 93 or 95 cents today for a dollar in seven months.

If 97 is the correct price to pay for the No contract, what is the correct price to pay for the Yes? Again, let's assume that you are completely confident that the correct probability is zero. An intuitive answer would be "zero dollars": There's no reason to pay 3 cents today to get back 0 cents in seven months. But there is an important no-arbitrage condition, which is that the price of the No contract and the price of the Yes contract sort of have to add up to \$1 (ignoring fees and bid/ask spreads). From Polymarket's documentation: "Holding 1 'Yes' share and 1 'No' share is equivalent to having \$1.00 (minus trading fees). As a result, Polymarket allows you to merge these shares back into USDC." USDC is the Circle dollar stablecoin, and it seems fair to assume that it's worth exactly a dollar.

And so if the No contract traded at \$0.97 and the Yes contract traded at zero, then you could buy one No and one Yes for \$0.97, combine them, and get back \$1 *immediately* (not in seven months), which is 3 cents of free money. You'd do this until you arbitrated the Yes contract up to its correct price, which is \$0.03.

One (dumb, but funny) way to put this is that the "Yes, Jesus Christ will return in 2025" contract is a *bet on interest rates going up*: If short-term interest rates went up to 8%, the No contract would be worth about \$0.95, so the Yes contract would be worth about \$0.05 and you'd make a 40% profit.

Another (somewhat less dumb) way to put this is that the Yes contract is a way to bet on *Polymarket discount rates* going up. Those discount rates are related to short-term risk-free US dollar interest rates, but they're not the same thing. Neyman writes:

The Yes traders are betting that the time value of Polymarket cash will go up unexpectedly: that other traders will be short on cash to place bets with, and will at some point be willing to pay a premium to free up the cash that they spent betting against Jesus.

Has this galaxy-brained trade ever gone well? Yes! In late October of last year — a week before the election — Kamala Harris was trading around 0.3% in safe red states like Kentucky, while Donald Trump was trading around 0.3% in safe blue states like Massachusetts. On election day, these prices skyrocketed to about 1.5%, because "No" bettors desperately needed cash to place other bets on the election. Traders who bought "Yes" for 0.3% in late October and sold at 1.5% on election day made a 5x profit!

The point here is that it is intuitive and conventional to say that prediction-market prices directly represent probabilities. If there is some contract where Yes trades at 80 and No at 20, you say that (the market says that) Yes has an 80% probability. But to make that interpretation plausible, the market needs to make some design choices, particularly about the time value of money. If Polymarket *didn't* allow you to combine a No and a Yes and cash out \$1, then long-term contracts would trade at a discount to their implied probability: If an event had an 80% probability, the Yes contract might trade at 77.6 cents today (and the No at 19.4), the prices would creep up over time as the contract approached expiration, and it would be sort of annoying to convert the prices back into probabilities. So Polymarket's design creates a no-arbitrage condition that forces the total prices to add up to 100, for ease of converting into probabilities, but the result is that the No contract is not a pure bet on the probability but also an interest-rates arbitrage.

Elsewhere here's a fun post from Dave White at Paradigm about "Multiverse Finance":

This paper introduces Multiverse Finance, which splits the financial system into parallel universes so you can short the market today only if your favorite candidate is going to lose the next election.

A “verse” is a parallel universe where some event we care about has happened or will happen at some point in the future. ...

Today’s universe, where the regular financial system exists, corresponds to the event containing the whole sample space.

We call a verse a “parent” to another verse if the child verse is a subset of the parent, meaning every outcome in the child verse is also in the parent verse. ...

We call a set of child verses a partition of their parent verse if the child verses are disjoint (non-overlapping) and their union makes up the entire parent verse. ...

The high-level intuition when working with verses in Multiverse Finance is that owners can choose to push ownership down to a partition, or pull it up from a partition.

In other words, let’s say we have a verse V and some partition P_1, P_2, P_3 of V .

If I own 1 unit of a given token T in V , I can choose to “push down” my ownership to the partition, meaning I give up my ownership of T in V and instead now own 1 unit of T in each of P_1, P_2 and P_3 . This is equivalent to how you can always take \$1 and mint one YES and one NO token for a given prediction market. ...

Conversely, if I own 1 of token T in each of P_1, P_2 and P_3 , I can choose to “pull up” my ownership of T to V , losing my ownership of it in each of those partition verses. This is equivalent to how you can take a YES and a NO token for a given prediction market and get back \$1.

Verses, like prediction markets, rely on some underlying oracle for resolution. ... At the time of resolution, any verse that does not contain the observed outcome reported by the oracle immediately disappears, together with all of its state.

One thing you could imagine doing with this is solving the time value problems of prediction markets by paying conditional interest. You have 100 dollars, and you split them into 100 Jesus>Returns-Yes-Dollars and 100 Jesus>Returns-No-Dollars, you sell the Yes-Dollars to someone else for (a little) actual cash, and you deposit the No-Dollars at a crypto bank that pays you interest in No-Dollars. The contract resolves, and if Jesus does not return your No-Dollars — principal and interest — convert back into, say, 103 actual dollars (your original 100, plus interest). If he does return, the No-Dollars go poof, the bank owes you nothing and presumably whoever bought the Yes-Dollars is happy.

Resolution problems

Elsewhere in prediction markets, here is a weird story about a contract on Manifold, a play-money prediction market, on “Who will be the prime minister of Canada after the next election?” “By the beginning of May, 2025, after the Canadian voters had handed the Liberal party a mandate to form a government, and Carney was all-but-formally the prime minister, the market settled at 99% odds for Carney.” And then shenanigans:

On May 4, 2025, the market creator, Peter Njeim, decided to embroil himself in these shenanigans. He swapped human-readable labels for the two options “Pierre Poilievre” and “Mark Carney”; the shares were still attached to their original, unique outcome identifiers so that traders who bought NO on the former could see “NO | Mark Carney” in their portfolios which was not in fact how they had traded! Almost immediately after swapping the labels, Njeim resolved the market to the outcome originally representing Pierre Poilievre, but which now displayed the label “Mark Carney.”

This kind of resolution meant that traders who chose the correct answer did not get their payouts.

Honestly swapping the labels is kind of elegant nonsense. It was eventually fixed, but a very levered (in play money!) bettor on the wrong side (called “Tumbles”) was “nuked,” leaving him with negative play-money balances and “potentially making a few select election markets less liquid and more directionally accurate.”

Anyway there is also a separate Manifold market about whether this story will be “covered by a ‘large’ podcast or news outlet,” with Money Stuff specifically mentioned as a qualifying outlet, so several readers sent it to me and disclosed that they had bets on that market. Incentives!

Things happen

Bill Ackman Is Tweeting Through It. UK fintech Wise to switch main listing to New York. Citigroup lays off 3,500 tech staff in China. Allianz in Talks to Buy Private Credit Manager Capital Four. Boeing Agrees to Pay \$1.1 Billion to Avoid Prosecution for 737 MAX Crashes. Reddit Sues Anthropic, Alleges Unauthorized Use of Site’s Data. Santander scraps plan to appoint executive under criminal investigation. Powerful new cannabis outstrips dangers of ‘Woodstock pot.’ “Bbq Into Bankruptcy.”

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- 1. See: Toyota Industries, Endeavor, kind of sort of Paramount.

- 2. That is: 312,778,000 fully diluted shares outstanding (see slide 41 here) times \$378.10 per share (yesterday's closing price) is \$118.3 billion of fully diluted equity market capitalization; 580,955 total Bitcoin holdings (as of June 1) times about \$104,250 per Bitcoin is \$60.6 billion. This is not exact — Strategy keeps selling new weird securities to buy more Bitcoin — but the premium has consistently been around 100%.
- 3. And some that, arguably, sort of, don't.
- 4. Or buy \$1 worth of actual Bitcoin? I'm not sure what the right hedge ratio is here.
- 5. No science there, just a 0.97 discount factor (5.2% yield for seven months) times 80 and 20.

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Artificial Intelligence is now an A+ law student, study finds

 [reuters.com/legal/legalindustry/artificial-intelligence-is-now-an-law-student-study-finds-2025-06-05](https://www.reuters.com/legal/legalindustry/artificial-intelligence-is-now-an-law-student-study-finds-2025-06-05)

Karen Sloan

June 5, 2025

Figurines with computers and smartphones are seen in front of the words "Artificial Intelligence AI" in this illustration taken, February 19, 2024. REUTERS/Dado Ruvic/Illustration/File Photo Purchase Licensing Rights, opens new tab

June 5 (Reuters) - The latest generation of generative artificial intelligence can ace most law school final exams, a new study has found.

OpenAI's newest model, called o3, earned grades ranging from A+ to B on eight spring finals given by faculty at the University of Maryland Francis King Carey School of Law, researchers found in a new paper published on SSRN, opens new tab.

Jumpstart your morning with the latest legal news delivered straight to your inbox from The Daily Docket newsletter. Sign up here.

Those high grades represent a significant improvement from previous studies done on earlier versions of ChatGPT, also from OpenAI, which scored B's, C's, and even one D's when researchers had them take law school finals in 2022 and 2023, according to the paper.

Studies conducted earlier by other researchers had also found that ChatGPT earned "mediocre" grades on law school finals and that although it improved the speed of legal writing, it did not improve the quality. Researchers also have found that AI can pass the bar exam.

However, generative AI looks to be catching up to actual high-performing law students, based on the latest study. Unlike ChatGPT, which immediately generates text in response to a user's query, o3 is what is known as a reasoning model. This means that it generates tentative answers and multiple approaches to questions after internally evaluating and revising those responses, after which it produces the final text for the user.

The study's authors — seven law professors from University of Maryland — graded the final answers from o3 on the same curve they use for their students. The program's answers earned an A+ in Constitutional Law, Professional Responsibility, and Property. Its answers got an A in Income Taxation, and an A- in Criminal Procedure. It scored a B+ in Secured Transactions and Torts, and a B in Administrative Law. The's answers program did well on both multiple choice questions and essays, the study found.

However, there were some limitations on o3's answers. The program's relatively low grade in administrative law was attributable to the fact that o3 did not know about the 2024 U.S. Supreme Court opinion in *Loper Bright Enterprises v. Raimondo*, which overturned the Chevron doctrine, which was central to administrative law. That ruling had come shortly after the o3's knowledge cutoff date.

The o3 program performed worse on one final when given access to the professor's notes — an unanticipated outcome the researchers attributed to the program being “distracted” by too much text.

OpenAI did not immediately respond to a request for comment on Thursday about the study's findings.

The study's authors wrote that they are already contemplating an updated experiment to determine how much of a cheating threat AI poses by instructing the program to make occasional spelling and grammar mistakes, so that those exams will be difficult to distinguish from those completed by real students.

Read more:

ChatGPT passes law school exams despite 'mediocre' performance

AI improves legal writing speed, not quality - study

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Karen Sloan reports on law firms, law schools, and the business of law. Reach her at karen.sloan@thomsonreuters.com

Securities Law News

Big Law Hitched Onto Crypto Darling Well Before 168% IPO Pop

June 5, 2025, 2:28 PM PDT

- Litany of Big Law firms worked with Circle
- Boutique firm leads work in bank fight

On its path to raising \$1.1 billion in an initial public offering this week, stablecoin issuer Circle Internet Group Inc. proved why cryptocurrency companies are lucrative clients for the world's top law firms.

Davis Polk & Wardwell advised the company on its IPO before the company's shares rose 168% on Thursday in their first day of trading. Legal fees for the deal were \$7.3 million, according to a company filing with the US Securities and Exchange Commission.

Skadden Arps Slate Meagher & Flom advised the underwriters in the deal, which was heavily oversubscribed, helping to set up the stock price increase. Shares at the IPO price of \$31 rose as high as \$103.75 on Thursday before settling at \$83.23 at the close of trading, according to Bloomberg data. The trading gave Circle a market value of \$18.5 billion.

Circle's success shows how crypto companies have become attractive clients for major law firms that once viewed digital currencies with suspicion. Company legal fees rose by \$17.6 million in 2024, following an increase of \$5.2 million in 2023, SEC filings show. Circle is also paying millions in legal expenses in a major dispute with its former investment bank.

A litany of top law firms have been charging those fees. WilmerHale, Davis Polk, Wilson Sonsini, and Goodwin Procter have advised Circle on corporate matters, according to public filings and law firm announcements.

WilmerHale earlier this year advised the company on an acquisition of Hashnote Holdings LLC, a digital asset platform that issues US Yield Coin.

Wilson Sonsini advised the company on the launch of its Circle Payments Network this year, which aims to connect financial institutions to enable cross-border payments of regulated stablecoins.

Wilson Sonsini has also advised the company in litigation, including a case filed earlier this year by a customer who said the company erroneously destroyed \$1 million worth of its stablecoin. A federal judge dismissed the case in Circle's favor earlier this year, and Wilson Sonsini is representing the company on appeal.

Davis Polk in 2023 advised Circle on its agreement to partner with Nu Crypto Ltda., which extended access of its stablecoin to Brazilian customers. Davis Polk has become a well-known firm in the crypto space, as it is helping Trump Media & Technology Group Corp. launch a series of exchange-traded funds with Crypto.com.

Goodwin advised the company in its earlier plan to go public through a merger with a special purpose acquisition company in 2021. That deal, which ultimately valued Circle at \$9 billion, fell through. Goodwin had advised the company "since its inception," including on a \$440 million fundraising round in 2021, Reuters reported, and also on a \$400 million fundraise in 2022.

Jones Day in 2023 filed an amicus brief for Circle in a dispute between the SEC and Binance Holdings Ltd., which argued the SEC lacks authority to regulate payment stablecoin offerings.

Bank Dispute

In a dispute with its former investment bank Financial Technology Partners LP, Circle has retained high-powered litigation boutique Bartlit Beck.

Represented by Sullivan & Cromwell, FT Partners has sued Circle alleging it is owed at least tens of millions of dollars in transaction fees related to the company's capital raises, and potentially, this week's IPO. The bank argues the company wrongly terminated it to avoid paying costly fees that were priced when Circle was struggling in 2020.

The fee agreement allegedly entitled FT Partners to 7% of any capital raised by the company. For a company sale, the investment bank would be owed an escalating fee based on the size of the sale, ranging from 3% of the first \$400 million in proceeds up to 10% of proceeds over \$1 billion, according to the lawsuit.

In a letter terminating Circle at the heart of FT Partners' complaint, the company's chief executive, Jeremy Allaire, copied Quinn Emanuel partner Michael Carlinsky.

Circle said in its SEC filing it "strenuously dispute[s] FT Partners' demand for any fees."

Still, the company acknowledged the dispute could cause it to make cash or equity payments to FT Partners which "may be substantial." It may also be forced to pay the investment bank "significant" fees for future capital raises or company sale transactions, including the IPO itself, the SEC filing said.

The company says it paid legal expenses of nearly \$9.5 million last year related to the FT Partners dispute and other settlements related to its legacy businesses. It has paid \$1.9 million in such fees through three months this year.

Securities Law News

Nikola Creditors Aim to Depose Founder Over \$97 Million Award

June 5, 2025, 12:14 PM PDT

- Creditors concerned Nikola founder is dissipating assets
- Arbitration award is biggest potential asset for creditors

Creditors of bankrupt electric-vehicle maker Nikola Corp. have asked for court help to determine if the company's founder can pay a \$97 million arbitration award he owes the firm.

Former CEO Trevor Milton has been delaying discovery efforts and should be forced to respond by June 13 to requests for documents and a deposition about his current assets, a committee representing Nikola's unsecured creditors told the US Bankruptcy Court for the District of Delaware in a Wednesday filing.

An arbitration panel in November 2023 found that Milton breached his fiduciary duty to the company through a pattern of false and misleading public statements. The panel allocated to Milton about 97% of the responsibility of a \$125 million fine Nikola was forced to pay by the US Securities and Exchange Commission, according to court records.

The award is "the largest liquidated asset that the estate holds to provide value to unsecured creditors," the committee said.

The electric- and hydrogen-powered truck company filed for Chapter 11 in February amid weak sales and a series of CEOs after a fraud scandal. Milton was sentenced in December 2023 to four years in prison after a jury found him guilty of securities and wire fraud.

The former CEO was pardoned in March by President Donald Trump. Milton and his wife donated nearly \$1.7 million to support Trump's 2024 campaign, according to Bloomberg News.

Milton, who has maintained his innocence, has objected to the subpoena and deposition requests, arguing that creditors' attorneys have failed to meet with his counsel and that his new lawyers need time to get up to speed. He's accused the committee of going on a "fishing expedition" and said its requests are too burdensome, overly broad, and seek privileged information.

Creditors said they want to know if Milton is dissipating his property to avoid paying the award. They've told Milton's attorneys that they've "read reports" he is selling certain assets, according to court records.

Milton's counsel have repeatedly asked for delays and refused to say why he won't accept their subpoena, the committee said.

Milton may be hoping that a Nikola bankruptcy plan will be confirmed and the committee disbanded so "he can start the whole process all over again with whatever estate fiduciary ends up in charge of collecting the Arbitration Award," the committee said.

Milton has accused Nikola's current executives of driving the company into bankruptcy and previously tried to buy its assets out of bankruptcy. Lucid Group Inc. has signed on to buy the company's Arizona headquarters and manufacturing plant.

The committee is represented by Morris James LLP and Morrison & Foerster LLP. Nikola is represented by Pillsbury Winthrop Shaw Pittman LLP and Potter Anderson & Corroon LLP. Milton is represented by Lewis Brisbois Bisgaard & Smith LLP.

The case is Nikola Corp. , Bankr. D. Del., No. 25-10258, reply 6/4/25 .

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Palantir Is Going on Defense

 [wired.com/story/palantir-defense-conference-journalists](https://www.wired.com/story/palantir-defense-conference-journalists)

Caroline Haskins

June 5, 2025



Palantir, facing mounting public scrutiny for its work with the Trump administration, took an increasingly defensive stance toward journalists and perceived critics this week, both at a defense conference in Washington DC and on social media.

On Tuesday, a Palantir employee threatened to call the police on a WIRED journalist who was watching software demonstrations at its booth at AI+ Expo. The conference, which is hosted by the Special Competitive Studies Project, a think tank founded by former Google CEO Eric Schmidt, is free and open to the public, including journalists.

Later that day, Palantir had conference security remove at least three other journalists—Jack Poulson, writer of the All-Source Intelligence Substack; Max Blumenthal, who writes and publishes The Grayzone; and Jessica Le Masurier, a reporter at France 24—from the conference hall, Poulson says. The reporters were later able to re-enter the hall, Poulson adds.

The move came after Palantir spokespeople began publicly condemning a recent New York Times report titled “Trump Taps Palantir to Compile Data on Americans” published on May 30. WIRED previously reported that Elon Musk’s so-called Department of Government Efficiency (DOGE) was building a master database to surveil and track immigrants. WIRED has also reported that the company was helping DOGE with an IRS data project, collaborating to build a “mega-API.”

The public criticism from Palantir is unusual, as the company does not typically issue statements pushing back on individual news stories.

Prior to being kicked out of Palantir’s booth, the WIRED journalist, who is also the author of this article, was taking photos, videos, and written notes during software demos of Palantir FedStart partners, which use the company’s cloud systems to get certified for government work. The booth’s walls had phrases like “REAWAKEN THE GIANT” and “DON’T GIVE UP

THE SHIP!" printed on the outside. When the reporter briefly stepped away from the booth and attempted to re-enter, she was stopped by Eliano Younes, Palantir's head of strategic engagement, who said that WIRED was not allowed to be there. The reporter asked why, and Younes repeated himself, adding that if WIRED tried to return, he would call the police.

After the conference ended, Younes responded to a photo from the conference that the reporter posted on X. "hey caroline, great seeing you at the expo yesterday," he wrote. "can't wait to read your coverage of the event." Palantir did not respond to WIRED's request for comment.

Got a Tip?

Are you a current or former government employee who wants to talk about what's happening? We'd like to hear from you. Using a nonwork phone or computer, contact the reporter securely on Signal at 785-813-1084.

Poulson tells WIRED that he, Blumenthal, and Le Masurier were also watching demos at Palantir's booth prior to being kicked out. After a Tuesday panel with Younes and Palantir engineer Ryan Fox, Poulson says Le Masurier approached Younes near Palantir's booth and asked about the company's work for Immigrations and Customs Enforcement. A Palantir employee stepped between them and claimed that Palantir had asked her to leave "multiple times," according to a video of the interaction viewed by WIRED, and she was escorted out of the conference hall shortly after.

"Apparently, Palantir was so annoyed that they not only kicked her out, but demanded that Max and I be kicked out as well," Poulson says. "So the security guards came and got us."

The group was allowed back inside the conference hall after explaining their situation to friendly security guards, Poulson says. The guards asked them to respect any requests from attendees to stop filming.

Some conference organizers appeared to be on high alert after a pro-Palestine demonstrator interrupted a panel with Palantir's head of defense, Mike Gallagher, on Monday. The demonstrator was subsequently ejected from the conference, Poulson reported. A handful of pro-Palestine activists were also thrown out on Tuesday after disrupting a panel with Eric Schmidt and Thom Shanker, a former Pentagon reporter at the New York Times. (Palantir formed a partnership with the Israeli military in January 2024, and Google is part of a \$1.2 billion cloud contract with the Israeli government.) Poulson tells WIRED that on Wednesday, the conference began mandatory bag-checks for every attendee.

During Younes' Tuesday panel with fellow Palantir employee Fox, which was focused on what the two men do at Palantir and why they like working there, Younes made passing references to perceived critics of the company. When talking about the reasons he joined Palantir, he said, "I was sick and tired of people with bad intentions," Younes said, "many of

them who are actually here.” He later added that he’s a “big believer” in the views of Palantir’s cofounders, particularly those of CEO Alex Karp. (Karp is known for his nonapologetic stance toward Palantir’s work with military and defense agencies and immigration authorities.) “Playing a role in helping them, to prove the doubters and the haters wrong, that just feels really good,” Younes said.

On Tuesday, Palantir posted on X claiming the Times article was “blatantly untrue” and said that the company “never collects data to unlawfully surveil Americans.” The Times article did not claim that Palantir buys or collects its own data, though it’s a common misconception that the company does so.

The New York Times did not immediately respond to a request for comment by WIRED.

On Wednesday, Palantir’s official X account continued posting about the Times article on X. “Want to meet Dr. Karp?” the post read. “In 90 seconds, identify the technical errors in this article. DM us a video in the next 24 hours - whoever finds the most inaccuracies gets an interview with him.”

Securities Law News

SEC Limits on Shareholder Proposals Survive Activists' Suit (1)

June 5, 2025, 11:33 AM PDT; Updated: June 5, 2025, 2:38 PM PDT

- Court decision ends four years of legal limbo for regulations
- Commission under Trump and Biden defended 2020 requirements

The SEC can keep 2020 rules that activist investors say stop some environmental, social and governance proposals from getting votes at companies' annual meetings, a federal judge ruled Thursday.

The Securities and Exchange Commission acted appropriately when it adopted the shareholder proposal submission standards aimed at small investors during the first Trump administration, Judge Reggie B. Walton of the US District Court for the District of Columbia said in an opinion.

Walton's decision to toss a lawsuit challenging the rules ended four years of legal limbo for the regulations, which are backed by companies. The regulations boosted the amount of stock investors need to file proposals and increased the level of shareholder support required to resubmit plans voted down previously, among other actions.

Shareholder advocates Interfaith Center on Corporate Responsibility and As You Sow, along with investor James McRitchie, who runs a website on corporate governance, sued to overturn the rules in 2021. The challengers, who often submit ESG proposals or help file them, argued the rules were arbitrary and beyond the SEC's authority. The agency under presidents Joe Biden and Donald Trump disputed the challengers' claims.

"The Court must conclude that the Commission considered the information available to it and reasonably explained its decision in weighing the cost-benefits of its Final Rule and its impact on shareholder-proponents," Walton said in his opinion.

Walton's ruling harms investors and companies, but it won't stop shareholders who have worked under the regulations amid the litigation, said the Interfaith Center on Corporate Responsibility, As You Sow, and McRitchie.

"By limiting shareholders' ability to bring important issues to companies and fellow shareholders, the amendments—and the decision upholding them—will only serve to hurt shareholders and companies alike," the challengers of the rules said in a joint statement. "Despite this decision, shareholders will continue to engage with corporations on their environmental and social impacts."

An SEC spokesperson declined to comment.

Tougher Rules

The 2020 rules require a shareholder to have at least \$25,000 invested in a company for a year to file a proposal for an annual meeting. The ownership threshold drops to \$15,000 at two years and \$2,000 at three years.

The regulations before 2020 let investors submit proposals if they owned at least \$2,000 or 1% of a company's securities for a year.

The 2020 regulations also increased the level of investor support needed to resubmit a proposal that's voted down at an annual meeting. A new proposal now must secure at least 5% of investor votes for a shareholder to refile it, up from the previous 3% level.

The SEC under Democratic Chair Gary Gensler in 2022 proposed new limits on companies seeking to block shareholder proposals. But the plans, which stalled at the agency, sidestepped the 2020 requirements behind the Interfaith Center on Corporate Responsibility lawsuit, and the litigation continued.

The 2020 rules are separate from guidance the SEC released in February to ease companies' efforts to stop votes on some ESG proposals.

The case is *Interfaith Center on Corporate Responsibility v. SEC*, D.D.C., No. 1:21-cv-01620, opinion issued 6/5/25.

(Updates with responses from rule challengers and SEC in sixth through eighth paragraphs.)

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Securities Law News

Thai SEC Files Fraudulent Accounting Case Against JKN Global

June 5, 2025, 4:47 AM PDT

The Securities and Exchange has taken legal action against JKN Global Group, a Thai media company that co-owns the Miss Universe brand, and its two executives for their involvement in fraudulent accounting.

- SEC has filed a case to the Department of Special Investigation, accusing JKN and its CEO **Jakkaphong Jakrajutatip** as well as Chief Content Officer **Pimauma Jakrajutatip** for jointly committing or consenting to false financial statements for full-year 2023 and 1Q 2024, according to the SEC statement late Thursday
- SEC is also investigating other JKN-related cases that are questionable: statement
- NOTE: Trading of JKN shares have been suspended since May 16, 2024 for failure to submit financial statement ending March 31, 2024

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High Court Drops Class Cert. Clarification Bid

By **Katie Buehler**

Law360 (June 5, 2025, 10:53 AM EDT) -- The U.S. Supreme Court declined Thursday to weigh in on whether federal courts can certify classes that include uninjured members, holding it improperly agreed to hear a disability discrimination case against diagnostics company Labcorp that raised the important question.



In an 8-1 decision, the U.S. Supreme Court declined to address whether federal courts can certify classes that include uninjured members, dismissing Labcorp's appeal in a case brought by blind patients alleging violations of the Americans with Disabilities Act. (Photo by Smith Collection/Gado/Sipa USA)(Sipa via AP Images)

In an **8-1 per curiam decision**, the justices dismissed as improvidently granted Labcorp Holdings Inc.'s appeal of a Ninth Circuit panel decision affirming class certification for a group of legally blind patients who claim the company violated the Americans with Disabilities Act by failing to make its self-service check-in kiosks accessible to them. The high court's unexplained ruling enables the class to pursue millions of dollars in damages against Labcorp for making them wait longer to check in for services.

It also postpones a potentially landmark decision that would've provided clarification about class action standards.

Justice Brett Kavanaugh was the sole dissenting justice, and he wrote in a short opinion that the court was wrong to dismiss the case and turn away a chance to decide an important question. He added that, on the merits, he would've sided with Labcorp, who argued the appellate court's decision violated federal rules regulating class actions, among other things.

"On that question presented, I would hold that a federal court may not certify a damages class that includes both injured and uninjured members," Justice Kavanaugh said. Federal Rule of Civil Procedure 23 "requires that common questions predominate in damages class actions. And when a damages class includes both injured and uninjured members, common questions do not predominate."

Although the Supreme Court's majority didn't explain its decision to dismiss the case, Justice Kavanaugh hinted in his dissent that it may be due to procedural issues raised by attorneys for the class at oral arguments in April.

Several of his colleagues **appeared wary** of issuing a potentially advisory opinion in the case because of the class's claims that the challenged certification order no longer controls the case. The Ninth Circuit panel affirmed class certification based on a May 2022 definition, but an August 2022 amended definition, which Labcorp never appealed, is now operative, the class argued.

Justice Kavanaugh described that argument as "insubstantial" Thursday.

"To be clear, the court does not hold that the case is moot," he said. "Rather, the court simply declines to decide either the threshold mootness question or the important class-action question on which we granted certiorari. Unlike the court, I would resolve those questions."

He added that the Ninth Circuit's decision in this case will "generate serious real-world consequences" and allow class action litigants to overinflate the damages they seek. That will "raise the stakes" for businesses, coerce them into settling class actions and pass the cost on to individuals, he said.

"Importantly, the coerced settlements substantially raise the costs of doing business," Justice Kavanaugh wrote. "And companies in turn pass on those costs to consumers in the form of higher prices; to retirement account holders in the form of lower returns; and to workers in the form of lower salaries and lesser benefits. So overbroad and incorrectly certified classes can ultimately harm consumers, retirees, and workers, among others."

Gupta Wessler LLP principal Deepak Gupta, who represents the class in this case, called the Supreme Court's dismissal a "win" in a statement Thursday.

"Class actions are a critical tool for ensuring access to the courts," he said. "Today's dismissal leaves the law of class actions intact, allowing people to band together to hold powerful corporations accountable for their misconduct."

Counsel for Labcorp didn't immediately respond to requests for comment.

The laboratory diagnostics company had asked the Supreme Court in a September 2024 petition for review to reverse the Ninth Circuit's decision in this case, arguing it was based on circuit precedent that violates both standing principles and the rules regulating class actions.

Seven months earlier, in February 2024, a three-judge panel had upheld a California judge's certification of a class of blind patients, despite Labcorp's objection that the class definition swept in some uninjured members. The panel's ruling was controlled by the circuit's 2022 **en banc opinion** in *Olean Wholesale Grocery v. Bumble Bee Foods*, which established that classes could be certified as long as common questions predominated over individualized ones — even those dealing with injury or entitlement to damages.

The Supreme Court **passed on a chance** in 2022 to review that opinion, leading to **an array of divisions** among circuit courts when it comes to class certification standards, Labcorp argued.

The U.S. Solicitor General's Office joined Labcorp in requesting clarification from the Supreme Court, arguing that allowing federal courts to certify classes that include uninjured members is "nonsensical" and inconsistent with historical judicial practices.

But the class of blind patients argued it would "make little sense" to answer such a consequential question in a now-moot appeal. It urged the Supreme Court to dismiss the case as improvidently granted both in a letter submitted prior to oral arguments and during oral arguments.

On Thursday, Gupta applauded the court for declining to allow Labcorp to "use a procedurally flawed case

to propose a sea change in the law."

Labcorp is represented by Noel J. Francisco, Brinton Lucas, Madeline W. Clark and David Wreesman of Jones Day.

The class is represented by Deepak Gupta, Matthew W.H. Wessler, Jonathan E. Taylor, Gregory A. Beck, Gabriel Chess and Jennifer D. Bennett of Gupta Wessler LLP.

The government is represented by Sopan Joshi, Charles W. Scarborough and Jeffrey E. Sandberg of the U.S. Solicitor General's Office.

The case is Laboratory Corporation of America Holdings v. Davis et al., case number 24-304, in the Supreme Court of the United States.

--Editing by Alex Hubbard.

Update: This story has been updated to include more information about the court's ruling and comment from class counsel.

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NJ Judge Trims Pool Equipment Maker Shareholder Suit

By **Sydney Price**

Law360 (June 5, 2025, 7:39 PM EDT) -- A New Jersey federal judge has dismissed some claims in a proposed investor class action alleging pool supply company Hayward Holdings Inc. concealed it was struggling with ballooning inventory and lowered demand, but ruled that some of the claims, including the claims against the company's consortium, can continue.

U.S. District Judge William J. Martini said in an opinion on Wednesday that the investors only partially support their allegations that Hayward acted with scienter by not informing investors earlier that its primary customers had overpurchased inventory.

In the most recent version of the complaint, which was filed in November after Judge Martini **dismissed a previous version** of the suit, the investors allege distributors loaded up on inventory from Hayward to avoid logistics and supply chain challenges brought on by the COVID-19 pandemic.

The "channel stuffing" caused demand from distributors to slow, the investors claim. However, even after customers began canceling orders in March 2022, Hayward continued to manufacture at a high rate, which eventually resulted in excess unsold inventory, according to the suit. The defendants knew about these issues but tried to minimize or conceal them from investors, the suit alleges.

According to the complaint, Hayward had long been a family-run company until a consortium led by CCMP Capital Advisors LP and MSD Partners LP, which are also defendants in the suit, acquired it in 2017. The investors say that demand in the pool industry rose at the start of the COVID-19 pandemic, and Hayward's revenue grew by about 20% in 2020, prompting an initial public offering in March 2021.

Judge Martini said Wednesday that the suit does not show Hayward's risk disclosures warned only of hypothetical risks and not those that have actually transpired.

"Taking as true that Hayward already had too much inventory or sales and demand had stalled, plaintiff's claim that 'a material adverse effect' had already materialized by mid-2021 is conclusory and not particularized," Judge Martini said.

According to the opinion, Hayward insists that it made "good faith statements and projections" while navigating a global pandemic. Judge Martini said, however, Hayward's failure to make "good faith explanations" for their misstatements adds to the inference of scienter.

Whether the inference of scienter is strong is a "close call," but the investors are only required to show that the inference is "at least as strong as any opposing inference," and, therefore, some of the scienter claims can proceed, the opinion states.

Judge Martini will also allow claims against CCMP and MSD — which the investors claim each owned over 30% of Hayward's outstanding common stock and collectively had majority voting control during the class period — to proceed, saying the question of whether they were controlling persons cannot be resolved at the pleading stage of the litigation.

"Despite language that suggests only the possibility of control, 'courts have given heavy consideration to the power or potential power to influence and control the activities of a person, as opposed to the actual exercise thereof,'" the opinion states.

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

Lead plaintiff Fulton County Employees' Retirement System is represented by Matthew F. Gately of Cohn Lifland Pearlman Herrmann & Knopf LLP.

Hayward Holdings is represented by Kevin McDonough, Andrew Clubok, Corey Calabrese, Eric Pettis and Larry Hong of Latham & Watkins LLP.

CCMP Capital Advisors LP is represented by Sanjay P. Ibrahim and Scott W. Parker of Parker Ibrahim & Berg LLP.

MSD Partners LP is represented by Amanda L. Genovese of Seyfarth Shaw LLP.

The case is City of Southfield Fire and Police Retirement System v. Hayward Holdings Inc. et al., case number 2:23-cv-04146, in the U.S. District Court for the District of New Jersey.

--Editing by Jay Jackson Jr.

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SPAC Inks \$4.75M Deal To End Merger Misrepresentation Suit

By **Katryna Perera**

Law360 (June 5, 2025, 5:55 PM EDT) -- The directors and controlling stockholders of special purpose acquisition company Graf Industrial Corp. have agreed to pay \$4.75 million to resolve claims that they misled investors ahead of a 2020 merger with Velodyne Lidar Inc.

The parties jointly filed a **settlement agreement** in Delaware Chancery Court on Wednesday. The filing states that plaintiff Paul Berger, as trustee for the Paul Berger Revocable Trust, and his attorneys from Block & Leviton LLP feel the settlement is fair, reasonable and adequate for class members.

"Plaintiff has agreed to settle the claims raised in this action ... after considering: the substantial benefits that plaintiff and the other members of the settlement class will receive from the resolution of the action; the attendant risks of litigation; and the desirability of permitting the settlement to be consummated," the filing states.

According to the filing, the deal was reached after a "double-blind mediator's proposal" to settle the action in March.

The filing also states that lead counsel will seek an award of attorney fees and an incentive award for the lead plaintiff, but that the parties have not yet discussed the amount for those potential fees.

Berger, as trustee of a trust that was formerly a shareholder of SPAC Graf Industrial Corp., filed the Chancery Court **complaint** in 2023 against SPAC sponsor Graf Acquisition LLC, Graf Industrial's CEO and founder James Graf, the SPAC sponsor's co-owner and board members of the SPAC.

The suit said multiple disclosure failures and misrepresentations were made in the months leading up to the SPAC transaction that took Velodyne public, a transaction they said resulted in a windfall for the individual defendants but subsequently led to a costly share nosedive.

"Less than a year after the transaction closed, New Velodyne's stock was trading far below \$10 per share," the complaint said. "It never recovered, trading at around \$1 per share when the company merged with [fellow lidar sensor company] Ouster in February 2023."

Velodyne merged in 2023 with Ouster Inc. in a stock-for-stock "merger of equals," according to an announcement at the time.

The settlement comes after Vice Chancellor Lori W. Will ruled that the defendants **can use technology-assisted review** to "ease their discovery burden" in response to a motion to compel, which she partially granted.

In October, Vice Chancellor Will ruled the case's individual defendants have to provide certain documents in response to the motion filed by plaintiff Paul Berger as trustee for the Paul Berger Revocable Trust but may do so by using technology-assisted review.

The vice chancellor said technology-assisted review "promotes efficiency in the discovery process in several meaningful ways," including that "it reduces the document set for human review and limits it to documents more likely to be responsive."

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

Berger is represented by Jason Leviton, Kimberly A. Evans, Lindsay K. Faccenda, Irene R. Lax and Robert Erikson of Block & Leviton LLP.

The defendants are represented by S. Michael Sirkin and Benjamin Whitney of Ross Aronstam & Moritz LLP and Kevin P. Muck, William Brenc and Ross E. Firszenbaum of WilmerHale.

The case is Paul Berger v. Graf Acquisition LLC et al., case number 2023-0873, in the Court of Chancery of the State of Delaware.

--Additional reporting by Rose Krebs. Editing by Jay Jackson Jr.

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Del. Court Scuttles Salvage Co. Investor's Doc Suit Appeal

By **Jeff Montgomery**

Law360 (June 5, 2025, 7:45 PM EDT) -- An ocean salvage company stockholder's attempt to refloat a rejected Delaware Court of Chancery suit for documents on a more than decade-long treasure hunt off Cape Cod, Massachusetts, sank again Thursday after a vice chancellor found that a magistrate in chancery made the right call.

Vice Chancellor Bonnie W. David **ruled** that Senior Magistrate in Chancery Selena E. Molina applied the correct standard to the case, took post-demand evidence into account and properly weighed evidence in considering Maritime Explorations Inc. investor Vincent Murphy's books and records action.

Murphy's complaint said he was seeking records to investigate possible fraudulent conveyances by "rogue fiduciaries." Some of those named were at the center of the earlier suit, filed in 2019, including Barry L. Clifford, a well-known underwater explorer involved in the 1982 discovery of the wreck of the Whydah Galley. The ship sank off Cape Cod in 1717 while commanded by the pirate Sam Bellamy.

"The senior magistrate judge appropriately weighed the evidence presented at trial in reaching the conclusion that plaintiff failed to meet his low burden to demonstrate a credible basis for investigation," Vice Chancellor David wrote.

Peter B. Ladig of Bayard PA, counsel to Maritime Explorations, said late Thursday, "Senior Magistrate Molina issued a thoughtful and thorough decision, so we were not surprised that the exceptions to her report were overruled quickly."

Conduct in dispute in the 2019 case, "which occurred many years ago, was insufficient to satisfy plaintiff's burden to demonstrate a credible basis to suspect more recent or ongoing wrongdoing," the opinion said.

Rejected as a result were arguments in Murphy's complaint that the decision ignored "severe corporate trauma" purportedly established in the 2019 case as well as Maritime Explorations' failures to hold an annual meeting and "other purported evidence of wrongdoing."

The 2019 case alleged that Clifford and another Maritime Explorations director breached their fiduciary duty to the company over many years by issuing to themselves nearly all the voting and economic power of Maritime Explorations through a series of self-interested share transactions.

The deals revolved around the Whydah, its thousands of coins that are said to be worth hundreds of millions of dollars, and its potential tourism value, as well as what the suit described as self-interested decisions by Clifford and his allies since the ship's discovery.

Among other claims, Murphy's suit said Clifford appeared to have usurped a corporate opportunity to create a Las Vegas exhibit deal that could attract 300,000 visitors a year, "each paying approximately \$30 plus merchandise sales." But Clifford also indicated, according to the earlier suit, that he preferred to wait until that suit ended.

In a footnote, the vice chancellor observed that although Murphy cited Maritime Explorations's failure to hold an annual meeting as evidence of possible wrongdoing, the complaint did not seek an

investigation or documents regarding that issue.

Other parties did not immediately respond to requests for comment.

Murphy is represented by Amit U. Vyas of Hudson Jones Jaywork & Fisher LLC.

Clifford and the estate of Lazier are represented by Samuel T. Hirzel and Gillian L. Andrews of Heyman Enerio Gattuso & Hirzel LLP.

MEI is represented by Peter B. Ladig of Bayard PA.

The case is Vincent Murphy v. Maritime Explorations Inc., case number 2025-0031, in the Court of Chancery of the State of Delaware.

--Editing by Dave Trumbore.

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Bernstein Litowitz Can Hire Ex-SEC Atty Over Musk Objection

By **Jessica Corso**

Law360 (June 5, 2025, 12:35 PM EDT) -- A New York federal judge on Thursday gave the all-clear for investor-side firm Bernstein Litowitz Berger & Grossmann LLP to hire the U.S. Securities and Exchange Commission's former litigation chief over the objections of Elon Musk.



Elon Musk is facing a Bernstein Litowitz-led class action alleging he failed to timely disclose his purchase of company stock back when the company was the publicly traded platform **Twitter**. (Francis Chung/POLITICO via AP Images)

U.S. Magistrate Judge Gabriel Gorenstein ruled that the firm has the proper procedures in place to wall off any conflicts of interest that the prospective new hire, Jorge Tenreiro, could bring with him. Judge Gorenstein said that Bernstein Litowitz's proposed conflict screening procedures would be effective in preventing Tenreiro from working on the firm's case against Musk.

Musk argued that Tenreiro's involvement in an SEC investigation against him when Tenreiro was chief litigation counsel would harm the billionaire owner of the social media platform X. Musk is facing a Bernstein Litowitz-led class action accusing him of failing to timely disclose his purchase of company stock back when the company was the publicly traded platform Twitter. The SEC has also sued him on similar grounds.

Bernstein Litowitz **revealed in April** it planned to hire Tenreiro, asking Judge Gorenstein to approve its

conflict screening procedures over Musk's objections so it could move forward with the hiring process.

Tenreiro joined the SEC in 2013 and was the deputy chief of the agency's crypto assets and cyber unit for two years before being promoted to chief litigation counsel in December 2024.

It was in that position that he reviewed and commented on documents related to the SEC's decision to **file a lawsuit** against Musk in January over his purchase of Twitter stock, according to a declaration Tenreiro filed with the court in April.

But he said he was not involved in the day-to-day work that led to the filing of the case and said he has agreed not to discuss the SEC's case against Musk with anyone else at Bernstein Litowitz nor to access any firm filings related to the class action.

That, alongside other procedures that Bernstein Litowitz plans to put in place, including promising not to assign Tenreiro any portion of a fee earned in the Musk case, was enough under New York Rules of Professional Conduct to approve the conflict screening procedures, Judge Gorenstein said.

"If implemented correctly, the procedures eliminate the possibility that any information relating to the suit would flow between Tenreiro and anyone else at the firm," the judge wrote in his **Thursday opinion**. "They also ensure that Tenreiro will not gain financially from any potential recovery arising from this action."

And while Musk said that Tenreiro's hiring could undermine public confidence in the legal system, Judge Gorenstein said that Tenreiro wasn't well-known enough for that to be true.

"While the positions Tenreiro held rank high in the hierarchy of the SEC, there is no evidence that these positions are commonly known among the public," the judge wrote.

"Furthermore, the court is unaware of a case that has relied solely on concerns regarding an attorney's prior 'highly visible government position' as a basis for rejecting otherwise adequate screening procedures," he added.

While Bernstein Litowitz told the court that Tenreiro has been formally offered a role as partner contingent on the judge's approval of the conflict screening procedures, it wasn't immediately clear whether or when the former SEC attorney would join the firm.

Neither Tenreiro nor an attorney for Bernstein Litowitz immediately responded to a request for comment Thursday. Attorneys for Musk also didn't immediately respond to a request for comment.

The lead plaintiff, Oklahoma Firefighters Pension and Retirement System, is represented by Salvatore J. Graziano, Katherine M. Sinderson, Jeremy P. Robinson, Jonathan G. D'Errico and Emily A. Tu of Bernstein Litowitz Berger & Grossmann LLP.

Musk is represented by Alex Spiro, Jesse Bernstein, Jacob J. Waldman, Nathan Goralnik and Rachel Frank of Quinn Emanuel Urquhart & Sullivan LLP.

The case is Marc B. Rasella v. Elon Musk, case number 1:22-cv-03026, in the U.S. District Court for the Southern District of New York.

--Editing by Robert Rudinger.

Update: This article has been updated with background on the case and excerpts from the opinion.



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Public Cos. Must Heed Disclosure Risks Amid Trade Chaos

By **Jennifer Lee and Edward Westerman** (June 5, 2025, 5:48 PM EDT)

Ongoing uncertainties caused by the trade war and President Donald Trump's evolving stance on tariffs and trade restrictions, including sanctions and export controls, have exponentially escalated financial reporting pressures on public companies.

In this article, we discuss the key financial reporting and disclosure risks, as well as takeaways, for public companies as they navigate significant market instability in international trade.

Background

Trade tensions have spiraled over the past two months, after Trump announced that the U.S. would impose 145% tariffs on Chinese imports, and China responded by announcing 125% tariffs on U.S. imports.

The U.S. tariffs on Chinese imports went into effect on April 9, as the exception to Trump's decision to suspend reciprocal tariffs imposed on most of the U.S.'s other trade partners for 90 days.[1]

On May 12, the U.S. and China announced a 90-day rollback of these tariffs. The U.S. will reduce the tariff on Chinese imports to 30%, and China will reduce the tariff on U.S. imports to 10%.

This is the most recent example of how Trump has imposed — and in some cases, paused, reversed and again reinstated — a wave of tariffs on imports from over 50 U.S. trading partners, and on specific commodities ranging from steel to car parts to electricity.[2] There is considerable uncertainty regarding the final resolution that the U.S. and China will ultimately reach as a result of the ongoing negotiations.

In anticipation of tariff activity, some home building companies responded by stockpiling hundreds of thousands of dollars of supplies imported from countries like Canada and Mexico to protect themselves from higher import costs.[3] Notably, Trump announced, then shortly thereafter paused, 25% tariffs on most Canadian and Mexican imports, causing uncertainty and frustration.[4]

Other industries, including consumer retail, have cut their financial forecasts for the year, predicting lower sales and profits, in part due to Trump's tariff policy, which has triggered retaliatory tariffs from foreign governments on American goods.[5] Companies are facing increasing risks from the evolving landscape of sanctions and export controls.

As part of its "America First" trade policy, the Trump administration views export controls as a tool to strengthen economic and national security. The policy states that the U.S. "must ensure that its advanced technology does not flow to our adversaries," and that "[e]xport controls should be simpler, stricter, and more effective, while promoting U.S. dominance in AI and asserting global technological leadership." [6]

Specifically, the policy directs the secretaries of state and commerce to "assess and make recommendations regarding how to maintain, obtain, and enhance our Nation's technological edge



Jennifer Lee



Edward Westerman

and how to identify and eliminate loopholes in existing export controls — especially those that enable the transfer of strategic goods, software, services, and technology to countries to strategic rivals and their proxies.”[7]

More recently, the head of the U.S. Department of Justice's Criminal Division disseminated a memorandum to all division personnel refocusing its priorities with regard to white collar crime.[8]

The memorandum identifies as a key threat to U.S. national security "trade and customs fraudsters, including those who commit tariff evasion, seek to circumvent the rules and regulations that protect American consumers and undermine the Administration's efforts to create jobs and increase investment in the United States."

Specific Criminal Division priorities relating to international trade and sanctions include prosecuting trade and customs fraud, including tariff evasion, and conduct that threatens the country's national security, including threats to the U.S. financial system by gatekeepers, such as financial institutions and their insiders that commit sanctions violations.

Some companies have already announced losses in the billions due to trade restrictions imposed by the White House.

A notable example is Nvidia Corp., the industry-leading AI chip designer, which has faced the imposition of an export license requirement on shipments to China of its H20 chip, designed specifically for the Chinese market.[9] Nvidia recently announced that it is downgrading the design of the H20 chip in an effort to eliminate the licensing requirement.[10]

The uncertainty is far from over. On May 28, in *V.O.S. Selections Inc. v. U.S.*, a panel of federal judges in the U.S. Court of International Trade blocked many of Trump's tariffs, declaring them illegal and "exceed[ing] any authority granted" to the president by federal law.[11]

A day later, on May 29, the U.S. Court of Appeals for the Federal Circuit stayed the CIT order, temporarily reinstating Trump's tariffs pending the government's appeal.[12]

As courts continue to review Trump's tariff policies, and as Trump continues to engage in talks with foreign countries and announce new changes to his policies on tariffs and trade, public companies must stay up to date with ongoing developments to adjust their business strategies and ensure compliance with various reporting and disclosure obligations.

The Impact of the Trade War and Tariffs on Public Companies

Public companies face several financial reporting and disclosure risks relating to the true impact of the trade war — including potential or actual tariffs, export controls and sanctions — on their business operations and financial results.

Fundamentally, these risks can negatively affect a company's earnings — i.e., its net income after all expenses, including taxes — and lead to the disclosure of material risks affecting the business, because the company faces potentially higher costs of doing business in a trade war.

In the U.S., public companies must navigate these risks in light of their requirement to follow generally accepted accounting principles, which prescribe rules and standards ensuring the consistent disclosure of how they report their revenues, costs and estimated losses.

The U.S. Securities and Exchange Commission has traditionally viewed financial reporting issues as part of its core enforcement mission. For instance, the SEC has brought numerous cases against public companies that manipulated the cost of goods sold, or inflated revenues[13] or inventory value.[14]

In the context of the trade war, these risks are amplified, given that the SEC has also brought numerous cases against public companies for violations of the books and records and internal controls provisions of the Securities Exchange Act of 1934, over internal accounting controls that failed to prevent the concealment of commercial transactions with restricted countries in an effort to evade U.S. sanctions and export controls.[15]

In this administration, the SEC will likely continue to investigate public companies that misrepresent identities of suppliers and customers to avoid the impact of sanctions and tariffs, falsely improve their profit margins by not recording costs associated with sanctions and tariffs, intentionally conceal disappointing financial performance in key parts of their business, or otherwise engage in accounting fraud to mislead investors.

Public companies are adjusting to a shifting geopolitical landscape in which the Trump administration has imposed tariffs on exports from specific countries, including China. Moving supply chains from one country to another, however, takes time and resources.

Below we discuss the primary enforcement risks that public companies face in ensuring the accuracy of their financial statements and SEC filings in light of the trade war, tariffs and sanctions.

Circumventing Tariffs and Trade Restrictions

Tariffs

The major risk that public companies face in connection with tariffs is that they might fail to record tariff-associated costs by manipulating or misrepresenting their supply chains.

For instance, companies might purchase finished goods or components, but misreport the country of origin as a low-tariff country instead of a high-tariff one in order to avoid recording the cost of tariffs. They could also falsely claim that suppliers of tariffed goods will cover some or all of the tariff costs.

Export Controls and Sanctions

In seeking to avoid the impact of sanctions or export controls, public companies could engage in various deceptive schemes, including:

- Manipulating the country to which restricted goods will be sold — for instance, with documentation stating a destination of Malaysia, when employees know goods are going to China;
- Misrepresenting the identity of the end customer;
- Misrepresenting the nature of the goods being shipped;
- Misrepresenting the end use of shipped goods;
- Circumventing controls designed to identify restricted parties;
- Circumventing controls designed to identify and classify products controlled under the Export Administration Regulations;
- Circumventing controls designed to assess export license requirements; and
- Failing to investigate third parties that have a high probability of export controls evasion, including distributors, resellers, agents and end users.

Concealment of Expenses, Costs and Losses Related to Tariffs or Trade Restrictions

Public companies also face risks with respect to manipulation of line items in their financial statements. These risks include manipulating estimated losses related to tariffs or sanctions, or failing to disclose or account for estimated fines, penalties or impacts incurred by illegal acts designed to evade U.S. sanctions and export laws.

Public companies might also fail to record proper amounts of charges for unusable inventory, including finished goods, raw materials and other components, or manipulate the timing of such

charges from quarter to quarter, in order to meet earnings targets.

Inadequate Risk Factor Disclosures

Finally, public companies need to be both accurate and careful in how they describe the risks of the trade war, including potential or actual tariffs, for their business. The SEC has brought numerous cases penalizing issuers for downplaying such risks by treating them as hypothetical scenarios, when the actual risk has already transpired.[16]

Key Takeaways

Public companies need to be cognizant of the SEC's enforcement landscape with respect to financial reporting and disclosure risks, as well as sanctions and export regulations. The trade war presents multilayered risks regarding a public company's ability to manage the impact of tariffs and sanctions while providing truthful earnings guidance and protecting its profit margins.

The current SEC will likely scrutinize any public company deemed to be evading U.S. export and controls laws, or manipulating its financial statements, in order to conceal the impact of tariffs or sanctions.

Public companies need to ensure that their accounting practices and internal controls align with their public-facing disclosures, especially their critical accounting policies. When a financial reporting crisis occurs, the SEC will likely scrutinize closely how a public company discloses its accounting practices to investors. It is important to make sure that this road map is consistent — both externally and internally.

A robust compliance program will help mitigate risks. Public companies should ensure that they have strong compliance cultures, effective whistleblower channels, and effective policies and procedures to discourage risky behavior and escalate issues before they turn into crises.

They should also develop rigorous counterparty due diligence tools to ensure that they identify the ultimate beneficial owners of customers and other trading partners, as well as their countries of origin, in order to avoid even inadvertent violations of export control regulations or sanctions laws.

Jennifer Lee is a partner at Jenner & Block. She previously served as assistant director in the U.S. Securities and Exchange Commission's Division of Enforcement.

Edward Westerman is a managing director at Secretariat Advisors LLC.

Secretariat managing directors John Rademacher and Norman Harrison, and Jenner & Block associate Rebekah Lee, contributed to this article.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

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[14] SEC Charges Retailer and Former CEO for Accounting, Reporting, and Control Failures, SEC.gov (July 21, 2021), <https://www.sec.gov/newsroom/press-releases/2021-133>.

[15] See, e.g., Quad/Graphics Inc.; RPM.

[16] In the cybersecurity context, the SEC has brought numerous cases against public companies for misleading cybersecurity risk factor disclosures where the company had reason to know a material cybersecurity incident occurred. See, e.g., SEC Charges Four Companies With Misleading Cyber Disclosures, SEC.gov (Oct. 22, 2024), <https://www.sec.gov/newsroom/press-releases/2024-174>.



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Liberty Mutual Must Face Retirement Plan Class Action

By **Patrick Hoff**

Law360 (June 5, 2025, 8:03 PM EDT) -- Liberty Mutual can't knock out a class action claiming it saddled its employee 401(k) plan with high fees and deficient investment options, a Massachusetts federal judge ruled Thursday, saying workers had demonstrated the company's actions cost them money.

In a lengthy docket entry, U.S. District Judge Mark G. Mastroianni partially denied Liberty Mutual Group Inc.'s motion for summary judgment in the Employee Retirement Income Security Act lawsuit led by six former employees.

According to the opinion, the judge in March largely rejected Liberty Mutual's arguments for excluding experts demonstrating that plan participants lost money, and the insurer agreed that its summary judgment and exclusion motions were linked, meaning Liberty Mutual can't nix claims it violated its duty of prudence to plan participants.

However, Judge Mastroianni tossed the workers' claims that Liberty Mutual had breached its duty of loyalty to the 401(k) plan participants, saying the workers failed to back up their assertion that the insurer kept two funds — Sterling Mid Cap Value Fund and the Wells Fargo US Government Money Market Fund — to benefit itself.

According to the order, the plan participants pointed out that Liberty Mutual and Wells Fargo executives had dinner to discuss the companies' business relationship in August 2016, but Judge Mastroianni said there's no evidence the Wells Fargo fund was discussed during the meal.

"Regardless, the mere fact that senior executives attended a dinner does not support plaintiffs' claim that defendants retained the Wells Fargo US Government Money Market Fund in order to benefit Liberty Mutual's business interests at the expense of the plan participants' interests," Judge Mastroianni wrote.

The former employees sued Liberty Mutual and its 401(k) committee in April 2020. According to their complaint, the company failed to keep an eye on what the plan was being charged for recordkeeping expenses, leading to exorbitant fees that were at least double what comparable plans were paying.

The workers also claimed that Liberty Mutual kept the Sterling Mid Cap Value Fund and the Wells Fargo fund to improve its business relationships with other financial institutions and drive revenue for the company, even though other investment options would have provided better returns.

Judge Mastrioni granted class certification in June 2023, greenlighting a group comprising nearly 50,000 participants and beneficiaries of the Liberty Mutual 401(k) Plan beginning in April 2014.

Nathan Stump, who is representing the class, said in a statement to Law360 that they "respect the court's decision and look forward to the trial."

Representatives of Liberty Mutual did not immediately respond to requests for comment late Thursday.

The class is represented by Nathan D. Stump, Kurt C. Struckhoff and Joel D. Rohlf of Schlichter Bogard LLP and by Robert T. Naumes and Christopher Naumes of Naumes Law Group.

Liberty Mutual is represented by James R. Carroll, Michael S. Hines and Mary E. Grinman of Skadden Arps Slate Meagher & Flom LLP.

The case is Ahmed et al. v. Liberty Mutual Group Inc. et al., case number 3:20-cv-30056, in the U.S. District Court for the District of Massachusetts.

--Editing by Nick Petruncio.

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Spice Co. Hid Lead Levels In Products, Suit Claims

By **Jonathan Capriel**

Law360 (June 5, 2025, 6:02 PM EDT) -- Florida-based Badia Spices sold ground ginger and cinnamon with elevated levels of lead, according to a New York federal lawsuit that leans on laboratory testing conducted by state food safety regulators.

Brooklyn, New York, resident Enya Kolker filed the proposed class action, claiming she found unsafe levels of lead in products she purchased from the spice maker. The complaint filed Wednesday specifically points to a consumer alert issued by the New York State Department of Agriculture and Markets warning that Badia-branded ground ginger and ground cinnamon had "elevated lead levels."

"The contamination was discovered after analysis by New York State Food Laboratory personnel revealed the product tested above the 1 part per million action level for lead in spices," according to the June 2024 notice by the department. "Consumers who may have purchased these products should not consume them and are advised to discard the product immediately."

Kolker claims to have confirmed the presence of lead in the ground ginger she bought by sending it to ECA Laboratory, a third-party testing facility in San Diego. The results showed the product contained lead at .973 parts per million, the suit said. That is well above the maximum amount the U.S. Food and Drug Administration recommends for most infant foods.

The suit accuses Badia of deceptive and misleading practices, violations of New York General Business Law, breach of warranty and unjust enrichment.

Kolker seeks monetary damages associated with the purchase of the products and treble damages. She also said she is entitled to \$50 and \$500 per transaction, according to New York General Business Law sections 349 and 350, respectively.

A representative for Badia said Thursday that the company doesn't comment on pending litigation. Counsel for Kolker did not immediately respond to request for comment.

Kolker is represented by Jason P. Sultzer and Daniel Markowitz of Sultzer & Lipari PLLC.

Counsel information for Badia wasn't immediately available Thursday.

The case is Enya Kolker v. Badia Spices Inc., case number 1:25-cv-03099, in the United States District Court for the Eastern District of New York.

--Editing by Stephen Berg.

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Feds Slam 'Flawed' Critique Of Camp Lejeune Water Expert

By **Abigail Harrison**

Law360 (June 5, 2025, 8:56 PM EDT) -- The U.S. Department of Justice pushed to keep its water quality expert in North Carolina federal court on Wednesday, saying that the Camp Lejeune toxic water plaintiffs' critique of him was "fundamentally flawed" and experts on both sides relied on some of the same science.

The government asked the court to preserve four opinions offered by geochemist and geohydrologist Remy Hennes because his methods largely track with the relevant scientific community, and mirror those of other engineers. The government's **response** comes amid a flurry of requests from both sides to exclude expert witnesses; the plaintiff families and veterans also hit back Wednesday with six requests to preserve witnesses and topics.

Hennes's opinions included that the contaminant tetrachloroethylene arrived at a Lejeune neighborhood's water supply in the 1970s and that a different water well was not contaminated at all with a different solvent, trichloroethylene. Hennes also said that some portion of contaminants never made it into the drinking water, instead volatilizing from water to air while filling tanks and treating water.

The DOJ on Wednesday backed Hennes's methods. For example, the way he picked flow paths, or how water moves through the landscape, relied on models from the federal Agency for Toxic Substances and Disease Registry, the government said. The families and veterans' own experts have backed that agency's water model.

Another of the plaintiffs' arguments raises factual disputes rather than issues with methodology, so the challenge fails, the DOJ said. The families claimed that Hennes had no basis for his opinion that a specific water supply hadn't been contaminated with trichloroethylene, a solvent used for cleaning metal. Casting doubt on the facts, not the methods, can only affect the weight of that opinion and not its admissibility, the government said.

Furthermore, it said Hennes's opinion on contaminant volatilization from filling a large water tank through a manhole is not "overly speculative" and is similar to a method used by the plaintiffs' experts.

The families and veterans also claim Hennes did not explain how he found that some contaminants were lost during water treatment. The government disagreed, saying his opinion was underpinned by a specific chemical phenomenon described in a textbook he cited, and again recognized by the plaintiffs' own experts.

The geohydrologist relied on his "extensive" experience studying how organic chemicals move through the environment only to talk qualitatively — not quantitatively — about the scale of those losses, just as the plaintiffs' experts did, the DOJ said. His experience includes many of the same contaminants in the Camp Lejeune case, it said.

"Yet again, because Dr. Hennes's 'methods are very similar to those of the other engineers, his methods likely have acceptance within a relevant scientific community[,]' and [the plaintiffs' leadership group's] argument fails," it said.

Hennes's report included an overview of Lejeune's geology and hydrogeology relevant to

groundwater, information on contaminants and their sources and a review of Lejeune's historical data on those contaminants, the government said.

The families and veterans made two bids in April to exclude portions of Hennet's opinions.

In early April, the litigants **sought to exclude** some of his observations from a visit to the base on the basis that the visit was after a deadline to submit reports. U.S. Magistrate Judge Robert Jones granted the motion in part on May 8, asking the DOJ to make Hennet available for another deposition with more time, and for both parties to submit a joint statement with updates.

Their issues with the reliability of Hennet's opinions were filed at the end of April.

The DOJ declined to comment Thursday. The families and veterans did immediately respond to requests for comment.

The veterans and families are represented by J. Edward Bell of Bell Legal Group LLC, Zina Bash of Keller Postman LLC, Robin L. Greenwald of Weitz & Luxenberg PC, Elizabeth Cabraser of Lieff Cabraser Heimann & Bernstein LLP, W. Michael Dowling of The Dowling Firm PLLC, James A. Roberts of Lewis & Roberts PLLC and Mona Lisa Wallace of Wallace & Graham PA.

The government is represented by Jonathan Guynn, J. Patrick Glynn, Bridget Bailey Lipscomb, Adam Bain, Haroon Anwar, Giovanni Antonucci, Alanna Horan, Kailey Silverstein and Allison M. O'Leary of the U.S. Department of Justice's Civil Division.

The case is In re: Camp Lejeune Water Litigation, case number 7:23-cv-00897, in the U.S. District Court for the Eastern District of North Carolina.

--Additional reporting by Tom Lotshaw. Editing by Brian Baresch.

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How Trump's Pardons Could Sway Prosecutorial Discretion

By **Phillip Bantz**

Law360 (June 5, 2025, 2:38 PM EDT) -- As President Donald Trump dismantles a growing list of white collar criminal cases with a flurry of clemency grants early in his second term, erasing years of investigative and prosecutorial work with a stroke of his black Sharpie, experts worry his actions will have a chilling effect on prosecutorial decision-making.

Ideally, experts said, line prosecutors working at U.S. attorney's offices throughout the country will keep their heads down and continue to make charging decisions based on the evidence, without weighing the possibility that a president might unravel their efforts with a pardon down the road.

"We don't want prosecutors tempering an impartial consideration of the facts and the law with predictions about who might or might not get a pardon," Jarrod Schaeffer, a partner at Abell Eskew Landau LLP who served for more than five years as a federal prosecutor for the Southern District of New York, told Law360.

But he added, "At the same time, we are in somewhat uncharted territory with the way in which clemency power is being exercised, and so it may become more difficult for prosecutors not to take things like that into account."

Among Trump's recent high-profile clemency grantees are Nikola Corp. founder **Trevor Milton**, former Illinois **Gov. Rod Blagojevich**, BitMEX crypto exchange co-founder **Arthur Hayes** and Ozy Media founder **Carlos Watson**, whose clemency grants represent the abrupt undoing of significant and resource-intensive white collar cases.

In other instances, Trump's U.S. Department of Justice has stepped in to quash criminal cases before trial, including the Southern District of New York's criminal corruption prosecution of New York City Mayor Eric Adams. The DOJ's directive to move to dismiss Adams' charges spurred **mass resignations** of career prosecutors.

Trump's latest batch of clemency actions announced May 28 benefit a wide array of defendants, including reality TV stars **Todd and Julie Chrisley**, who were both convicted of bank fraud and tax evasion, along with Gangster Disciples street gang kingpin and founder Larry Hoover and former Connecticut **Gov. John G. Rowland**.

Roberto Alves, chair of the Connecticut Democratic Party and mayor of Danbury, criticized the pardon for Rowland, who was convicted in two separate corruption cases. Alves said in a statement that Rowland's "behavior was condemned by Democrats and Republicans, who in the wake of his arrest and conviction, passed landmark legislation to bring more accountability to elections and state contracting."

"To erase our state's reckoning with corruption is disrespectful of Connecticut law and a shameful misuse of pardon power," he added.

Hundreds of defendants, meanwhile, are pursuing multiple **pathways to clemency** under Trump, from the traditional route of filing a petition with the Justice Department's Office of the Pardon Attorney to reaching out to Trump's pardon czar, Alice Marie Johnson, or **paying big sums** to lobbyists, law firms and others who offer back channels to the White House.

But no matter the avenue to clemency, proving loyalty to Trump is a key to securing a pardon or commutation, according to Sam Mangel, a prison and sentencing consultant who says he has helped six white collar clients receive clemency under Trump's second administration. He declined to name the clients.

"One of the things we do when we put a [clemency] package together is point-blank ask about political affiliation and can we get support from the Republican party in your area?" Mangel told Law360. "We're helping a person right now who has very substantial Republican supporters. Having that type of affiliation and character support is invaluable."

He added, "Under any administration, you have to show that you support the one person who holds your destiny in their hands."

In some cases, Trump has granted clemency to defendants before they began serving their sentences. Examples include Michele Fiore, a former Las Vegas city councilmember pardoned on April 23 before her sentencing for a fraud conviction, and James Callahan, a New York labor union leader who was pardoned on May 28, the day before he was slated to be sentenced after pleading guilty to filing false labor union reports.

Prosecutors had sought a six-month sentence for Callahan. U.S. District Judge Ana Reyes, who was going to handle the sentencing, expressed dismay in court over why Callahan had been granted clemency, according to an Associated Press report.

"I don't know why you were pardoned," Judge Reyes said. "You weren't pardoned because you were wrongfully convicted. You pled guilty to the misdemeanors. You weren't pardoned because you were missentenced. Sentencing hadn't even occurred. You weren't pardoned because the law was somehow unfair, either in general or to you."

Based on what's happened so far, prosecutors might pause to consider the possibility of executive clemency or pushback from Main Justice before launching criminal investigations of high-profile defendants or those who support or are closely aligned with the Trump administration, according to Jon Sale, a Southern District of New York alum who co-chairs the white collar practice at Nelson Mullins Riley & Scarborough LLP.

"As a prosecutor, we thought of a lot of factors in high-visibility cases, but [clemency] never was one of them. It has to be now, because these pardons are being granted on a rolling basis almost every day," Sale told Law360.

"Ultimately, I don't think it would be a factor that would cause prosecutors to say, 'Don't charge.' But it would now — for the first time — have to be one of the factors they consider," he said.

Trump's clemency actions also could be chipping away at morale within U.S. attorney's offices, particularly those that oversaw cases in which the defendants were pardoned based on the appearance of political influence and before serving any part of their sentences.

"It's dispiriting and a huge hit to morale to think that a case you worked to build in the right way and put a lot of blood, sweat and tears into with federal agency partners could just disappear — not because of a considered choice that the [president] makes that mercy is appropriate but rather for these other, I would argue, more improper reasons, like politicalization or access or influence," Schaeffer of Abell Eskew said.

While experts expect that career line prosecutors will likely continue to pursue criminal cases regardless of whether the defendant might be granted clemency, the same might not be true of Trump-appointed U.S. attorneys who make the final call on whether to move forward with an investigation.

"Prosecutorial discretion and decision-making is different from the clemency realm," said former Connecticut U.S. Attorney Stan Twardy, now of counsel at Day Pitney LLP. "This wouldn't have affected me as U.S. attorney because, ultimately, it's not the president's decision whether or not to charge. It's the president's decision whether or not to give clemency."

Some of Trump's U.S. attorney picks **lack key experience** as federal prosecutors, including his former personal lawyer Alina Habba and John Heekin, who most recently was deputy chief of staff and general counsel for Sen. Rick Scott, R-Fla. They now serve as the chief federal prosecutors for New Jersey and the Northern District of Florida, respectively.

Their inexperience makes it difficult to know exactly how they will approach the role and raises questions about how susceptible they might be to political pressure, according to Harry Sandick, a partner at Patterson Belknap Webb & Tyler LLP who formerly served as a Manhattan federal prosecutor.

"Career prosecutors will not pay any attention to the clemency decisions and, if they're doing the job right, will continue to charge people who they think are guilty beyond a reasonable doubt," he said. "Whether someone who holds a presidential appointment will do something different is harder to predict, because some of the people who are becoming U.S. attorneys don't have a long track record — or any record at all — as prosecutors."

--Additional reporting by Brian Steele. Editing by Nicole Bleier.

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