

Securities Law

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Dentsply Investors Get Class Status in Securities-Fraud Suit

July 11, 2025, 10:37 AM PDT

- **Court had denied Dentsply's motion to dismiss investors' claims**
- **Investors met class status requirements; damages theory objected**

Investors suing Dentsply Sirona Inc. over alleged misleading information about the financial health of the dental products company can proceed as a class, according to a court order.

The investors met class certification requirements including numerosity, commonality, typicality, and adequacy, the US District Court for the Southern District of New York said Thursday. The district court rejected Dentsply's argument that the investors' damages model failed under US Supreme Court precedent.

More than a thousand institutions held Dentsply stock, an average of 9.6 million shares of Dentsply common stock traded weekly, and Dentsply had about 215 million shares outstanding," so investors clearly meet numerosity requirements, Judge Arun Subramanian said for the court.

The investors, which include multiple pension plans, alleged that Dentsply's former chief executive officer Donald M. Casey Jr., chief financial officer Jorge Gomez, and chief accounting officer Ranjit S. Chadha told investors that the company was doing just fine while artificially inflating sales by forcing distributors to take on more inventory using a technique called channel stuffing, according to a previous opinion in May 2024. Chadha is no longer a defendant in the case.

They allegedly shared this deceptive information during the Covid-19 pandemic, when the dental industry faced supply chain issues and lack of demand for professional dental products and many dentist offices had to shut down.

The investors had sued alleging that the defendants made dozens of statements about the supply chain, the inventory, the product quality, and the company's overall health that were misleading and violated Sections 10(b) and 20(a) of the 1934 Securities Exchange Act and SEC Rule 10b-5.

The investors' claims are based on defendants' allegedly deceptive conduct, and each class member alleges that Dentsply's scheme and misrepresentation propped the company stock prices, in violation of securities laws, Subramanian said Thursday. And plaintiffs' claims are identical to those of all class members, he added.

"Like most other securities actions, a class action efficiently and effectively provides recourse to Dentsply's many stockholders, while avoiding inconsistent rulings and proliferating litigation," he said.

Dentsply will have an opportunity to challenge the investors' proof of loss causation damages at summary judgment, after discovery is complete, the judge said.

He certified a class of all persons and entities who purchased the publicly traded common stock of Dentsply between June 9, 2021 and Nov. 13, 2022.

Dentsply didn't immediately respond to a request for comment.

Robbins Geller Rudman & Dowd LLP was appointed class counsel. Cleary Gottlieb Steen & Hamilton LLP represents Dentsply. Simpson Thacher & Bartlett LLP represents Casey. Levine Lee LLP represents Gomez.

The case is San Antonio Fire and Police Pension Fund v. Dentsply Sirona, Inc. , S.D.N.Y., No. 1:22-cv-06339, 7/10/25 .

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Waste Management Agrees to \$30 Million Investor Class Settlement

July 11, 2025, 9:47 AM PDT

Waste Management Inc. agreed to pay \$30 million to resolve class action claims stemming from the garbage collection company's 2020 purchase of Advanced Disposal Services Inc.

The pension funds serving as class representatives sought preliminary approval of the agreement in the US District Court for the Southern District of New York on Thursday.

The settlement between WM, three top executives, and investors who got five series of senior notes to fund the acquisition would end the suit claiming the company misrepresented the deal's timeline before announcing it didn't meet a June 2020 deadline.

- By February 2020, it became clear to WM that federal regulators wanted it to divest more than it had announced for the deal, the suit said
- WM announced a revised agreement and missed a deadline that caused it to collect the notes at 101% of their par value that June, the suit said. The \$4.6 billion acquisition completed in October 2020
- Judge Lorna G. Schofield in March certified a class of those who were damaged after getting WM redeemable senior notes from Feb. 13, 2020, through June 23, 2020. This included senior notes with coupon rates of 2.95% due 2024, 3.20% due 2026, 3.45% due 2029, and 4.00% due 2039

Robbins Geller Rudman & Dowd LLP is class counsel. Robbins Geller Rudman & Dowd LLP represents WM and executives James C. Fish Jr., Devina A. Rankin, and John J. Morris. Neither of these law firms, nor WM, immediately responded to emails seeking comment.

The case is In re Waste Mgmt. Sec. Litig. , S.D.N.Y., No. 1:22-cv-04838, 7/10/25 .

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QuantumScape Settles SPAC Merger Challenge for \$8.75 Million

July 11, 2025, 10:16 AM PDT

- Suit developed from post-merger revelations about capabilities
- The stock price significantly increased after the transaction

QuantumScape Corp., its senior leaders, and the special-purpose acquisition company that took the lithium-battery maker public in 2020 won approval Friday for a \$8.75 million settlement to resolve a shareholder class action challenging the merger.

The cash deal is a “very healthy recovery” balanced with the “healthy” defenses that could have been expected to advance at trial, said Vice Chancellor Nathan A. Cook, ruling from the bench for the Delaware Chancery Court.

“The consideration here is adequate and fair,” he said.

The complaint alleged the company had “over-promised” its developmental capabilities and timeline, based on information that came to light after the merger, said Christopher Lyons of Robbins Geller Rudman & Dowd LLP, representing the individual investor leading the litigation.

But the class risked recouping only nominal damages after trial, as the stock price rose significantly after the transaction, trading over \$130 per share at one point.

“This wasn’t a scam company,” Lyons said. “We believe this is a very good settlement.”

Cook also approved a \$1.4 million fee award for the attorneys representing the SPAC shareholders.

QuantumScape’s backers at Volkswagen AG weren’t a party to the litigation.

The settlement comes amid federal claims in Delaware and California alleging QuantumScape misrepresented its products’ performance. Both cases are on pause pending a separate securities class action in federal court.

The investor is also represented by Andrews & Springer LLC, Robbins LLP, and Herman Jones LLP. The QuantumScape defendants are represented by Wilson, Sonsini, Goodrich & Rosati PC. The SPAC defendants are represented by Morris, Nichols, Arsht & Tunnell LLP and Hughes Hubbard & Reed LLP.

The case is In re Kensington-QuantumScape De-SPAC Derivative Litig., Del. Ch., No. 2022-0721, settlement hearing 7/11/25 .

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News | **Litigation**

Report: Apple Suit, Bigger Stock Drops Behind Record-Breaking Securities Fraud Claim Exposure

July 10, 2025 | By  **Ellen Bardash**



Credit: BGStock72/Adobe Stock

A new report from Securities Analytics Research claims the risk exposure for securities class actions involving Rule 10b-5 claims is at an all-time high, reaching \$451.5 billion in the second quarter of 2025.

According to that [report](#), which was published Thursday, 81.7% of that exposure comes from a [class action](#) filed in June in the Northern District of California against Apple, alleging that the tech company misrepresented features of AI assistant Siri as well as its ability to deliver on those features when releasing the iPhone 16.



But in terms of global exposure overall to the fraud claims that can be brought under 10b-5, the report stated, 2Q of 2025 saw larger than ever stock drops, with liability exposure for each corrective disclosure higher than ever. Losses per stock drop averaged \$6.3 billion, up 136% from the first quarter.

"Today, securities litigation exposure is demonstrably greater due to the magnitude of the stock drops implicated in shareholder class actions," SAR CEO Nessim Mezrahi said. "Three consecutive quarterly increases in market cap losses leading to record-setting litigation exposure is a wake-up call for directors and officers of an increasingly complex corporate disclosure landscape."

The risk to U.S. issuers rose quarter over quarter despite filings and alleged corrective disclosures both being down, while non-U.S. issuers' exposure continued to decline.

In the past seven years, the report stated, Pomerantz LLP, which is representing the plaintiff in the recently-filed action against Apple, was named lead or co-lead plaintiff's counsel in 43 10b-5 cases, more than any other firm. Robbins Geller Rudman & Dowd, The Rosen Law Firm, Bernstein Litowitz Berger & Grossmann and Glancy Prongay & Murray all handled between 21 and 36 cases.

In the same period, Robbins Geller recorded more dollars in settlements than any other plaintiff's firm, an aggregate of nearly \$2.5 billion, followed by Bernstein Litowitz at almost \$2.4 billion.

Bernstein Litowitz was reported to have won the highest settlements on average for clients pursuing Rule 10b-5 claims, with an average settlement of \$94.1 million, compared to Robbins Geller's average of \$63 million. Since June 2018, Labaton Keller Sucharow, Glancy and Pomerantz tallied the third, fourth and fifth largest 10b-5 settlements on average, respectively.

Page printed from: <https://www.law.com/delbizcourt/2025/07/10/report-apple-suit-bigger-stock-drops-behind-record-breaking-securities-fraud-claim-exposure/>

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Class Action

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AbbVie Beats Investor Class Suit Claiming Humira Kickbacks (1)

July 11, 2025, 6:29 AM PDT; Updated: July 11, 2025, 8:17 AM PDT

- **Record showed it didn't flout anti-kickback rules, judge said**
- **And investors wouldn't have been able to show intent anyway**

AbbVie Inc. defeated class action claims it misled investors about the role an alleged kickback scheme played in the success of its blockbuster arthritis drug Humira, a federal judge ruled.

The investors failed to show that AbbVie violated anti-kickback rules or its own ethics programs through two Humira support programs, Judge John J. Tharp Jr. said, granting the biopharmaceutical company's motion for summary judgment.

The US District Court for the Northern District of Illinois judge said Thursday that the marketing programs' lawfulness undercuts any basis for a potential reasonable jury to find AbbVie's ethics code certifying compliance efforts or statements on Humira's sales success misled shareholders.

Even if the company and two former executives had misled investors, the class representatives didn't demonstrate their intent or reckless disregard to deceive about alleged risks of its Humira programs involving nurse ambassadors and an online insurance checks, Tharp said.

And even if the plaintiffs could convince a reasonable jury AbbVie intentionally misled them, the investors can't establish losses tied to purported misstatements, the judge said.

The class representatives—Ironworkers National Pension Plan and Metzler Asset Management GmbH—said AbbVie paid registered nurses to help doctors who prescribed Humira, leaving patients to believe they worked for the physicians themselves when marketing the drug.

Investors alleged AbbVie covered up this scheme that boosted Humira's sales growth, and the company's stock price, while representing that it complied with anti-kickback rules.

California and Thereafter

Investors sued after California regulators pursued an investigation and brought a legal complaint in 2018 over this alleged scheme, which AbbVie settled for \$24 million in 2020. Shareholders noted AbbVie's stock price fell after California regulators announced the decision to intervene and lead a whistleblower's lawsuit.

The impact of any allegedly misleading statements were presumably voided by the publicizing of legal challenges six months before California sued and the subsequent market losses, Tharp said.

Setting aside California's legal complaint, "unsupported expert statements, and extra-record evidence that may or may not exist," the class representatives' classic kickback claim of payments and gifts failed, Tharp said. They didn't identify any financial documents, witness testimony, or other evidence that AbbVie gave tangible goods to healthcare providers to get Humira prescribed, he said.

"That shortcoming is fatal, particularly given that the plaintiffs had ample time to identify such support during the six-year pendency of this case," Tharp said.

The two programs that plaintiffs pointed to also didn't qualify as "remuneration" under the federal Anti-Kickback Statute, he said.

Motley Rice LLC is class counsel. Robbins Geller Rudman & Dowd LLP represents one of the class representatives. Kirkland & Ellis LLP represents AbbVie, then-CEO Richard Gonzalez, and former Chief Financial Officer William Chase. None of these law firms nor AbbVie immediately responded to emails seeking comment.

The case is *Holwill v. Abbvie Inc.*, N.D. Ill., No. 1:18-cv-06790, summary judgment granted 7/10/25 .

(Updates with additional coverage and context throughout.)

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Class Action

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Tupperware \$22 Million Investor Settlement Stumbles Court Step

July 10, 2025, 11:02AM PDT

Tupperware Brands Corp. investors' nearly \$22 million settlement failed to garner a federal court's initial assent to resolve allegations the fallen food storage container maker issued lofty financial projections before reporting disappointing results in 2022.

The motion for preliminary approval didn't discuss the plaintiffs' standing for the court to address merits of class certification, Magistrate Judge Leslie Hoffman Price said, returning the accord for revision. And within the agreement, the plaintiffs switched up whether the settling defendants included the company or just former CEO Miguel Fernandez and former chief financial officer Cassandra Harris, which was confusing in light of Tupperware's bankruptcy proceedings, the Orlando-based magistrate said.

- The investors have 30 days from Wednesday's order to file a new motion that fixes these and other issues in the US District Court for the Middle District of Florida, she said
- Shareholders sued Tupperware in 2022 for allegedly over-hyping its turnaround plan and later admitting it failed to meet financial estimates
- The plaintiffs in this motion wrongly appeared to try bolstering their arguments for preliminary approval by relying on a prior motion and order on class status, which had been vacated last year upon notification of Tupperware's September filing for Chapter 11 bankruptcy protection, the magistrate said

Levi & Korsinsky LLP and Pomerantz LLP are lead counsel for the investors. Sidley Austin LLP represents Tupperware and the former executives. None of these law firms immediately responded to emails seeking comment.

The case is Edge v. Tupperware Brands Corp. , M.D. Fla., No. 6:22-cv-1518, 7/9/25 .

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Securities Law News

Hess Sued on \$53 Billion Chevron Sale as Panel Preps Deal Ruling

July 10, 2025, 12:43 PM PDT

- **COURT:** Del. Ch.
- **TRACK DOCKET:** [No. 2025-0793](#) (Bloomberg Law subscription)

Hess Corp.'s planned \$53 billion sale to Chevron Corp.—which could close imminently if an arbitration panel rejects a challenge by Exxon Mobil Corp.—was likely engineered to favor CEO John Hess, according to a lawsuit filed Thursday.

A pension fund sued the energy giant for internal files, saying the all-stock deal's terms and context indicate "Mr. Hess may have been engaged in wrongdoing in connection with the transaction." The suit—filed under a law giving investors access to corporate records if they cite preliminary self-dealing concerns—offers few details, instead alleging broadly suspicious circumstances.

The filing in Delaware's Chancery Court comes about a week after reports that an international arbitration panel is preparing to publicly release a decision on Exxon's claim to a right of first refusal over Hess' stake in a major Guyanese oilfield, which allegedly reflects as much as 80% of the Chevron deal's value. The state-owned China National Offshore Oil Corp., the field's other co-owner, has also asserted refusal rights.

Given the size and significance of the oilfield, that "enthusiastic market interest" is "essentially an expression of interest to acquire Hess outright," the suit says. "Put plainly, Hess did not bother with a market check."

Hess didn't immediately respond to a request for comment Thursday. Chevron, Exxon, and John Hess aren't named as defendants. The transaction's closing has been stalled since Exxon initiated the international arbitration in early 2024, about six months after it was announced in October 2023.

The court complaint points to the sale's "razor-thin" margin of victory at the shareholder ballot, where it won only 51% of the vote, a result "suggesting significant discomfort with the deal."

Hess investors also rejected a “golden parachute” side deal with John Hess that later drew scrutiny from the Federal Trade Commission, which banned him from serving on the combined company’s board over concerns about private talks he may have had with OPEC representatives, according to the lawsuit. Chevron and Hess are now asking the FTC, which has changed direction under President Donald Trump, to revisit that order.

Regulatory filings “leave significant questions about the process unanswered,” the new suit says. “Most saliently, did Hess receive any indications of interest from or engage with any non-Chevron potential counterparties, or otherwise consider or pursue any strategic alternatives to the transaction? The proxy studiously avoids taking a comprehensive position on these critical questions.”

The fund, the Police & Fire Retirement System, City of Detroit, is represented by Grant & Eisenhofer PA. Hess hasn’t yet made a court appearance.

The case is Police & Fire Ret. Sys., City of Detroit v. Hess Corp. , Del. Ch., No. 2025-0793, complaint filed 7/10/25 .

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Securities Law News

Stitch Fix Must Face Investor Claims Over 'Direct Buy' Impact

July 10, 2025, 9:26 AM PDT

- Investors sufficiently claimed former executives' awareness
- Alleged internal data showed that was hurting subscription line

Stitch Fix Inc. and former top executives must defend against investor allegations the online clothing company hid that its new online purchasing offering was cannibalizing its core subscription product, a federal judge ruled.

The shareholders plausibly alleged that Stitch Fix founder Katrina Lake and former CEO Elizabeth Spaulding knew about internal data showing its "direct buy" option was hurting the company's ability to attract new customers when touting it as additive, Judge P. Casey Pitts said. The US District Court for the Northern District of California partially dismissed the proposed class action's claims in a Wednesday order.

The stockholders sufficiently claimed the level of intent or recklessness to carry securities fraud claims, given Lake and Spaulding's plausible knowledge of test results showing customers onboarded through "direct buy" were less likely to return and spent less than those through its original curated box subscriptions, Pitts said.

Customers subject to this test included both prospective ones and those who made an account but never scheduled a "fix" box or purchased anything, said the most recent complaint, curing a defect that led Pitts to dismiss a prior complaint last year. Then, Pitts said the executives' public statements appeared to concern existing "fix" customers while negative results measured the effects on prospective Stitch Fix buyers; the lead plaintiffs didn't properly plead "direct buy" was available to both new and existing consumers when the statements were made.

This time, the four multi-employer pension and benefits funds serving as lead plaintiffs sufficiently claimed "direct buy" options were available as early as June 2020 to those who made a profile and never bought anything, Pitts said. Thus they sufficiently alleged some statements from then onward potentially referred to existing and new customers, "making the omission of test results concerning new customers potentially material," he said.

The lead plaintiffs adequately pled both leaders had access to adverse data, including through a company database and weekly emails about acquiring and keeping customers, Pitts said. And the funds sufficiently alleged “direct buy” was so important to Stitch Fix that it would be implausible to conclude Lake and Spaulding weren’t aware of the test results, he said.

Pitts tossed a control-person liability claim against Lake and Spaulding—without leave to amend but also without prejudice, meaning the investors can perhaps return to it—as the plaintiffs adequately alleged direct liability for the individuals’ own statements, but not their control over one another’s.

The proposed class would include those that got Stitch Fix stock from June 9, 2020, through June 9, 2022. When the cannibalistic effect was disclosed over time, Stitch Fix’s market value declined by over \$6 billion, or approximately 90%, the funds said.

Bernstein Litowitz Berger & Grossmann LLP is lead counsel for the lead plaintiffs. Cooley LLP represents Stitch Fix and the former executives.

Neither of these law firms’ spokespeople immediately responded to emails seeking comment. Nor did Stitch Fix.

The case is Retail Wholesale Dep’t Store Union Loc. 338 Ret. Fund v. Stitch Fix, Inc. , N.D. Cal., No. 5:22-cv-04893, 7/9/25 .

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Litigation

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Insight

Alphabet Is Rethinking Board Risk Oversight—Should You As Well?

July 11, 2025, 1:30 AM PDT

Life sciences attorney Mary Kohler says boards with standalone risk committees should choose strategic members, build strong partnerships between compliance and committee leaders, and simplify risk assessments.

As a federal judge weighs remedies in Google's high-profile antitrust case, its parent company, Alphabet Inc., has proposed an unusual settlement in a separate shareholder matter. Rather than offer restitution, it promised sweeping change.

Among other things, Alphabet pledged to invest \$500 million in compliance and shift overall risk oversight from its board's audit committee to a new "risk and compliance committee." While not a novel idea, dedicated board-level risk committees remain uncommon in practice.

Alphabet is urging other tech companies to follow its lead. This challenge resonates well beyond Silicon Valley. As a former compliance leader at a major biotechnology company, I've worked with a standalone risk committee. This type of group can be powerful in the right context.

Board Risk Oversight

To oversee corporate strategy, boards must understand the associated risks. Most US companies assign this role to their audit committees.

But audit committees already shoulder heavy responsibilities, and members with financial expertise may miss risks outside their domain. A weak regulatory function, for example, may not register as an issue until a drug approval is rejected or a consumer product must be recalled.

Following a wave of corporate scandals, Dodd-Frank required certain financial institutions to establish dedicated risk committees. But other industries haven't followed suit.

Some companies rethink oversight in response to a crisis, as Alphabet now appears to be doing. Medical supply and technology company McKesson Corp. created a compliance committee while facing scrutiny for its role in the opioid epidemic. More recently, biopharmaceutical company Athira Pharma Inc. formed one while settling research misconduct allegations with the Department of Justice and investors.

Companies more commonly establish specialized board committees to oversee risks tied to their business model. A drugmaker might have a scientific committee; a company with significant government contracts might focus on public-sector compliance.

Assessing the Need

Whether to create a standalone risk committee depends on factors such as company size, regulatory exposure, and governance philosophy. A global biopharma company may benefit more than a private apparel brand. Alphabet's settlement agreement suggests investors want to temper an aggressive competitive culture.

But more isn't always better. Too many committees can dilute effectiveness, increase overlap, and stretch board members thin.

Most committees deal with risk to some degree, so clear mandates are essential. Alphabet's board will need to define how the new body interacts with its audit and compensation committees.

In my experience, a standalone risk committee proved valuable as new industry enforcement loomed. Management had been slow to act, but the committee grasped the stakes quickly and helped prioritize a response.

As our compliance function matured, this body became a vital conduit for the board-level engagement that the DOJ expects. Not having to compete with finance for airtime enabled us to offer engaged directors clarity on a broader spectrum of risks.

For tech, the time may be ripe to think more critically about risk. Alphabet's move comes amid rising concerns about artificial intelligence, automation and social media reshaping society in ways we can't yet grasp. Meanwhile, Meta is turning privacy compliance reviews over to AI, and pulling back from content moderation.

The judge has questioned whether Alphabet's proposed shareholder settlement would lead to meaningful change. She asked for more details after Alphabet conceded its financial pledge includes changes the company has already made.

Still, Alphabet's challenge might take hold. Meta evidently changed its board structure effective June 1, chartering a "risk and strategy committee."

Risk committees aren't panaceas, though. Silicon Valley Bank had one—and still failed. To move the needle, committees need attentive, forward-looking directors who aren't afraid to ask hard questions. Looking past Alphabet's promises of fundamental governance reform, the judge wants to ensure the company will address the shareholders' primary complaint – failure to identify red flags.

Before forming a new committee, boards should assess how they pressure-test strategy and operations. The Association of Corporate Counsel recently found that while chief legal officers view enforcement risk as a top concern, they're participating less in board meetings and strategy sessions. Closing that gap may matter more than any formal structural change.

Making It Work

If your board does move toward a standalone committee, success depends on structure and substance. Consider the following.

Choose members who are strategic, curious, and steeped in the business. They're best equipped to anticipate pitfalls and guide leadership through tradeoffs. A committee that simply blocks ideas will lose influence quickly.

Build a strong partnership between compliance and the committee chair. The compliance officer ideally acts as co-chair, developing the meeting after aligning with the chair on strategy and focus.

Keep risk assessments simple and focused. Committees must deal with crises, but their aim is to help business leaders prevent them. Identify the highest-risk functions and set a regular review cadence to give the committee a full and continuous view of the landscape.

Teach staff how to engage with the board. Directors usually need less detail but more context than internal stakeholders expect.

Coach executives, too. Many are comfortable presenting results but hesitate to surface early concerns. Dry runs and two-page pre-read memos can help prompt deeper thinking about emerging risks and execution gaps. Without sustained engagement below the board level, even the best designed committee will struggle.

Be judicious about C-suite involvement. Launching compliance involves company-wide change. Executives should make essential risk calls and help shape direction. But they will lose patience with the details of a new program's structure and operation.

Keep operational teams lean. Early enthusiasm can fade when real work begins. A small group of well-chosen leaders is usually most effective at surfacing risks and championing solutions.

Above all, challenge people to care. Compliance infrastructure matters, but process doesn't shift culture—leadership does. After facing intense scrutiny, Boeing Co. adopted a blunt new value: "Give a damn!" It's unorthodox, but when cultural change is the goal, that kind of clarity can go a long way.

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Citgo's Sale in Delaware Rears Head in Venezuelan Bondholders' New York Fight



[law.com/newyorklawjournal/2025/07/10/citgos-sale-in-delaware-rears-head-in-venezuelan-bondholders-new-york-fight](https://www.law.com/newyorklawjournal/2025/07/10/citgos-sale-in-delaware-rears-head-in-venezuelan-bondholders-new-york-fight/)

Alyssa Aquino

July 10, 2025

U.S. District Judge Katherine Polk Failla for the Southern District of New York. Courtesy photo

A Delaware court's handling of the sale of Venezuela's crown overseas asset, Citgo, loomed large in a Thursday conference in the Manhattan federal court, with critics of the deal telling a judge that they planned on seeking an injunction preserving their rights in the petroleum company.

The critics hold \$2 billion worth of defaulted Venezuelan bonds that were staked to a 50.1% interest in Citgo Holding Inc., which they argue would be saddled with billions of dollars of debt if a Delaware federal judge allowed its sale to a mining company.

During a conference, one of the bondholders' attorneys, a Clark Smith Villazor partner, Christopher Clark, informed U.S. District Judge Katherine Polk Failla that he intended on seeking a preliminary injunction prohibiting Citgo—"and those acting in concert with it"—from violating the agreement pledging the majority stake as collateral for the bonds.

"We don't want you to interfere with Judge [Leonard] Stark," Clark said, referring to the Delaware judge who has been overseeing the long-pending sale of Citgo. "We don't want you to interfere with the sale."

The remarks came in a Thursday conference involving Clark and the Paul Hastings and Willkie Farr & Gallagher attorneys representing the state-owned entities that own Citgo. The hearing was set to figure out the next steps for a long-pending lawsuit over a set of bonds issued under Venezuelan President Nicholas Maduro's administration.

Venezuela argues that those bonds—referred to as the "2020 bonds" because they matured in 2020—are unenforceable under its constitution, as Maduro issued them without the approval of the opposition-controlled National Assembly. Those notes are only some of the debt facing Venezuela, which is poised to sell Citgo to repay creditors before the Delaware federal court.

In the lead-up to the conference, Clark informed the court that the special master overseeing the sale had recommended that Stark approve a Gold Reserve subsidiary's \$7.4 billion bid on Citgo. But Clark argued the sale would "siphon[n] enormous value" from Citgo and include terms preventing his clients from being paid with the Citgo funds, even if Failla agreed to enforce their bonds.

With that in the rearview, Failla opened up the conference, saying she did not believe that she could block the sale outright.

"Only once in twelve years have I enjoined some other court, in some other place, and that was a state court," Failla said. "Folks are asking me to enjoin what's going on in Delaware, and I'm not sure that I can."

"I certainly will listen to people's thoughts, but it seems to me the place to go for injunctive relief is Delaware," she said.

However, Clark argued that Failla was better equipped to resolve his pending injunction request, arguing that it covered the pledge agreement, which has "been a stranger" in the sale.

"It would be totally inappropriate and wasteful to ask Judge Stark... when that very issue is before Your Honor," he said. "I'm sorry that you have the benefit of thousands of pages of briefings, but you do."

Willkie Farr partner, Michael Gottlieb, who represents PDV Holding Inc., voiced his opposition. He pointed out that neither Citgo nor its proposed buyer had been before the Manhattan federal court.

"If the effect of the injunction is to prohibit the bid from being accepted, or prohibit closing from happening, those parties would certainly want to be heard," he said.

He further pointed out that the bondholders were involved in the Delaware proceeding.

"They have participated in hearings...they have submitted various briefs, various objections," Gottlieb said. "The 2020s have not just participated, they have made the same kinds of arguments that they are claiming they need to invoke its equity jurisdiction to resolve."

Securities Law News

Influencer Erika Kullberg Agrees to Pay \$372,500 in FTX Suit (1)

July 10, 2025, 12:24 PM PDT; Updated: July 11, 2025, 5:37 AM PDT

Personal finance and attorney influencer Erika Kullberg and her talent management agency have agreed to pay \$372,500 to resolve claims that they hyped FTX before the cryptocurrency exchange's 2022 collapse.

Plaintiffs sought preliminary approval of the accord with Kullberg and her Creators Agency LLC in the US District Court for the Southern District of Florida on Wednesday. If this classwide settlement agreement is ultimately approved by the court, the influencer and agency will be freed of allegations they touted the exchange to FTX collapse victims' detriment. Kullberg was among multiple celebrities, sports figures, and influencers who were sued for promoting and allegedly enabling the now-fallen exchange co-founded by Sam Bankman-Fried to engage in fraud.

- Kullberg's settlement terms land after basketball star Shaquille O'Neal's \$1.8 million accord earned preliminary court approval
- Judge K. Michael Moore had ruled in May that allegations against celebrities and YouTube influencers for promoting FTX mostly fell short, but allowed plaintiffs to replead their claims
- Investors who bought crypto assets through the exchange also sued FTX insiders, third-party advisers, and others in the proposed class actions, which were consolidated in multidistrict litigation in front of Moore

"We are grateful to Judge Moore for his order denying the motion to dismiss, which certainly helped everyone achieve this settlement," said attorney Adam Moskowitz in an email. The Moskowitz Law Firm and Boies Schiller Flexner LLP are co-lead counsel for the proposed class.

Stearns Weaver Miller Weissler Alhadeff & Sitterson PA and Potomac Law Group PLLC represent Kullberg. Her attorneys didn't respond to an email seeking comment.

The case is *In re FTX Cryptocurrency Exchange Collapse Litig.*, S.D. Fla., No. 1:23-md-03076, 7/9/25.

(Updates July 10 story with a comment from plaintiffs' attorney in the sixth paragraph.)

To contact the reporter on this story: Gillian R. Brassil in Washington at gbrasil@bloombergindustry.com

Apple faces lawsuit over iPhone 16 AI 'misrepresentations'

DJ

[dailyjournal.com/articles/386518-apple-faces-lawsuit-over-iphone-16-ai-misrepresentations](https://www.dailyjournal.com/articles/386518-apple-faces-lawsuit-over-iphone-16-ai-misrepresentations)

Jul. 11, 2025

A Los Angeles class action accuses Apple of misrepresenting iPhone 16 AI features, alleging fraud and violation of consumer laws. Similar lawsuits and shareholder actions are pending in California.

A putative class action in Los Angeles County Superior Court accuses Apple of misrepresenting a host of AI features on the iPhone 16, which it began promoting in June last year.

Apple walked back some of those claims after the phone was released in September, saying it was taking longer than the company expected to get those features ready. The plaintiff in Los Angeles claims eight causes of action, including fraud, negligent misrepresentation, violation of the false advertising law and the consumer legal remedies act. Similar cases are pending in Northern California.

The plaintiff's attorneys with Malk & Pogo Law Group LLP argue that even if the features arrive years later, similar technology will be available on competing devices as well, which renders Apple's early advertising blitz meaningless.

"Based on its historical production cadence, it is also likely that Apple will be marketing another new iPhone series, leaving consumers who bought into Apple's false promises for the 16 series stuck with outdated technology for which they also overpaid. This is exactly the kind of calculated deception and market impact that California consumer protection laws were designed to prevent," the complaint states. *Isamar Alberto v. Apple Inc.*, 25STCV20217 (L.A. Super. Ct., filed July 8, 2025).

Valter Malkhasyan, the firm's founding attorney, said it's too early to estimate the size of the class.

"Consumers deserve honest information when making purchasing decisions. It's unfair to entice them with innovative tech like AI that fails to deliver. It erodes consumer trust and undermines fair competition," he said.

Apple representatives did not respond to an emailed request for comment.

Malkhasyan and his partner, Erik Pogosyan, filed a similar lawsuit on May 29. That case was removed to federal court on June 17.

"By the time plaintiff filed the complaint, there were already three class actions pending in federal court, asserting nearly identical claims on behalf of an identical putative class of California 'residents,'" Megan L. Rodgers wrote in Apple's notice of removal to federal court. Rodgers is a partner with Covington & Burling LLP.

Those cases have been consolidated before Judge Noël Wise in California's Northern District. *Landsheft v. Apple Inc.*, 5:25-cv-02668-NW (N.D. Cal., filed March 19, 2025)

Malkhasyan said that the plaintiff in the earlier matter voluntarily dismissed her case. The plaintiffs in the Alberto case are all residents of California, so they'll file to remand the case back to Los Angeles trial court, he said.

Some of Apple's shareholders were also unhappy with the company's marketing and roll-out of Apple Intelligence. Two cases filed in June accuse the company of downplaying how long it would take to integrate various AI features into Siri. The investors' proposed class action says Apple misled investors by overstating the readiness of its AI-powered Siri enhancements during the June 2024 Worldwide Developers Conference. *Tucker v. Apple Inc. et al.*, 5:25-cv-05197-NW (N.D. Cal., filed June 23, 2025).

The shareholder derivative action makes similar allegations: "[U]nbeknownst to investors, Apple lacked a functional prototype of

these advanced AI-based Siri features at the time of the 2024 WWDC and had no reasonable basis to believe it could deliver the product it was advertising within the iPhone 16 product cycle, if ever," M. Anderson Berry wrote in the complaint. Berry is with Arnold Law Firm. *Hill v. Apple, Inc. et al.*, 3:25-cv-05364-EMC (N.D. Cal., filed June 26, 2025).

#386518

Antoine Abou-Diwan

Daily Journal Staff Writer

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An Opioid Defendant Sought Records From 1,000+ Cities and Counties. So Far, It's Sued Five of Them.

July 11, 2025 | By  **Amanda Bronstad**

What You Need to Know

- The suits, filed in Kentucky state courts, are the latest salvo by UnitedHealth Group Inc. subsidiary OptumRx Inc. to avoid liability over the opioid crisis.
- OptumRx and another pharmacy benefit manager, Express Scripts, have sent public records requests to more than 1,000 cities and counties to find out whether they lawfully added the companies as defendants in their opioid lawsuits.
- The same two companies unsuccessfully sought to recuse U.S. District Judge Dan Polster from the opioid multidistrict litigation after public records uncovered alleged ex parte communications with the judge



A healthcare company fighting hundreds of opioid lawsuits has sued at least five Kentucky counties for unlawfully adding it as a defendant in their cases.

The suits, filed in Kentucky state courts, are the latest salvo by UnitedHealth Group Inc. subsidiary OptumRx Inc. to challenge claims that it contributed to the opioid crisis. OptumRx and another pharmacy benefit manager, Express Scripts Inc., have sent public records requests to more than 1,000 cities and counties to find out whether they lawfully added the companies as defendants in their opioid lawsuits.

According to OptumRx's suits, the Kentucky counties did not.

"Optum's lawsuits are simply the latest attempt to bully cities and counties into withdrawing viable claims," Paul Farrell, of Farrell & Fuller, and Peter Mougey, of Levin Papantonio Proctor Buchanan O'Brien Barr Mougey, in Pensacola, Florida, told Law.com. They represent the five Kentucky counties that were sued. "Optum has taken its circus on the road trying to find a friendly judge to hear its song and dance."

The suits, flagged by Law.com Radar, were filed between June 23 and June 30.

Daniel Danford, in Lexington, and Carol Dan Browning, in Louisville, both Kentucky-based members of Stites & Harbison, who filed the cases on behalf of OptumRx, did not respond to a request for comment. OptumRx's counsel in the opioid multidistrict litigation, Brian Boone, of Alston & Bird in Charlotte, North Carolina, also did not respond.

Other firms are involved in the wide-ranging public records campaign, according to a declaration by Alston & Bird partner Andrew Hatchett in Atlanta. They are: Akerman, Bell Giftos St. John, Bradley Arant Boult Cummings, Cooley, Foley & Lardner and Womble Bond Dickinson.

'We Expect More'

Optum's lawsuits come as more than 900 government entities across the country want to amend their opioid cases to include it and other pharmacy benefit managers, such as Express Scripts, as defendants. The government plaintiffs, most of which have already reached billion-dollar settlements with opioid distributors and manufacturers, like Purdue Pharma, claim that, although they filed their initial cases seven years ago, new information in 2023 justified adding pharmacy benefit managers as defendants.

OptumRx and Express Scripts opposed the amendments, arguing the government entities were not diligent in pursuing their claims, failed to establish good cause and lacked authorization by outside counsel to add the pharmacy benefit managers to their cases. On Jan. 16, in a document totaling nearly 6,700 pages, they opposed amendments to more than 1,800 cases, including those for the five Kentucky counties plus other entities, such as Miami, San Antonio and Newark, New Jersey, in multiple states including Pennsylvania, New York, Georgia, and California.

The public records requests sought documents relating to approvals, authorizations and retention agreements with outside counsel. The requests uncovered 2019 public records of several Florida cities in which attorney Michael Kahn, pitching the legal work, stated that Peter Weinberger, of Cleveland's Spangenberg Shibley & Liber, who serves as liaison counsel in the opioid multidistrict litigation, could "literally pick up the phone and talk to the judge any day." That prompted Optum and Express Scripts to push for U.S. District Judge Dan Polster [to recuse](#), citing *ex parte* communications. On April 29, Polster denied that request.



Peter Mougey, of Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr & Mougey. Courtesy photo

Meanwhile, lead plaintiffs' counsel, who include Farrell and Mougey, had filed an emergency motion to halt hundreds of records requests by OptumRx and Express Scripts, citing possible violations of state rules of professional conduct in contacting their clients. But, on March 14, Polster ordered lead plaintiffs' counsel to withdraw the pharmacy benefit managers if the government entity hadn't authorized their counsel to add them. As a result, more than 700 government plaintiffs withdrew the pharmacy benefit managers, although lead plaintiffs' counsel added in a footnote to a March 25 filing that some feared "harassment by the PBMs who have and continue to file public records requests."

As to the hundreds of cases that remain, the pharmacy benefit managers alleged, among other things, that they were wrongfully added in violation of state laws—the same claim in the Kentucky lawsuits. OptumRx’s suits allege the counties violated the Kentucky Open Meetings Act by not holding a public meeting and, as such, a judge should declare the addition of OptumRx as a defendant null and void.

In letters earlier this year responding to the public records requests, the Kentucky counties denied any violations of the Act given that a motion to add a defendant was a routine procedural step in a case.

So far, the Kentucky counties—Christian, Boyd, Anderson, Nicholas and Oldham—are the only ones sued.

“We are aware of no other lawsuits,” Mougey and Farrell told Law.com. “But if the defendants’ past conduct is a guide, we expect more.”

Page printed from: <https://www.law.com/2025/07/11/an-opioid-defendant-sought-records-from-1000-cities-and-counties-so-far-its-sued-five-of-them/>

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Class Action

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Delaware Court Sides With Zantac Makers on Cancer Claims (4)

July 11, 2025, 12:25 AM PDT

The Delaware Supreme Court rejected the legitimacy of expert testimony linking the heartburn drug Zantac to cancer, in a major win for makers of the product.

In a unanimous ruling Thursday, the state's highest court agreed with the argument of companies including GSK Plc, Pfizer Inc. and Boehringer Ingelheim Pharmaceuticals that Superior Court Judge Vivian Medinilla erred in allowing the cancer testimony and letting the cases proceed to trial.

"A trial judge must act as the gatekeeper of expert testimony and should not dismiss challenges to the sufficiency or reliability of an expert opinion by viewing the disputes as questions for the jury to weigh," the state's highest court said in a 46-page ruling.

Last year, GSK offered more than \$2 billion to settle its Zantac liability, while Pfizer and French drugmaker Sanofi have pushed to resolve thousands of suits. GSK's settlement resolved the vast majority of outstanding cases for the UK pharmaceutical company, with the latest ruling only impacting a handful of remaining cases in Delaware. Boehringer's pharmaceuticals unit has settled only a small share of the cases against it. The company has prevailed in several recent trials over the cancer claims.

GSK and Sanofi shares were little changed in early trading. GSK's shares have gained 8% since the start of the year, while Sanofi's have fallen nearly 10%. Pfizer's shares rose just under 1% in New York trading.

Officials of closely held Boehringer said in an email they were pleased with the high court's ruling and maintain there is "is no reliable scientific evidence that Zantac can cause cancer."

Representatives of GSK, Pfizer and Sanofi didn't immediately respond to requests for comment on the ruling.

Another Look

The drugmakers challenged a decision by Medinilla, who found the plaintiff's expert witnesses appropriately reviewed evidence about whether Zantac can cause cancer. The state's highest court sent the cases back to the trial court for a judge to take another look at the expert testimony. Medinilla stepped down in February.

While judges in other states including California and Illinois had signed off on similar expert testimony, the drugmakers said Medinilla should have followed the lead of a federal judge in Florida, who in 2022 rejected the cancer evidence as unreliable. The justices in Delaware said the state's laws governing expert testimony "are consistent with federal law" when it comes to weighing the legitimacy of scientific evidence.

The court noted Medinilla erred in deferring to jurors about the legitimacy of expert testimony and wrongfully applied a standard that “favored or presumed” the admissibility of expert testimony. She also ran afoul of the proper standard to evaluate the experts’ testimonies on so-called general causation – evidence that Zantac can transform into a carcinogen and sicken users under certain circumstances.

Ex-Zantac users have sued branded and generic drugmakers that made the heartburn medicine alleging the product caused 10 types of cancer, including breast, stomach and colon cancer. Plaintiffs contend the companies knew ranitidine – the drug’s active ingredient – turned into the potential carcinogen NDMA if not kept cool. In 2020, the US Food and Drug Administration asked companies to remove all ranitidine-based products.

National Attention

The case has drawn national attention since the focus of the litigation shifted to Delaware, after the Florida judge’s ruling undercut thousands of federal suits before her. Medinilla allowed the companies to file an early appeal of her ruling on the expert-witness testimony.

The US Chamber of Commerce filed a so-called “friend of the court” brief, arguing Medinilla erred by blessing expert-witness testimony in the Zantac cases “that was fundamentally unreliable.” The judge concluded rather than excluding expert witnesses, their evidence could be properly challenged by the companies via cross-examination.

Because the state’s highest court sent the cases back to the trial court for another look, there’s a chance they may still proceed to trial, said Mikal Watts, one of the plaintiffs’ lawyers who filed suit in Delaware.

“We believe that upon re-briefing under this new standard – with the science that now exists explaining why Zantac is still illegal to sell anywhere in the world six years after the FDA banned it – we can easily meet the new standard set forth by the Delaware Supreme Court today,” Watts said in an email.

The case is IN RE Zantac Litigation, No. 255, 2024, Delaware Supreme Court (Dover).

(Updates with shares in paragraph five)

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Mo. SC asked to review key issues in \$549.9M Roundup verdict



[legalnewsline.com/stlouis-record/mo-sc-asked-to-review-key-issues-in-549-9m-roundup-verdict/article_17e87fa9-bf7d-48dc-b066-cb810468e598.html](https://www.legalnewsline.com/stlouis-record/mo-sc-asked-to-review-key-issues-in-549-9m-roundup-verdict/article_17e87fa9-bf7d-48dc-b066-cb810468e598.html)

Kyla Asbury

July 11, 2025

KANSAS CITY — Monsanto has petitioned the Missouri Supreme Court to review a landmark Roundup case after the Missouri Court of Appeals for the Western District upheld \$549.9 million in punitive damages awarded to three plaintiffs, arguing that fundamental legal errors and misapplications of state statutes demand reconsideration.

The company contends the trial court's actions—and inactions—not only contradict Missouri law but also threaten to set damaging precedents for thousands of pending personal injury claims across the state.

The appeal raises four central legal questions that Monsanto claims are of broad importance and require immediate clarification.

Chief among them is the interpretation of Missouri's statute on recoverable medical expenses in tort cases. Enacted in 2017, § 490.715.5 stipulates that only the "actual cost" of medical care may be introduced as evidence and recovered in court.

This "actual cost" is defined by the statute as the amounts actually paid by or on behalf of the plaintiff, excluding amounts "billed" but written off through discounts or insurance adjustments.

However, the appellate court allowed plaintiffs in this case to present and recover inflated, billed amounts for medical care — multiples higher than what was actually paid.

"The Company believes the Missouri Supreme Court should grant its motion for transfer and vacate the appellate court's decision that relies on erroneous case law and conflicts with the plain language of Missouri statute limiting compensatory damages for medical expenses to 'actual costs' and excluding unpaid 'billed' amounts," a spokesperson for the company said. "This split between Missouri statutory law and a flawed holding by the appellate court warrants review by the state supreme court. The appellate court also erred by failing to credit the Company for previously paid punitive damages for the same conduct."

Monsanto argues this practice contradicts the clear legislative language and purpose of § 490.715.5. The decision relied on *Brancati v. Bi-State Development Agency*, a 2018 Eastern District opinion that has been criticized and rejected by numerous federal courts in Missouri for its failure to apply the statute's plain meaning.

“Additionally, the appellate court failed to correct errors committed during the course of the trial, including testimony by a plaintiffs’ expert who, contrary to state precedent, was allowed to improperly comment on the impact of another court’s opinion and misrepresent the status of Roundup’s registration,” the spokesperson said. “The appellate court also failed to recognize that federal law preempts plaintiff’s state-based failure to warn theory.”

Despite Monsanto’s arguments, the Western District summarily dismissed the company’s claims, citing procedural technicalities instead of conducting a substantive review.

Monsanto noted the discrepancy between billed and paid amounts in the case: Plaintiff Daniel Anderson’s billed medical expenses totaled more than \$5.4 million, while only \$826,000 was actually paid. Nonetheless, he was awarded over \$38 million in compensatory damages and an initially higher punitive award later reduced to \$342 million.

Similar discrepancies and award ratios applied to plaintiffs Jimmy Draeger and Valorie Gunther. Monsanto asserts that allowing recovery based on billed amounts leads to unjustified windfalls and undermines the statute’s intent.

In addition, Monsanto challenges the trial court’s refusal to apply § 510.263.4, a Missouri statute designed to prevent duplicative punitive damages for the same conduct.

The company argues that it satisfied all statutory criteria to receive a \$100 million credit per plaintiff—having already paid nearly \$100 million in punitive damages in three previous Roundup cases based on the same alleged misconduct.

Monsanto also ceased domestic sales of glyphosate-based Roundup products after these judgments. The lower courts denied this credit without meaningful justification, according to Monsanto, effectively nullifying the statutory safeguard.

Another focal point of the appeal is the trial court’s handling of evidentiary issues. Monsanto contends that the judge abdicated critical responsibilities by allowing a paid legal expert to instruct the jury on the legal impact of a federal Ninth Circuit decision—despite Missouri precedent that generally bars the introduction of prior judicial opinions as evidence due to their potential to prejudice jurors.

Monsanto raised the issue of federal preemption, arguing that plaintiffs’ failure-to-warn and design defect claims are barred by the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), which regulates pesticide labeling and use at the federal level.

While the appellate court previously declined to review this argument, Monsanto notes that the U.S. Supreme Court is currently considering a related petition and has invited the Solicitor General to weigh in—evidence, Monsanto says, of the national importance of this legal question.

Litigation

Subscribe

Insight

Fraud, Nuisance Claims Offer a Winning Strategy to Defeat PBMs

July 11, 2025, 1:30 AM PDT

Miami attorney Gregg Goldfarb says wielding antitrust, fraud, and nuisance claims can help attorneys score wins in litigation against pharmacy benefit managers.

While the Federal Trade Commission's lawsuit against pharmacy benefit manager giants is paused by a temporary stay, lawsuits from state attorneys general and private plaintiffs offer prime opportunities for attorneys to hold pharmacy benefit managers accountable.

State lawsuits are rewriting the rules, demanding agile litigation playbooks. By wielding antitrust, fraud, and nuisance claims, you can deliver verdicts that ripple across healthcare, slashing costs, forcing accountability, and transforming healthcare's future.

Antitrust Approach

PBMs' influence on drug pricing calls for antitrust lawsuits to expose their market abuses. The FTC alleges PBMs such as CVS's Caremark, Cigna's Express Scripts, and UnitedHealth's OptumRx colluded to inflate insulin prices, a claim echoed by pharmacies and health plans in Multidistrict Litigation No. 3080.

Take a page from Keaveny Drug's playbook, which accused PBMs including GoodRx of rigging rebates to favor pricier drugs. Attorneys can win if they:

- **Expose Collusion.** Dive into discovery to unearth emails, contracts, or meeting notes showing PBMs like Optum Rx or Express Scripts coordinated to sideline cheaper generics. These smoking guns can nail Sherman Act violations, as MDL No. 3080 health plans aim to prove.
- **Prove Harm.** Quantify PBMs' damage to patients and pharmacies. Health Care Cost Institute's data shows insulin prices surged nearly 100% from 2012 to 2021, hitting consumers hard.
- **Rally Plaintiffs.** Unite cities, insurers, and pharmacies into a powerhouse class action. MDL No. 3080's municipalities show how a cohesive class amplifies impact. Use expert witnesses like economists to tie PBMs' practices to market distortions.

Fraud Claim Strategy

Fraud claims in MDL No. 3080 cast PBMs as masterminds of a scheme to inflate insulin prices, using laws such as the Racketeer Influenced and Corrupt Organizations Act to allege organized deception. These claims can unlock massive payouts if attorneys move to:

- **Uncover Deception.** Dig for PBMs' rebate deals or pricing algorithms that may have misled insurers and patients about costs. For example, algorithms prioritizing high-cost drugs over generics can prove a fraudulent pattern, as Keaveny Drug's suit suggests. Subpoena internal data to expose these tricks.
- **Humanize Harm.** Weave stories of patients skipping insulin doses, linking PBMs' practices to real suffering. Partner with patient advocacy groups to gather testimonies that sway juries, making your case unforgettable.
- **Pick Winning Cases.** In MDL No. 3080, select plaintiffs with gut-punch stories—school districts or unions facing soaring healthcare costs—to set strong precedents. Craft narratives around clear fraud evidence, like inflated rebates, to lock in jury wins.

Public Nuisance Plan

PBMs' failure to dam the opioid flood has sparked litigation, such as Michigan's 2024 lawsuit against Express Scripts for allegedly enabling overprescribing. Public nuisance and fraud claims can hit PBMs hard if attorneys:

- **Demand Accountability.** Argue PBMs, as prescription gatekeepers, should have flagged excessive opioid scripts. Point to the 2018 injunction in MDL No. 2804 pushing PBMs to align with CDC guidelines.
- **Leverage Data Analytics.** Use pharmacy claims data to prove PBMs approved thousands of risky opioid prescriptions. Tools like SAS or Tableau can crunch this data, bolstering nuisance claims. Partner with data experts to make your case airtight.
- **Go Local.** Tailor claims to state laws, as Utah's AG did against Express Scripts. Work with state AGs to align strategies, sharing evidence like prescription patterns to strengthen fraud arguments.

Navigating Regulatory Shifts

The FTC's probe and state lawsuits signal a regulatory tsunami for PBMs, with new rules likely to curb rebates. The April 2025 stay in the FTC's lawsuit, driven by commissioner recusals, delays federal action but leaves room for state and private litigation to surge. To stay ahead, litigators must:

- **Track Changes.** Monitor dockets for FTC updates or new state laws. For example, the FTC's push to ban certain rebates could weaken PBMs' defenses, opening new litigation angles.
- **Advise Compliance.** Guide corporate clients, like health plans, to audit PBM contracts for rebate clauses that could violate future rules. Propose transparent pricing models to avoid regulatory heat.

- **Anticipate Defenses.** Expect PBMs to argue compliance with existing laws. Counter by highlighting their systemic harm, using FTC findings to bolster your claims.

This is the moment for attorneys to defeat PBMs in court, win justice for patients, and redefine healthcare transparency. Track regulatory shifts, prep clients for compliance, and strike now—the clock's ticking.

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Voice actors can pursue some claims over AI voiceovers, US court says



reuters.com/legal/litigation/voice-actors-can-pursue-some-claims-over-ai-voiceovers-us-court-says-2025-07-10

Blake Brittain

July 10, 2025

AI (Artificial Intelligence) letters are placed on computer motherboard in this illustration taken, June 23, 2023. REUTERS/Dado Ruvic/Illustration [Purchase Licensing Rights, opens new tab](#)

July 10 (Reuters) - A federal judge in New York ruled on Thursday that a pair of voice actors can move ahead with a lawsuit accusing AI voiceover startup Lovo of violating their rights by using their voices in its technology without permission.

U.S. District Judge J. Paul Oetken [dismissed, opens new tab](#) most of the federal copyright and trademark law claims in the lawsuit but denied Lovo's bid to dismiss claims that it violated the actors' publicity rights.

Oetken also permitted the actors to amend their claim that Lovo's AI training infringed their copyrights. The case is part of a [wave of lawsuits](#) in which tech companies have been accused of misusing content including books, news articles and song lyrics to train generative AI systems.

The actors' attorney, Steve Cohen of Pollock Cohen, called the decision a "spectacular victory" and said he was "confident that a jury will come to the same conclusions as Judge Oetken and hold big tech accountable." Spokespeople and attorneys for Lovo did not immediately respond to a request for comment on the decision.

Plaintiffs Paul Skye Lehrman and Linnea Sage said in the proposed class action [filed last year](#) that they were approached on freelancer marketplace Fiverr to provide voiceover work for anonymous clients. Lehrman was allegedly told his voice would be used only for a "research project," while Sage was told her voice would be used only with "test scripts for radio ads."

The actors said they later learned Lovo sold the use of Lehrman's voice to subscribers as "Kyle Snow" and Sage's as "Sally Coleman." According to the complaint, the company responded to a cease-and-desist letter by claiming that the actors' voices were "not popular" and that their sales were "negligible."

Lovo asked the court in January to dismiss the case.

"Plaintiffs continue to try to tell a tale filled with pathos and the woes of artificial intelligence," the company said in a court filing. "However, their story and concern do not relate to Lovo's interactions with named Plaintiffs and fails to state an actionable claim."

Oetken concluded the actors were not entitled to trademark protection for their voices and that Lovo's "imperfect mimicry" of them did not infringe their copyrights.

The judge, however, said the actors could file an updated complaint alleging Lovo's use of their voice recordings for AI training violated their copyrights. He also said the actors could advance their claim that Lovo violated their commercial rights in their voices under New York law.

The case is *Lehrman v. Lovo Inc*, U.S. District Court for the Southern District of New York, No. 1:24-cv-03770.

For the voice actors: Steve Cohen of Pollock Cohen

For Lovo: David Case and Michael Lazaroff of Rimon Law

Read more:

[AI voiceover company stole voices of actors, New York lawsuit claims](#)

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Blake Brittain reports on intellectual property law, including patents, trademarks, copyrights and trade secrets, for Reuters Legal. He has previously written for Bloomberg Law and Thomson Reuters Practical Law and practiced as an attorney.

Securities Law News

Litigation Funders' Tax Bill Escape Spurs Industry Reckoning

July 11, 2025, 2:00 AM PDT

- The litigation funding sector successfully fought off a major threat
- The industry's well-resourced opponents are likely to attack again

Litigation funders dodged a major bullet when a 40% tax was thrown out of the reconciliation bill, but their brush with death exposed a vulnerability.

"The industry as a whole is not well represented from a lobbying perspective because there's a lot of divergent interests," said Gian Kull, regional portfolio manager for the UK at funder Omni Bridgeway. "It's not one unified entity, like private equity or private credit."

Litigation finance is relatively new asset class whose players include asset management firms Fortress Investment Group and D. E. Shaw & Co. and publicly traded funders Burford Capital and Omni Bridgeway. They're under attack by a wide range of corporations with sway on Capitol Hill and in statehouses.

Several funders turned to the International Legal Finance Association, an industry trade group, for a last-minute lobbying blitz after the tax provision was lobbed onto the massive legislation. The fight over the proposed tax hike, which many considered an existential threat, has some of the industry's players seeking a more united front to ward off future attacks.

Two insurance industry executives said shortly after the litigation funding tax was removed from the reconciliation bill that they will need to go state-by-state to try to slow "the flood of money funding runaway litigation."

"We still need tax changes," Evan Greenberg, CEO of Chubb and John Doyle, CEO of Marsh McLennan, wrote in a July 7 Wall Street Journal op-ed. "We also need basic transparency and an emphasis on pro-consumer reforms at federal and state levels."

Shot to the Heart

The litigation funding tax bill, first introduced by Senator Thom Tillis (R-NC) in May, was at least the fifth attempt at federal legislation regulating the industry. It differed from previous efforts by directly targeting funders' profits, rather than seeking to require disclosure of outside funding in US court cases.

The measure would have imposed a tax on profits earned by third-party entities that finance civil litigation equal to the highest individual rate, 37%, plus an additional 3.8%. It also included an "anti-netting" provision to bar funders from offsetting their gains with other ordinary or capital losses in the same tax year and a provision to remove shields from tax-exempt organizations. Tillis said the bill would raise \$3.5 billion in revenue over 10 years.

"I don't think this is gonna be a one-off bill," said Michael Kelley, a partner at Parker Poe who advises on funding deals. "It's a rifle shot that is right to the heart of the industry."

ILFA quickly became the "war room" as members strategized how to kill the tax, according to executive director Paul Kong.

The organization, with financial help from many of its 30 members, hired GOP lobbyist Pete Kirkham.

Contingency Capital was among members to hire their own lobbyists, turning to the Vogel Group. Others, such as Fortress, DE Shaw, and Stonehill Capital, proposed changes to the bill.

DE Shaw and Stonehill did not respond to requests for comment.

The differences in size and structures of the varying litigation funding vehicles "creates some difficulties in alignment ... particularly if the attack is tax based," said Omni Bridgeway's Kull.

Prominent conservative figures took up the cause on social media, offering differing viewpoints. Trump ally Laura Loomer slammed the bill on X, saying litigation finance needs to be protected. Conservative activist Riley Gaines tweeted that litigation funding allows foreign entities to bankroll lawsuits.

The industry's strategy was to eliminate the bill via the Byrd Rule, which restricts items that are not primarily budgetary in nature from reconciliation proposals. If that didn't work, Senator Mike Lee (R-Utah) had already submitted an amendment to strike the bill if it reached the senate floor. The Byrd challenge was eventually brought by Senator Ron Wyden (D-Ore.) and on June 30 the parliamentarian ruled for its removal.

'Under the Tent'

The US Chamber of Commerce, a vocal and well-resourced litigation finance critic, has been behind the push for regulation on the state and federal level. Johnson & Johnson, Exxon Mobil Corp., and Liberty Mutual are among the large companies that also urged Congress to impose the new tax on funders.

Matt Webb, the chamber's senior vice president of legal reform policy, said efforts to regulate the industry continue in Congress, state legislatures and courts.

"As policymakers ... continue to learn about the problems associated with outside financiers making money by secretly funding and controlling lawsuits, more reforms will advance throughout the country," he said.

ILFA's Kong, a former senate staffer and US Chamber of Commerce employee, has made recruitment a priority since taking the helm in January. The organization has announced two new members, Certum Group and Juris Capital, in that time.

"We've seen membership jump and I think they saw the benefits of being under the tent," Kong said. "They understand that this isn't just a one-off, that this is gonna be kind of a long battle and if disclosure wasn't animating enough for certain members, the tax issue is."

Although ILFA members pay a fee there is no requirement to contribute further. Not everyone chipped in to finance the fight.

"We as an industry are a target, and we're trying to do really good things with our investor dollars," said Kull. "But also everybody needs to contribute, right? This free-rider problem where very few do the work for very many, it's not ideal."

Joe Dunn, co-chief investment officer of Fortress' legal assets group, touted cooperation across the industry to get the tax shot down. He said funders need to do more to educate people about how litigation finance helps consumers.

"I don't think that we should all overreact just because there was a bad proposal that was put forward and killed," he said.

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News | Legal Technology

Mass Action Startup Chariot Claims, Formerly ClaimClam, Announces \$3.6M Seed Round

July 09, 2025 | By  Ella Sherman

The logo for Chariot Claims is displayed on a white rectangular background with a subtle drop shadow. The word "Chariot" is written in a large, bold, blue serif font. The word "Claims" is written in a smaller, blue sans-serif font, positioned above the dot of the letter "i" in "Chariot".

Courtesy logo

On Wednesday, New York-based legal tech startup ClaimClam announced that it has rebranded as Chariot Claims and announced that it raised \$3.6 million in a seed round.

Led by Indicator Ventures, the seed round also received participation from Lightbank, Neon Ventures, Alumni Ventures, FJ Labs, Graph Ventures, Rosecliff Ventures, Chapter F and ZVC.

Zim Hang, an entrepreneur and co-founder of sleep tracking company Chrona Sleep, founded ClaimClam in 2023 as a third-party class action [filer](#) that used AI to identify class members

through social media and other methods.

ClaimClam announced in November 2024 that it would be taking a step back from that framework to focus on pursuing other business models such as mass arbitration.

Rebranded as Chariot Claims, the startup now offers a platform that helps users find eligible mass action cases and connects claimants with law firms for assistance on cases they're qualified for.

Hang told Legaltech News that the startup will use the funding to mainly bolster its engineering team. Some of the funding will also go toward marketing and other non-technical expenses.

"We have some AI-assisted case sourcing and origination technology that we'll be building," he said. "We will be on the product side iteratively improving the claimant side, making that experience easier for people, doing things like allowing them to link up accounts, and things that will make it easier for us to scan through their purchase histories, for example, so we can find all the claims they're eligible without them having to dig through the receipts."

Hang added that he hopes Chariot Claims can help close the gap and bring attention to the significance of mass action cases, given that most people have a better understanding of class action lawsuits.

"Most people have heard about class actions, but almost nobody knows what mass arbitration is, so there's a huge gap in understanding there," he said. "Then there's the access piece—class actions, most people can figure out how to file on their own ... but for a mass arbitration or an arbitration in general, that process is much more onerous for the consumer."

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California Attorney Under Fire for 'Misrepresentations' About Law License in NFL Litigation

July 10, 2025 | By  Emily Saul



Judge Valerie E. Caproni. Photo: Rick Kopstein/ALM

A former lawyer for National Football League coach Steve Wilks is under fire from a federal judge in Manhattan who wants to know why she should not refer him criminally following repeated misleading assertions about the status of his lapsed law licenses.

U.S. District Judge Valerie Caproni of the Southern District of New York last month issued an order to show cause demanding lawyer Michael Caspino clarify a series of seemingly false statements he'd made in her court, on his website and in other jurisdictions.

Now Caproni wants Caspino to further explain himself, this time under oath, and provide a Certificate of Good Standing from the California Bar by July 31. The submission must also address why she should not make a disciplinary or criminal referral.

Caspino, whose web page at California-based firm Price Caspino states he is a partner, did not immediately return a request for comment.

The New York trouble began on Jan. 23, when Caspino filed a notice of appearance, stating he was admitted in the Southern District, on behalf of Wilks. His signature block states "Pro Hac Vice Pending."

But that does not appear to be true, Caproni's orders note. Not only was there no pending motion, "it appears to the Court that Mr. Caspino is neither barred in New York State nor admitted to practice in the Southern District of New York," the judge wrote.

An Arizona district court on June 2 suspended Caspino from practicing in Arizona for one year, finding the attorney was practicing law with a lapsed license in Arizona and made other misrepresentations to that court.

The Arizona court stated there appeared to be a pattern of similar misconduct in multiple states. Public records show Caspino is suspended in Nevada and listed as "not an active member" in Colorado.

Yet his website, when Caproni issued her order to show cause, still stated he was barred in Arizona, Nevada and Colorado.

Caproni's June order directed Caspino to address five questions, including how he claimed to be admitted in SDNY when he was not, how he claimed a pro hac vice motion was pending when he had filed none, and why his website continued to falsely represent he was a member of multiple state bars.

The judge directed Caspino, in his response, to include at least one certificate of good standing from one of the state bars.

While Caspino filed a declaration on July 7 as directed, he failed to answer a number of Caproni's questions.



He did include a certificate of good standing, but from the Central District of California.

Caspino withdrew from the Wilks litigation on June 5, and said in a letter to the judge he did not bill or perform any “substantive work” in the matter.

The website, he explained in his declaration, was “old and out of date” but has since been corrected.

“I let my Colorado and Nevada licenses lapse several years ago because I was not using them,” he added.

As for the “pending” pro hac vice motion, Caspini said it is his practice to use that language when a motion is impending but has not yet been filed.

“Once the pro hac vice application is filed, I then change my status to ‘Pro Hac Vice Filed,’” he clarified.

Wilks, the defensive coordinator for the New York Jets, filed suit alongside fellow NFL coaches Brian Flores and Ray Horton in 2022. The class action alleges bias and racial discrimination.

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US judge rebukes law firm Quinn Emanuel, awards \$3 million sanction in Guardant case



reuters.com/legal/litigation/us-judge-rebukes-law-firm-quinn-emanuel-awards-3-million-sanction-guardant-case-2025-07-11

Mike Scarcella

July 11, 2025

A gavel and a block is pictured on the judge's bench in this illustration picture taken in the Sussex County Court of Chancery in Georgetown, Delaware, U.S., June 9, 2021.

REUTERS/Andrew Kelly [Purchase Licensing Rights, opens new tab](#)

July 11 (Reuters) - A federal judge in California has awarded medical diagnostics company Guardant Health ([GH.O](#)), [opens new tab](#) nearly \$3 million in legal fees after rebuking attorneys for its adversary Natera ([NTRA.O](#)), [opens new tab](#) for their conduct in a lawsuit over false advertising claims.

U.S. District Judge Edward Chen in the San Francisco federal court [said in a sanctions order, opens new tab](#) on Wednesday that he will appoint a court official to determine whether Natera or its lawyers at law firm Quinn Emanuel must pay the fees.

The official, called a special master, will also assess whether some Quinn Emanuel attorneys in the case should be referred to California's attorney conduct regulator for further investigation, the judge said.

"We respectfully disagree with the court's findings because we have always conducted ourselves with candor and in good faith," Quinn Emanuel said in a statement, adding it looked forward to "presenting the full facts surrounding this matter to the Special Master."

Natera declined to comment. Guardant and its lawyers did not immediately respond to requests for comment.

The judge's order stems from a lawsuit that Guardant filed in 2021 claiming Natera made misleading claims about the companies' competing colorectal cancer blood tests.

Natera denied any wrongdoing, arguing its statements qualified as protected speech under the U.S. Constitution's First Amendment.

A jury in November awarded Guardant more than \$292 million in damages after a trial in the case. Natera is contesting the verdict, and Chen has not issued a final judgment.

The alleged litigation misconduct involved Natera's efforts to introduce a supplemental report about a clinical study on the eve of trial, after the evidence collecting phase of the litigation had closed, court records show.

Guardant claimed a third-party medical expert for Natera had concealed email communications about the study, including whether he had early access to the results.

Chen said Quinn Emanuel made misleading statements, creating a false impression that there was a late-breaking evidentiary development in the case.

“But for the deliberate misrepresentation made to this court, the court would not have postponed trial and reopened discovery,” Chen wrote in Wednesday’s order.

The order followed a related sanctions [ruling, opens new tab](#) last year in which Chen barred some evidence related to the study from the trial.

Natera had opposed additional sanctions, according to Wednesday's order. The Quinn Emanuel attorneys submitted declarations saying their statements to the court about the evidence were made in good faith, relying on the third-party expert.

The \$3 million sanction covers about 2,000 hours of lawyer time Guardant's legal team spent on the evidence dispute, Chen said in his ruling.

The case is Guardant Health Inc v Natera Inc, U.S. District Court, Northern District of California, No. 3:21-cv-04062-EMC.

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

Securities Law News

Deep Dive

Sidley Sees Summer Burst Defending Companies From Investors

July 11, 2025, 2:00 AM PDT

- Shareholders retreated from activism in first half of year
- Latham, Skadden follow Sidley in shareholder activism defense

Investors who spent their spring buying discounted stocks are fueling a summer surge of activity at Sidley Austin, the top defender of companies facing shareholder activism.

Kai Liekefett, co-chair of Sidley's shareholder activism and corporate defense practice, said eight companies have hired him in the past couple of weeks alone. This kind of summer activity is unusual even for Sidley—which has been the No. 1 law firm enlisted to fend off activist shareholders for the last three years.

Sidley had 32 engagements in the year's first half, besting Latham & Watkins and Skadden, Arps, Slate, Meagher & Flom, according to new Bloomberg data that provides an early look at shareholder activism this year. The rankings show Latham and Skadden both moved up from the end of 2024 with increasing work, while shareholder activism waned overall in the first half of 2025.

Investors, who have been wary of proxy fights as tariff announcements rattled markets, are approaching companies outside of the normal spring proxy season, when many hold annual meetings, Liekefett said. Companies should expect shareholders with increased bargaining power in the year's second half, after investors used market uncertainty to buy more stock, he said.

"I think we're going to see an entire wave of activism in the second half of this year," Liekefett said.

Overall, 385 new activist campaigns were launched globally in the first half of 2025, down 10.7% from last year's first half, according to the Bloomberg data. But the total value of activist stakes, which represents the value of shares investors held in companies facing campaigns, rose 14.5% year-over-year for the same period, to \$40.5 billion.

Sidley's engagements had shareholder stakes totaling \$2.3 billion for the first half of 2025.

January and February were among the busiest months on record for Sidley’s shareholder activism practice, Liekefett said. But market uncertainty after President Donald Trump announced tariff hikes on April 2 prompted at least 20 campaigns to withdraw or settle, he said.

“Liberation Day certainly did liberate corporate America from proxy fights this year,” Liekefett said, using the phrase the president said when announcing tariffs.

Those same market woes influenced the battles that did remain. One was QXO Inc.’s \$11 billion acquisition of Beacon Roofing Supply Inc., which Sidley represented. QXO initially offered just over \$124 per share for the company, but the board said the bid was too low. A hostile takeover attempt and proxy battle ensued.

But when markets crashed in spring, an offer in that ballpark became an A-plus deal, Liekefett said.

“Essentially the board went from ‘hell no’ to ‘hell yes,’ ” he said.



‘Hitting on All Cylinders’

Latham moved into No. 2 after sitting in third at the end of 2024 and 2023. The firm’s 20 engagements so far this year, with shareholder stakes totaling \$2.7 billion, were four more than third-place Skadden with 16.

Latham advised real estate data firm CoStar Group Inc. in a deal with D.E. Shaw & Co. and Dan Loeb’s Third Point in April to add three new directors and establish a board committee focused on capital allocation. The company’s brands include Apartments.com and Homes.com.

Latham also helped Harley-Davidson Inc. deflect a bid by investment firm H Partners to boot Chief Executive Officer and Chairman Jochen Zeitz and two other directors from the motorcycle maker's board. Zeitz, Thomas Linebarger, and Sara Levinson were re-elected in May.

The firm's jump in shareholder activism defense comes as it leads M&A work at Big Law, advising companies in 2025 on mergers and acquisitions worth about \$269 billion.

Christopher Drewry, a global co-chair of Latham's shareholder activism and takeover defense practice, cited relationships with more than a thousand listed companies. "It's an extraordinarily strong platform that's hitting on all cylinders," he said.

Switching Sides

Skadden cracked the top three with its 16 engagements in the first half of 2025. But Skadden was leading when its work defending companies was ranked by the total value of shares activists have in the firm's clients targeted this year.

Companies hiring Skadden have encountered campaigns with activist stakes worth \$10.2 billion so far in 2025. That's more than three times the \$3.2 billion in total activist stakes in campaigns faced by clients of Vinson & Elkins.

Skadden advised Honeywell International Inc. in the biggest new engagement for a law firm defending a company so far this year. Elliott Investment Management, with a \$5 billion stake in Honeywell, inked a deal to add one of its partners to the board in May, after it secured a breakup of the aerospace and automatic technology conglomerate.

Elizabeth Gonzalez-Sussman, a Skadden partner who leads its shareholder engagement and activism practice, said her prior experience on the other side of the table has helped her firm. She joined Skadden in 2024 after serving as vice chair of the shareholder activism practice at Olshan Frome Wolosky LLP, the main law firm for activist investors.



Activists Push Transparency

Olshan held its position as the top adviser to shareholder activists through the first half of 2025, with 80 engagements.

The firm so far this year has represented some of the biggest activist funds, including Elliott Investment Management in its quest to drive energy giant BP to achieve \$20 billion in annual free cash flow by 2027, according to Bloomberg data and reporting.

Meagan Reda, an Olshan partner, said uncertainty and turbulence have characterized the year so far. As a result, shareholder activists are looking for as much transparency as possible from companies, she said.

Going into 2025, she expected more deal-focused demands in light of lower interest rates and the Trump administration’s deregulatory push. Instead, market volatility put a lid on those discussions, and activists shifted their focus to operational changes, capital allocation strategies, and governance issues, she said.

“This level of uncertainty kind of fuels settlements from both sides” as both companies and their shareholders try to manage risk, she said.

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Litigation

Subscribe

States Seek to Defend Trump Energy Orders in Youth Climate Suit

July 10, 2025, 10:24 AM PDT

- **19 states, Guam move to intervene in case over fossil fuels**
- **Motion says they have property and economic interests at stake**

A coalition of 19 states and the territory of Guam are asking permission to help defend Trump administration executive orders that aim to bolster fossil fuel production in the latest federal youth climate suit.

Montana, Florida, and Louisiana are among the Republican-led states signing onto the motion filed Tuesday in Montana federal court to intervene as defendants in *Lighthiser v. Trump*.

The lawsuit was brought in May by 22 young people who say their constitutional rights are violated by President Donald Trump's executive orders in the federal push, like the first on "Unleashing American Energy."

The states and Guam insist they have "significant property and economic interests" at stake in the case and wish to defend Trump's executive orders that "have already provided tremendous benefits" to their citizens, according to the motion filed in the US District Court for the District of Montana.

"The State Intervenors have unique interests in this case because it threatens their economies, the use of their properties, and their state budgets," the filing said. "Countless jobs could be affected by this litigation."

The case follows the legacy of *Juliana v. US*, the now-dismissed landmark youth case that spanned multiple presidential administrations, led by legal nonprofit Our Children's Trust. Both cases claim that the US government is violating youth rights to life by encouraging rampant oil and gas production.

The new lawsuit also joins the hundreds of challenges currently pending against the Trump administration's actions, orders, and proposals that seek to slash government spending and roll back more stringent regulatory protections finalized under the Biden administration.

"Out of all those cases, only one has triggered a coalition of 19 states and a U.S. territory to intervene—this one. That speaks volumes," lead attorney for the *Lighthiser* plaintiffs Julia Olson said in a statement.

"These states see *Lighthiser v. Trump* as the biggest legal threat to the fossil fuel executive orders that are harming children, worsening the climate crisis, and violating the Constitution," Olson said.

The case is *Lighthiser v. Trump*, D. Mont., No. 2:25-cv-00054, motion filed 7/8/25.

"Baby's First Class Action. Could anything be more American...." — Bluesky



bsky.app/profile/cathygellis.bsky.social/post/3lt4qf6ir2v

“All current and future persons who are born on or after February 20, 2025, where (1) that person’s mother was unlawfully present in the United States and the person’s father was not a United States citizen or lawful permanent resident at the time of said person’s birth, or (2) that person’s mother’s presence in the United States was lawful but temporary, and the person’s father was not a United States citizen or lawful permanent resident at the time of said person’s birth.”⁴¹

Cathy Gellis

[@cathygellis.bsky.social](https://bsky.social/@cathygellis)

Baby's First Class Action. Could anything be more American....

This is the class that the judge provisionally certified, starting with: “All current and future persons who are born on or after February 20, 2025...” That is, all babies affected by Trump's EO.

“All current and future persons who are born on or after February 20, 2025, where (1) that person’s mother was unlawfully present in the United States and the person’s father was not a United States citizen or lawful permanent resident at the time of said person’s birth, or (2) that person’s mother’s presence in the United States was lawful but temporary, and the person’s father was not a United States citizen or lawful permanent resident at the time of said person’s birth.”⁴¹

July 10, 2025 at 1:02 PM

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Opinion **Lex**

Silicon Valley eyes a governance-lite gold rush

Andreessen Horowitz has had enough of Delaware and is moving a unit's incorporation out west



Marc Andreessen's letter says: 'Delaware courts can at times appear biased against technology start-up founders and their boards © David Paul Morris/Bloomberg

Published YESTERDAY



Marc Andreessen may be done with Delaware, though Delaware is not quite done with him. Andreessen Horowitz, the tech-led investment firm he co-founded, put out a letter on Wednesday saying its primary asset management subsidiary, AH Capital Management, would move its incorporation out of the state that houses, from a legal perspective, most of the biggest US companies.

For decades, the small mid-Atlantic state reigned supreme for its technocratic approach to corporate law. But one of Delaware's charms is also becoming a nuisance for some: its attentiveness towards the rights of minority investors. That has come to a head in recent messy court fights, such as that over Tesla's \$56bn pay package for Elon Musk, rejected in Delaware despite shareholders approving it twice.

Facebook owner [Meta Platforms](#) is about to get an up-close view of Delaware's approach. Some of its shareholders blame Facebook's board for the data privacy issues that resulted in large financial penalties. The case goes to court next week. [Andreessen](#), a director of Meta, is set to testify.

As his letter notes, Andreessen is no fan. "Delaware courts can at times appear biased against technology start-up founders and their boards," he writes. "Litigation — even where successfully defeated — is costly and time consuming." He is right that litigation can be long and expensive. It also, though, provides an effective way to police misconduct and set [corporate governance](#) standards.

Big shareholders, notably venture capitalists and private equity managers, are unafraid these days to speak out about aspects of corporate law that they find overtaxing. For now, big investors such as BlackRock, T Rowe Price and Fidelity — often themselves the minority shareholders whose interests courts are considering — have said little.

Precious Meta

Facebook owner's share price and index rebased in \$ terms

— Meta Platforms — S&P 500



Source: LSEG via markets.ft.com

But if not Delaware, then where? Texas has sought to create — at speed — a company-friendly legal environment. Andreessen, though, says Nevada is even friendlier. The so-called Silver State has a decades-long reputation for insulating directors from liability, and making it hard for shareholders to bring lawsuits or agitate effectively.

Andreessen Horowitz hopes its own fund-level decision will get start-ups to consider a move themselves. That seems a stretch: for most companies, a shift to Nevada would risk a backlash from investors. Meanwhile, Delaware has in the last two years amended its law to place some limitations on shareholder lawsuits, an effort that Andreessen Horowitz both credited and proclaimed insufficient.

Scholars have long debated to what extent corporate governance standards impact a company's valuation. Musk and Andreessen are two among many tech titans conducting real life tests that may help answer that question. Investors and fund managers, for now at least, seem prepared to let them.

Securities Law News

Opinion

Matt Levine's Money Stuff: Do Your Betting With Your Broker

July 10, 2025, 10:51 AM PDT

Gambling?

If you go on Robinhood you can bet on stocks. You can make as many bets as you want: You can just buy an index fund and hold it forever, but if you'd like more excitement you can buy a bunch of single-stock options every morning and sell them in the afternoon. If you make a lot of bets, you will win some and lose some: Even professional trading firms with very good records might win, you know, 53% of their bets. You'd be quite happy with 51%. If you make 1,000 trades a year, make \$10,000 each on 510 of them (51%) and lose \$10,000 each on the other 490, (1) that's fine work and (2) you're up \$200,000 for the year.

And then you have to pay taxes. Intuitively, you have \$200,000 of income from your trading; if your tax rate on this money is 37%, you pay \$74,000 and keep \$126,000. More technically, what you have is \$5.1 million of short-term capital gains and \$4.9 million of short-term capital losses, which you can use to offset the gains. So \$200,000 of net short-term capital gains, but when you fill out the form, you'll list both the \$5.1 million of gross gains and the \$4.9 million of offsetting losses.

If you go on DraftKings you can bet on sports. You can make as many bets as you want. If you make a lot of bets, you will win some and lose some. If you make 1,000 bets a year, make \$10,000 each on 510 of them (51%) and lose \$10,000 each on the other 490, (1) that's fine work and (2) you're up \$200,000 for the year.

And then you have to pay taxes. It's the same analysis as above: \$5.1 million of gross gains, \$4.9 million of offsetting losses, \$200,000 of net gains, \$74,000 of taxes, \$126,000 of after-tax income.

Or that *was* how it worked. But, as we discussed last week, the taxation of gambling winnings has changed: "One sentence of the 940-page ['One Big Beautiful Bill Act' passed last week] says gamblers can deduct only 90 percent of their annual losses, instead of 100 percent, which has been the norm." So now the math is: \$5.1 million of gambling winnings, \$4.9 million of gambling losses, but only \$4.41 million of those are deductible, so you have \$690,000 of net *taxable* gambling winnings — more than three times your *actual* net winnings. And you pay \$255,300 of taxes. But you only made \$200,000. The tax rate on your winnings is 128%: The IRS takes more than all of your income.

This seems bad, if you are in the gambling business: Your margins were always slim, and now they might flip to become negative. The Athletic reports:

"Not to be hyperbolic, but it's an extinction of professional sports betting," a gambler who goes by the pseudonym Jack Andrews told *The Athletic*. Andrews is a professional gambler with a popular YouTube channel and a contributor to a MasterClass on sports and gambling. "It is the end of my career, potentially."

You can still trade stocks on Robinhood though. That's fine. Nothing has changed. Your losses on stocks are still 100% deductible against your winnings. The new tax bill discourages gambling, but it doesn't discourage *stock investing*, and it doesn't even discourage *stock gambling*. Just regular gambling.

That is a subtle distinction. *You can bet on sports on Robinhood*. In February, Robinhood rolled out "event contracts" on the Super Bowl through Kalshi Inc.; it quickly canceled those contracts after regulatory pushback, but it restarted a few prediction markets in March, including contracts on the college basketball tournaments. And Kalshi, a prediction market registered as a futures exchange with the US Commodity Futures Trading Commission, offers many more event contracts to US retail traders, including lots involving sports. When I went to Kalshi.com this morning, the top market it offered me was on the winner of the women's Wimbledon semifinal; the front page also offered contracts on the baseball all-star game and the home run derby, as well as the winner of the Chicago mayoral election, the next chief executive officer of X, the winner of the Nobel Peace Prize, the price of Bitcoin, the number of tornadoes this month and the Rotten Tomatoes score of *Happy Gilmore 2*. So, lots of bets, some of them on sports.

We talked about this last month, when I wrote:

Kalshi offers a prediction market where you can bet on sports. No! Sorry! Wrong! It offers a prediction market where you can predict which team will win a sports game, and if you predict correctly you make money, and if you predict incorrectly you lose money. Not "bet on sports." "Predict sports outcomes for money." Completely different.

The difference matters for somewhat baffling legal and jurisdictional reasons.

The legal distinction we were discussing last month is that *commodity futures markets* are regulated by the CFTC (which is quite Kalshi-friendly these days), while *gambling* is regulated by the states. Several states have sent Kalshi letters saying "hey you are doing sports gambling without complying with our regulations, knock it off," and Kalshi has sent back letters (and lawsuits) saying "buzz off, states, we're a commodities exchange." So far Kalshi has been pretty successful: CFTC regulation really does preempt state regulation, so if a state thinks that a Kalshi sports contract is unregulated gambling, that's the state's problem, not Kalshi's.

But now there is another important legal distinction. Commodity futures markets are financial markets, meaning that your losses can 100% offset your winnings for tax purposes, but sportsbooks are gambling, meaning that your losses can only 90% offset your winnings. (Not tax or legal advice, and this is all pretty new, but: probably.) If you bet on sports on DraftKings and win 51% of the time, after taxes, you will lose money. If you bet on sports on Kalshi and win 51% of the time, after taxes, you will make money. That is considerably better!

The Athletic goes on:

Speculation online about the reasons for the provision has run wild, ranging from straightforward accounting explanations to conspiracy theories that sportsbooks were behind the change in an attempt to eliminate sharp bettors or that the provision benefits new prediction market firms such as Kalshi, which are seen as rising competitors to sportsbooks.

"You can deduct your full losses under this bill if you're one of these predictive sites because those aren't technically online betting sites," [Representative Ro] Khanna told *The Athletic*.

(Kalshi Chief Executive Officer Tarek Mansour told me that "people keep thinking we were behind" the new provision, "but I didn't even know about it. I'm more focused on building a 10x product." Still, good deal for him.)

And the tax advantage of Kalshi is not *just* about winning gamblers, or the new 90% limit. What if you are a losing gambler? What if you win 49% of your bets, rather than 51%? (What if you lose all of them?) Generally speaking — even before last week's changes — *net* gambling losses are *not* deductible. If you make \$150,000 a year at your job, and lose \$20,000 a year betting on sports, you still pay taxes on \$150,000 of income: If you're a losing gambler, then intuitively you are gambling for entertainment, and money that you spend on entertainment is not tax deductible.

On the other hand, if you do your sports betting in your brokerage account, and you lose money, you should be able to offset those losses against your other brokerage winnings. If you buy a broad index fund in January and sell it for a \$200,000 gain in December, you have \$200,000 of taxable income. If you also lose \$200,000 betting—I mean, trading events contracts on sports, then presumably you could offset those losses against your gains and avoid paying any taxes on your stock sales. (Not tax advice!)

Somewhat counterintuitively, losses can be useful for investors, and a certain portion of the financial industry is dedicated to finding new kinds of tax losses. Kalshi has done that! One possible pitch is:

1. You are a sophisticated high-net-worth long-term stock investor who would like to optimize your taxes by strategically harvesting tax losses.
- 2. You also like to bet on basketball, not because you are a hardcore grinding edge gambler but because you're rich and basketball is fun. You lose more than you win, but you have a good time and you can afford it.
- 3. If you do your recreational betting on basketball *at Kalshi*, that's good for your stock portfolio.

I wrote last month that this situation — where Kalshi offers sports bets that compete with sportsbooks but legally don't count as "gambling" — "strikes me as an extremely, extremely weird state of affairs," and it still does. "Do your sports betting on a CFTC-regulated futures exchange because that offers tax advantages" is, you know, *probably* not an intended consequence of the US financial regulatory or tax systems. But here we are. There is something cynical about it. "I just don't really know what this has to do with gambling," Mansour has said about Kalshi's sports contracts, but I do!

But it's not entirely Kalshi's fault. An important fact of modern retail financial markets really is that they have become fun places to gamble, and everyone involved is leaning into that. "The whole economy is a meme stock now, so enjoy the ride," I grumbled in April. We talked last week about Robinhood's push to sell private company stocks to retail investors without disclosure. Robinhood CEO Vlad Tenev argued that SpaceX is no riskier than many other things you can spend your money on, and I admitted that he's not wrong: "The general public can buy all sorts of speculative things in the public markets (zero-day options!), or the crypto markets (memecoins), or sports betting," and they are all increasingly substitutes for one another. When Robinhood rolled out Super Bowl bets in February, I wrote:

Robinhood is right, isn't it? "We recognize an opportunity to better serve our customers as their interests converge across the markets, news, sports, and entertainment." My theory — that financial markets represent investments in real economic activity, while betting on sports represents zero-sum bets on sports — is outdated. The link between finance and real economic activity was always indirect and imperfect — lots of financial markets activity has always been speculative and irrational — and it is increasingly inessential.

All of it is betting on sports. Sports are sports, and entertainment is sports, and politics is sports, and crypto is sports, and stocks are sports. Democratizing finance doesn't mean giving people easier ways to invest in broad economic growth, or to finance new business ideas. It means letting them make the bets that they want to make.

The modern way to gamble is through the financial markets, and people like betting on sports, so of course the modern way to gamble on sports is through the financial markets. Now that is also the tax-advantaged way to gamble on sports.

Agentic AI

I have written that there are two broad ways to think about using artificial intelligence in investing:

1. You build a machine learning system that predicts stock prices: It ingests market data, identifies useful signals, and finds trades based on those signals.
- 2. You ask ChatGPT "hey what stocks should I buy," but you write such a good prompt that it gives you the right answer.

The first approach is a traditional way to run a quant hedge fund, hiring skilled researchers to apply machine learning techniques to predicting stock prices. In this approach, the hedge fund researcher is essentially an AI engineer: Her job is to understand how to *build* machine learning systems, to have the right model-building skills and economic intuitions and inductive biases to turn data into signals.

In the second approach, the hedge fund researcher is essentially a prompt engineer: Her job is to understand how to *use* AI systems, and the AI system's job is to be *generally very intelligent*. If you have access to an AI system that is better than the best human at all sorts of knowledge jobs, it is a little silly to reinvent the wheel by building a specialized AI system that's really good at picking stocks. Just ask the generally intelligent AI system "pretend you are a hedge fund researcher, and pick the right stocks."

In the second model, you might literally use ChatGPT or some other off-the-shelf model from a big AI lab. Or you might build your own model. But your model will target something like what the big AI labs target: Artificial general intelligence, human-like performance. If you succeed, the model will not be a box that an analyst manipulates to find stock alphas; the model will be more like an analyst itself. You will ask the model "hey what do you think about the market here" and the model will give you a coherent answer.

You can combine the two approaches by asking a model to build you a machine learning system that predicts stock prices. Bloomberg's Justina Lee reports:

Man Group's quant equity unit says it has begun using a new artificial-intelligence system that can generate, code and backtest trading ideas — marking the arrival of agentic AI at the world's largest listed hedge fund.

Boston-based Man Numeric says it built the tool — known internally as AlphaGPT — to mimic how its researchers develop new investment signals. It digs into data for ideas, writes the code for potential strategies and then tests them on historic data. Such a system that can autonomously perform multi-step tasks is known as agentic AI, one of the hottest trends right now in Silicon Valley.

While humans still vet the outputs — and errors like hallucination remain a big issue — the firm says the goal is to automate more of the research pipeline and accelerate the discovery of smart, rules-based trades. Several dozen signals generated by the AI system have passed Man Group's investment committee and are slated to be deployed in live trading, according to Ziang Fang, a senior portfolio manager.

There is something a little indirect about asking a smart computer "please code me up a system to find good stock trades," rather than "please tell me some good stock trades," but I guess this is the state of the art right now.

HNTRBRK

Hey good for them:

Hunterbrook Global has been valued at \$100mn after a recent fundraising, as the novel US newsroom-cum-hedge fund revealed to investors that it planned to move into litigation. ...

Hunterbrook's fund generated a 31 per cent return in the second quarter of 2025 and a 16 per cent return year to date.

We have talked about Hunterbrook — the hedge fund that's also a newspaper — a lot, and one thing that I have said is that, if you are in the business of finding problems at public companies, you should really try to monetize that every way you can. The classic approach is "find bad companies and sell their stocks short," but there are other approaches that are (1) maybe better and (2) certainly additive. "Find bad companies, sell their stocks short, sue them for securities fraud and file a whistleblower complaint with the US Securities and Exchange Commission" is strictly better than only doing one thing. Hunterbrook is using every part of the bad companies; the Financial Times reports:

Hunterbrook also revealed to investors in a letter that it planned to further exploit its news gathering by launching a litigation business that would partner with law firms on cases enabled by the newsroom's reporting.

Also, if your business model is "find bad companies and sell their stock short," you will investigate a lot of companies (to see if they are bad), and some of them will turn out to be good. You could ... buy them?

Hunterbrook initially envisaged that it would short stocks in instances where its newsroom exposed scandals, but this approach has been sidelined in an "irascible bull market", according to the investor letter.

The letter also details how Hunterbrook is generating a sizeable portion of its returns by taking long positions in businesses its journalists have investigated and found to be sound.

They should publish those too. "BREAKING NEWS: We looked into this company to see if it's a fraud, but actually they're very nice and you should buy their stock." There's not enough good news these days; scandals are more newsworthy than "everything's fine here." Unless you are long the stock.

Legal fees

Being the sell-side lawyer on public-company mergers is a lucrative business. When a company is selling itself, it will care a lot about getting a high price and certainty of deal closing, but it won't care very much about its legal fees, because it doesn't pay them: When the deal closes, the *buyer* will own the target and will have to pay its legal fees. Those fees are not the target's problem. Charge whatever you want.

It is occasionally, though, a *risky* business, for the same reason: When the deal closes, the buyer will own the target, and will have to pay its legal fees. What if it doesn't want to? This happens from time to time. In particular, sometimes (1) two companies will agree on a deal, (2) the buyer will try to back out, (3) the target's lawyers will go to court to force the buyer to close, (4) they will work hard and do an excellent job while racking up a lot of billable hours, (5) they will win, (6) the buyer will be forced to close, and (7) now the buyer will be *really* mad. It wanted to get out of the deal, but now it has to do the deal, *and* it has to pay the lawyers that forced it to do the deal! Of course it will try to stiff them.

The famous case is Elon Musk trying not to pay Twitter Inc.'s lawyers (who forced him to buy Twitter after he tried to back out), but that was not unprecedented. At the Financial Times, Sujeet Indap reports:

Law firm Quinn Emanuel has sued a listed 3D printing company, claiming it was short-changed on a \$30mn fee for winning a legal battle over a troubled merger.

Quinn represented 3D printer Desktop Metal in a Delaware court fight to complete its \$183mn acquisition by larger rival Nano Dimension. A judge ordered the deal completed in March but Quinn has yet to be paid, and now claims it is owed \$90mn by Nano as the successor company.

"Nano Dimension and its CEO, Ofir Baharav, have weaponised their newly acquired control over Desktop Metal, Inc. to exact revenge against the attorneys who defeated them — Quinn Emanuel," the law firm said in the complaint filed in state court in Massachusetts, where Desktop Metal is headquartered.

Yeah, on the one hand, *of course* they're not going to be happy about paying the lawyers who defeated them. On the other hand, Quinn has already won once, so I guess I'd bet on it winning again.

Writer scams

The classic advance fee scam is: I have a foolproof way for you to get \$5 million, but to clear up the last few technicalities, you need to give me \$100,000 now. Of course it is a scam, so if you give me the \$100,000, (1) I will not actually get you \$5 million but (2) no see that's not my fault, there was an unanticipated holdup at the Ruritanian register of wills, but if you give me another \$50,000 we can get that expedited. And so forth. I am trying out this scam on a lot of people, and most of them aren't biting; if you bite once, I am going to come back to you over and over again. "You've spent so much already," I will eventually tell you, "what's another \$170,000 to finally get that \$5 million?"

Ideally I would pull this scam on people who (1) are naive dreamers who believe that they are special and deserve to get \$5 million out of the blue and (2) have a lot of money. At Bloomberg Businessweek, Brent Crane has a story about a company called PageTurner, which allegedly pulled a version of the advance fee scam on writers who dreamed of publishing books and getting them turned into movies. Maybe not the audience I would have chosen (are aspiring writers notably wealthy?), but after reading the story I guess I see their point:

Alex Skywalker—a writer who, fearing for his safety, requested a pseudonym —was in his mid-60s with a few self-published books to his name when he first started working with Sordilla's company in 2018. He received an email from a PageTurner agent going by Danny Evans. In 1999, Skywalker says, he made a "decision to write down all of my personal experiences with intelligences beyond ours and past lives I had become aware of." Two decades in, he'd completed books spanning the genres of new age, theology and science fiction and retired from his career in IT management, eager for his books to get the movie treatment. "I hoped for sales to entice movie production," he says. He paid PageTurner about \$2,500 for a publishing package that included copyediting, formatting and printing-on-demand for his latest book.

After these services were performed, Evans reached out to say Netflix was interested in adapting a romantic sci-fi series Skywalker had self-published into a TV show and would pay him \$8 million. Overjoyed, he agreed to move forward with Netflix, with his PageTurner handlers leading the way. "That's when the bleeding began," he says.

He ended up paying a total of \$130,000 for various movie-related services. "Often they brought happy news, saying that Universal or Sony wanted in, or that Ana de Armas and Matt Damon were interested." They were not.

Things happen

Andreessen Horowitz: "We're Leaving Delaware, And We Think You Should Consider Leaving Too."
Yaccarino Stepping Down as CEO of Musk's X After Two Years. Musk Says Grok Chatbot Coming to Tesla Vehicles by Next Week. Italy's Ferrero Agrees to Buy Kellogg in \$3.1 Billion Deal. Meta Poached Apple's Pang With Pay Package Over \$200 Million. "I thought, I'm 47 years old, all my life I wanted to study lattices, if I don't do it now then it's never going to happen." Can millennial dads have it all? "Who needs to be the founder of a tech company when you can write a newsletter on beehiiv?"

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- 1. Here is IRS Topic 409 on the subject. In my hypothetical the gains are all short-term capital gains and taxed at ordinary income rates, but that is not essential to the point here. The same basic story would apply if the trades were all ordinary income, or all long-term capital gains/losses.
- 2. Technically this is ordinary income, not short-term capital gains, but they are taxed at the same rates in the US.
- 3. I suggested last week that this change would create accounting problems if you had to count every losing bet separately. In poker, I wrote, "if losses are only 90% deductible, will you have to count each hand separately?" The answer is no: The IRS counts gambling winnings/losses by "session," not by individual hand; a night of poker is one session, and you just report your net results from that session. But online sports gambling is harder. The Athletic says: "This week, many [bettors] are looking at the IRS' definition of a gambling 'session,' which typically means you can report your net winnings or losses from a whole night on a casino floor, rather than reporting every game you played while inside the casino. But with sports betting, every bet is one session. If bettors can stretch that interpretation to say, a day, a week, etc., they could have more control over how they report their taxable income."
- 4. The rare violation of the First Law of Tax, that it's always better to make more money than less money.
- 5. If you lose more money on stocks than you win, your net losses are not entirely deductible against your other income — generally they are capped at \$3,000 — but if you make more than you lose, all your losses are

deductible against your gains.

- 6. See IRS Topic 419: "The amount of losses you deduct can't be more than the amount of gambling income you reported on your return."
- 7. Again there are technical distinctions between ordinary income and short-term capital gains (though they are taxed at the same rates), and you'd want to think about whether your swaps trades are capital or ordinary, but it shouldn't matter too much for our purposes. In particular, there are limits on deducting net short-term capital losses against ordinary income, which I am ignoring because I am writing just about stuff happening inside your brokerage account. (You might want to wait 13 months, rather than 11, to sell your appreciated stocks to offset against gambling losses, but this is extremely not tax advice.)
- 8. Arguably another First Law of Tax violation.
- 9. In theory, during due diligence, the buyer could demand to know the legal fees and reduce its bid to account for them, but in practice this does not happen all that much in public-company deals. (It happens a *little* bit with *bankers'* fees.) Private deals are more likely to have purchase price adjustments for working capital, etc., so the target shareholders are more likely to incur the legal fees.
- 10. !!!!!!!

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Securities Law News

Binance Aided Trump Crypto Firm Before Founder CZ Sought Pardon

July 11, 2025, 3:01 AM PDT

One of the Trump family's crypto ventures has received key behind-the-scenes help from the world's largest digital-asset exchange, whose founder is a convicted felon now seeking a presidential pardon.

Binance wrote the basic code to power USD1, a stablecoin launched by the Trumps' World Liberty Financial Inc., according to three people familiar with the matter. They asked not to be named because the arrangement was private. Later, Binance's founder and principal owner, Changpeng Zhao, said publicly that he had applied for a pardon. CZ, as he's known, pleaded guilty in 2023 to failing to maintain an effective anti-money-laundering program.

The coding work — writing the "smart contract" that governs how USD1 tokens are created — helped make USD1 available for use in a \$2 billion transaction this spring when an investment firm founded by the United Arab Emirates used it to buy a stake in Binance. Now, more than two months since that transaction, more than \$2 billion in USD1 — roughly 90% of all coins outstanding — remains in Binance's wallets, according to blockchain data. The assets backing that sum generate interest income, which could reach tens of millions of dollars for the Trumps on an annual basis. Binance also promoted USD1 to its 275 million users, a sought-after benefit among stablecoin issuers.

In short, blockchain data, public announcements and accounts from people familiar with the situation show that Binance helped create the coin, helped promote it and took part in its largest known transaction. It's unclear whether Binance or Zhao has received any payment from World Liberty in return.

A Binance spokesperson didn't respond to questions about the coding help or investment deal but said USD1 followed the exchange's "standard listing process." She noted that Zhao is no longer Binance's chief executive officer, said his decision to apply for a pardon "is a personal one" and referred questions about it to him. Zhao did not respond to messages seeking comment.

A White House spokesperson declined to comment for this story. A spokeswoman for World Liberty didn't respond to specific questions about the company's dealings with Binance, but said in an email, "your assertions are factually deficient and designed to further a political agenda."

Looming over Binance's interactions with World Liberty are both firms' most famous principals: Zhao, who wants a pardon, and Trump, the only person in the world who can give him one. Critics say the situation creates a conflict of interest for the president.



Since taking office, Trump has supported crypto-friendly policies and hosted a cryptocurrency summit at the White House in March.

Photographer: Jim Watson/AFP via Getty Images

"We have never had this since the Civil War: a president whose personal financial interests conflicted with his official duties," said Richard Painter, a professor at the University of Minnesota Law School who served as the White House's chief ethics counsel from 2005 to 2007. "We haven't had anything even close to this significant."

Previously, the White House has said Trump has no conflicts of interest because he has placed his assets in a trust controlled by his eldest son, Donald Trump Jr. The president has said he plays no role in business decisions or investments. An ethics agreement released before he took office in January says Trump will receive only "general business updates" about his main company, the Trump Organization, "and not an accounting of the performance of any specific business or asset."

Trump Jr. celebrated the debut of USD1 in March with a post on X: "Built in America, backed by real dollars, and designed for everyone. Let's revolutionize finance together."

'Crypto Capital'

Trump, who once called Bitcoin a “scam,” had a change of heart last year, saying he hoped to make the US the “crypto capital of the world.” Now, crypto ventures — including World Liberty and a memecoin Trump announced days before his inauguration — have added at least \$620 million to his fortune in a span of months, according to the Bloomberg Billionaires Index. Meanwhile, his administration has stepped back from enforcement cases that financial regulators brought against crypto companies during former President Joe Biden’s administration.

Eric Trump, the president’s second-eldest son, has said he grew interested in cryptocurrency after banks began denying services to his family’s business. “The second you start saying something that goes against the system, they’ll cancel you, they’ll ostracize you, they’ll come after you, and it’s really amazing,” he said in May at a crypto conference in Dubai. “That’s actually what caused me to find cryptocurrency.”

Neither World Liberty nor Binance has described how the companies began talking. Two people with knowledge of the matter said Zhao met with Steve Witkoff, one of World Liberty’s co-founders, in December, not long after Trump’s election victory, at a Bitcoin conference in Abu Dhabi. By then, Zhao had been out of a federal halfway house in Long Beach, California, for less than three months, having served a short sentence after his guilty plea. His exchange paid more than \$4 billion in penalties after authorities accused it of allowing money to “flow to terrorists, cybercriminals and child abusers through its platform.”

A person close to Witkoff disputed that the Abu Dhabi meeting occurred, saying Witkoff doesn’t remember it. Trump had tapped Witkoff, a real estate developer, to serve as a key diplomat in his administration. Witkoff has said he’d exit World Liberty by transferring his interest to his adult sons. “He is working with ethics officials and counsel,” said David Warrington, White House counsel, “including taking all the legal steps necessary to divest.”

The substance of any initial conversations is unclear. But in mid-March, Bloomberg News reported that Binance and World Liberty had begun talks about the possibility of developing a new stablecoin, and The Wall Street Journal reported that Zhao was pressing the Trump administration for a pardon.

On social media, Zhao and World Liberty denounced both stories. Within two weeks, however, World Liberty announced that it was creating a new stablecoin that would be traded on a Binance-founded blockchain. And in May, Zhao announced that he had applied for a pardon.

“If they’re writing this article,” he said on the Farokh Radio podcast, “I might as well just officially apply.”



Eric Trump and Donald Trump Jr. appeared at the Bitcoin 2025 conference in Las Vegas in May touting the new mining venture American Bitcoin.

Photographer: Ronda Churchill/Bloomberg

As a stablecoin, USD1 is intended to be always worth \$1 because each token is supposed to be backed by \$1 worth of real assets like cash or Treasuries. Promoters say stablecoins will revolutionize international payments because they can be transferred cheaply and quickly. Critics say they're vulnerable to runs and note that federal authorities previously have linked some stablecoins to illicit activity. No such activity has been linked to World Liberty, which holds \$2.1 billion in government money market funds, according to a recent attestation of its reserves.

Stablecoins can be lucrative for their issuers, who earn interest on the assets that back them. Tether Holdings SA, issuer of the world's most popular stablecoin, says it made \$13 billion in profit last year.

When USD1 launched, World Liberty listed only one business partner: Palo Alto, California-based BitGo Inc., which said it would provide the "underlying infrastructure and user experience" for minting and burning the stablecoins. "Minting and burning" means creating new tokens when users buy them and destroying them when they're cashed in. A BitGo spokesperson declined to comment.

Soon after World Liberty announced its new stablecoin, the BNB Smart Chain that was founded by Binance made the new token part of a broad promotion campaign that offers zero transaction fees on trades. Binance's spokesperson said the campaign is designed "to promote stablecoins built on BNB Chain."

"BNB Chain is open to all projects in principle, and particularly welcomes stablecoins," she said.

A recent regulatory filing by Circle Internet Group Inc., another stablecoin issuer, suggests how valuable promotional help can be. It said Circle paid Binance \$60 million upfront in part to promote its coin, USDC, and agreed to share future revenue with the exchange. Under the two-year deal, Binance also agreed to hold USDC in its company treasury.

World Liberty's new stablecoin got off to a slow start, according to blockchain data, which isn't surprising. There are many competitors, some of them well established, and all of them offer similar, if not identical, functionality.

Read more: Trump Crypto Venture Has Talked to Binance About Doing Business

But by May, Zhao was involved in the biggest known use of USD1 yet. That month, the investment firm that the UAE founded, MGX, used the stablecoin to purchase a \$2 billion stake in Binance.

That surprised Circle executives, who were expecting that their stablecoin would be chosen, according to two people familiar with the matter. Using World Liberty's coin meant that Binance lost out on the revenue sharing that's part of its promotional deal with Circle, said the people, who asked not to be named because the matter is private.

Zhao posted on X later that determining which currency to use in transactions is "mostly at the choice of the payer." MGX didn't respond to a request for comment.

Binance wallets still hold more than \$2 billion of USD1. At that amount, even a 4% yield would generate \$80 million annually. Under the terms of the World Liberty's prospectus, the Trump family would be entitled to about \$30 million of it.

Meanwhile, Zhao's relationship with US regulators has improved markedly. In May, the Securities and Exchange Commission dropped a lawsuit against Binance that had been filed in June 2023, one of several crypto-focused enforcement actions the regulator has either abandoned or paused.

The SEC had accused the exchange of, among other things, lying to regulators about its operations in the US. The lawsuit quoted Binance's former chief compliance officer texting a colleague, "We are operating as a fking unlicensed securities exchange in the USA bro." The SEC said it was dropping the case "in the exercise of its discretion and as a policy matter."

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Trump's \$100 million crypto mystery man



reuters.com/business/finance/trumps-100-million-crypto-mystery-man-2025-07-11

Tom Wilson, Lawrence Delevingne, David Gauthier-Villars

July 11, 2025



Hong Kong-based crypto entrepreneur Justin Sun, World Liberty Financial co-founder Zach Witkoff and Executive Vice President of the Trump Organization Eric Trump attend the TOKEN2049 conference in Dubai, United Arab Emirates, May 1, 2025. REUTERS/Federico Maccioni/File Photo [Purchase Licensing Rights, opens new tab](#)

- A little-known firm invested \$100 million in Trump's crypto venture
- Aqua 1 became the largest publicly-known investor in the business
- The Trump family receives 75% of token proceeds from World Liberty Financial

July 11 (Reuters) - Of all the riddles wrapped in the digital wallets sending funds to President Donald Trump's World Liberty Financial crypto business, a little-known entity last month became the biggest.

A venture calling itself Aqua 1 Foundation and saying it is based in the United Arab Emirates announced in late June it had [bought \\$100 million](#) worth of World Liberty's crypto tokens, becoming the largest publicly known investor in the business. Yet a review by Reuters of corporate registries, Aqua 1's digital profile and other public information reveal almost nothing about the source of its capital or the person it named as its founding partner, Dave Lee.

Reuters could not find a way of contacting Lee directly. An Aqua 1 press release, which was [published](#) on Reuters.com as sponsored content, listed an email for a person named Dora Lee as a media contact. In response to a Reuters request, the company last month provided an unsigned statement, saying: "At this stage, we are not disclosing additional information beyond what has been publicly shared."

It added: "Aqua 1 is backed by a group of long-term, mission-aligned partners and led by Dave Lee and a global team with deep expertise in web3 and digital asset infrastructure." Aqua 1 did not respond to a detailed set of questions for this story.

The Trump family receives three-quarters of all token proceeds from World Liberty, meaning the purchase by Aqua 1 will have injected tens of millions of dollars into their personal coffers.

The Trumps have now earned around \$500 million from World Liberty since the crypto platform was launched last fall, Reuters calculations show.

White House deputy press secretary Anna Kelly told Reuters that while pursuing a pro-crypto agenda, the president has taken steps to insulate himself from his family's gains.

"President Trump is dedicated to making America the crypto capital of the world and revolutionizing our digital financial technology," Kelly said in an emailed statement. "His assets are in a trust managed by his children, and there are no conflicts of interest."

World Liberty and the Trump Organization did not respond to requests for comment.

The identities of nearly all of the million-dollar buyers of the World Liberty tokens, which go by \$WLFI, are hidden behind anonymous digital wallets.

The personal and business backgrounds of several of the top buyers of the tokens, however, are widely known, including those of China-born investor Justin Sun, who with a \$75 million investment was the previous biggest publicly known buyer, and Dubai-based market maker DWF Labs, whose managing partner is Andrei Grachev, a crypto entrepreneur from Russia.

Representatives for DWF Labs, which in April announced the purchase of [\\$25 million in World Liberty tokens](#), said the firm does not know Aqua 1 or Lee.

Abu Dhabi's state-affiliated investment fund MGX, which chose [World Liberty's crypto stablecoin](#) for its \$2 billion investment in the Binance exchange, did not respond to a request for comment on Aqua 1, nor did Sun's company Tron.

Aqua 1 had said in its June 26 announcement that World Liberty would also support its launch of a separate fund aimed at boosting the Middle East's "digital economy transformation." Aqua 1 said it would list the new fund in the Abu Dhabi Global Market financial centre. A day later, World Liberty said on social media that it was "excited to continue to build the next generation of DeFi" with Aqua 1 and Dave Lee.

Contacted by Reuters, the Abu Dhabi financial centre said by email: "Aqua 1 is not registered, licensed, or affiliated" with it "in any capacity."

World Liberty and Trump's other crypto businesses are facing growing criticism from his U.S. political rivals and ethics experts over their potential for influence peddling. The potential for conflicts of interest that has accompanied Trump's crypto ventures as his administration shapes regulations on the sector have also drawn criticism.

In March, [UAE officials committed](#) to a 10-year, [\\$1.4 trillion investment plan](#) in the United States after meeting with Trump.

Richard Painter, a professor at University of Minnesota's law school and former chief ethics lawyer for President George W. Bush said the lack of transparency on investors in the Trump family's crypto business, such as Aqua 1, undermined public confidence in the government. Without more information, Painter said, "everybody assumes the worst" in terms of foreign actors trying to influence the White House.

"We ought to know who is sending money to the president," he said.

MINIMAL PROFILE

Aqua 1 describes itself on its website as a "Web3-native fund based in UAE with a global outlook." Such funds invest in blockchain and crypto firms making products for a futuristic idea of a decentralized internet.

Crypto funds seeking to register in the UAE typically choose Abu Dhabi Global Market, the Dubai International Finance Centre or the UAE's Securities and Commodities Authority, said Zainab Kamran, a lawyer at NeosLegal who specializes in digital assets.

Registration typically takes between six and 12 months for crypto funds, with funds gravitating towards Abu Dhabi because of its well-developed crypto framework and focus on institutional finance, she said.

"The bar is very high," in the UAE, Kamran said.

Reuters could not confirm under which authority, if any, Aqua 1 had registered.

A spokeswoman for the regulator of the Dubai International Finance Centre directed Reuters to its public register. The news agency could not identify any entity by the name of Aqua 1 or Aqua 1 Foundation, or anyone by the name of Dave Lee.

That was also the case at the register of Dubai's crypto regulator, VARA, a spokesman for which said it "has not engaged with Aqua 1 or Mr. Dave Lee."

Aqua 1 or Aqua 1 Foundation do not appear in the register of UAE Securities and Commodities Authority-licensed companies, either. The authority did not respond to a request for comment.

Aqua 1's website was created in May, a month before it announced its investment, according to two web domain trackers, with the names of its registrants redacted. The website contains no information on Aqua 1's leadership or financial backers.

Scant public information exists about Lee.

An [X account in his name, opens new tab](#), registered in 2023, has made only a handful of posts, starting with an announcement of the World Liberty deal. The account calls Lee an "investor and dreamer," with a profile picture that features a manga-style portrait of a young man in a bow tie, along with Brazilian, Chinese and U.S. flags. It cites as his locations Sao Paulo, New York, Hong Kong and Abu Dhabi.

Aqua 1's prior crypto trades suggest a thin investment record.

Data from crypto tracker Arkham shows the only large outgoing trades from a wallet tagged "aqua1.eth" were two transfers totaling \$80 million to World Liberty in early June. It had also made transfers of \$9 million in March and \$3 million in April, both to anonymous crypto wallets. Between March and June, it received about \$90 million from an account at the OKX crypto exchange.

Aqua 1's assets under management total \$100 million, according to a [profile, opens new tab](#) on the Medium social publishing platform, suggesting that the World Liberty deal is its only current investment.

Reporting by Tom Wilson, Lawrence Delevingne and David Gauthier-Villars Additional reporting by Federico Maccioni in Dubai Editing by Tom Lasseter and Michael Learmonth

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Thomson Reuters

Tom Wilson covers investigative stories across finance and business. He previously led Reuters' coverage of cryptocurrencies, and was the news agency's Reporter of the Year 2022 for his series on the Binance exchange. In a decade at Reuters, he worked in Tokyo for four years, uncovering abuses in Japan's immigration system and covering the tobacco giant Philip Morris. His work has won prizes from the Gerald Loeb Awards, the Overseas Press Club and the Society for Advancing Business Editing and Writing.

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

Florida AG probes Robinhood Crypto over claims of low-cost trading



[reuters.com/legal/government/florida-ag-probes-robinhood-crypto-over-claims-low-cost-trading-2025-07-10](https://www.reuters.com/legal/government/florida-ag-probes-robinhood-crypto-over-claims-low-cost-trading-2025-07-10)

Reuters

July 10, 2025

3D-printed Robinhood logo is seen in this illustration taken, July 1, 2021. REUTERS/Dado Ruvic/File Photo [Purchase Licensing Rights, opens new tab](#)

July 10 (Reuters) - Florida Attorney General James Uthmeier on Thursday launched an investigation into Robinhood Crypto, alleging that the platform may have misled customers by promoting itself as the least expensive way to buy cryptocurrencies.

The AG's office said in a [statement, opens new tab](#) that it issued a subpoena to the unit of Robinhood Markets ([HOOD.O](#)), [opens new tab](#) to obtain internal documents as part of the probe into possible violations of Florida's Deceptive and Unfair Trade Practices Act.

"When consumers buy and sell crypto assets, they deserve transparency in their transactions," Uthmeier said. "Robinhood has long claimed to be the best bargain, but we believe those representations were deceptive," he added.

The platform lets users buy and sell stocks and cryptocurrencies without charging direct commissions. Instead, the company makes money by routing client orders to third-party firms, which pay Robinhood under a practice known as payment for order flow (PFOF), the AG's statement said.

Robinhood Markets General Counsel Lucas Moskowitz said the company discloses "pricing information to customers during the lifecycle of a trade that clearly outlines the spread or the fees associated with the transaction and the revenue Robinhood receives. We are proud to be a place where customers can trade crypto at the lowest cost on average."

Robinhood Crypto has until July 31 to respond to the subpoena.

Reporting by Prakhar Srivastava in Bengaluru; Editing by Shailesh Kuber

Our Standards:

Securities Law News

Robinhood's Crypto Trading Promotions Probed by Florida AG (1)

July 10, 2025, 3:39 PM PDT

Robinhood Markets Inc.'s cryptocurrency operations are the subject of an investigation in Florida, accusing the popular fintech platform of using deceptive practices to mislead consumers about costs.

The Menlo Park, California-based firm is "falsely promoting" its trading platform as the "least expensive way to purchase crypto," the state Attorney General's office alleged in a press release. As part of the investigation, the AG's office issued a subpoena to Robinhood, demanding marketing materials and other internal documents related to its crypto services and pricing structure.

"When consumers buy and sell crypto assets, they deserve transparency in their transactions," said Florida Attorney General **James Uthmeier**, in the statement. "Robinhood has long claimed to be the best bargain, but we believe those representations were deceptive."

The firm has until the end of July to respond to the subpoena, according to the statement.

In a statement, Robinhood's general counsel, **Lucas Moskowitz** said: "Our disclosures are best-in-class — We disclose pricing information to customers during the lifecycle of a trade that clearly outlines the spread or the fees associated with the transaction and the revenue Robinhood receives. We are proud to be a place where customers can trade crypto at the lowest cost on average."



Florida Attorney General James Uthmeier

Photographer: Joe Burbank/Orlando Sentinel/Tribune News Service/Getty Images

Robinhood makes money by sending its customers' trades to third-party companies instead of executing the trades itself. These third-party firms then pay the company for the chance to fulfill those trades — a system called payment for order flow (PFOF). This process allows Robinhood to offer commission-free trading to its users while still generating revenue behind the scenes. The probe would examine if Robinhood's PFOF system negatively impacts fairness or transparency in its crypto pricing and produces higher fees for its users.

The SEC signed a rule last year to require stock brokerages that work with ordinary investors to disclose more price and trade-execution information — including payment for order flow — as part of a broader overhaul being advanced by the regulator, Bloomberg reported.

(Updates with comment from Robinhood in fifth paragraph.)

Securities Law News

Auditors Fail in Role of Safeguarding Carbon Offsets: Study (2)

July 11, 2025, 5:57 AM PDT

Auditors are failing in their role as third-party guarantors of the quality of carbon offsets, according to new academic research.

In a paper published Thursday in *Science*, an international peer-reviewed journal, Cary Coglianese, a law and political science professor at University of Pennsylvania, and **Cynthia Giles**, a former senior adviser at the US Environmental Protection Agency, conclude that auditors selected and paid by the companies they inspect can't affirm the credibility of the projects they assess.

This is largely due to "economic incentives and an unconscious bias to make findings that work to their client's advantage," the authors wrote. "It is hard to see how auditors could maintain their livelihoods if they were to disapprove" the amount of junk credits that have been identified in the market, they wrote.

Companies buy carbon credits produced by projects elsewhere in the world to offset their own emissions. The market peaked at roughly \$2 billion in 2022. It has since slumped after a string of greenwashing allegations. Numerous industry-led efforts are now underway to improve credit quality and bolster demand. Many of these emphasize the role of third-party auditors in helping clean up the market.

The problem with auditors, however, is widespread and not limited to individual so-called bad apple firms, the authors found. They studied 95 projects that had been initially certified by a leading registry and then later rejected or suspended by the same registry, or were found in peer-reviewed research to have significantly exaggerated credits. Just over 30 auditors have been accredited to assess projects, and 21 of them were involved in evaluating at least one of the 95 projects in question.

The snapshot illustrates that "auditors' failure to stop projects with integrity issues is a systemic issue, not just an isolated concern with a few auditing firms," the authors wrote.

Auditors have long been criticized for failing to prevent or flag what turned into financial scandals. The carbon market is particularly exposed due to the core claims made by project developers that auditors are asked to assess, the authors wrote.

"No quantitative measurement can demonstrate that a project is additional or permanent," they wrote. "Instead, auditors must assess the credibility of judgments, assumptions and claims."

Some question the conclusions of the academic report. The authors have overlooked the fact that much of the market no longer relies on binary judgment from auditors because there are now carbon-credit ratings that make assessments based on a sliding scale of risk, said Tommy Ricketts, chief executive officer of BeZero Carbon, which rates carbon credit projects.

"Risk sits at a project level and ratings mean carbon markets can now take account of this," he said.

Still, the concerns about auditors are emerging at the same time that there are signs of a revival in the carbon-credit market. The United Nations agreed last year to a set of rules that's paving the way for a new market for carbon credits. And, there's mounting pressure on industry standards bodies to allow the use of carbon credits to offset a company's supply-chain emissions, often its largest source of pollution.

Bill Winters, the CEO of Standard Chartered Plc, recently touted an "enormous, untapped opportunity" in potential corporate need for the credits.

For Coglianese and Giles, little can be done to address the problems surrounding audit firms and carbon credits. An increase in demand will only make the problem worse, they wrote.

(Adds comments from BeZero's CEO in ninth and 10th paragraphs.)

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Securities Law News

UK Probes Deloitte, Azets Audits of Collapsed Fintech Stenn (2)

July 10, 2025, 6:13 AM PDT

The UK's accounting watchdog is investigating Deloitte LLP's work on units of Stenn Technologies, the trade-finance firm backed by some of the world's biggest banks that unraveled last year amid allegations of fictitious transactions.

The Financial Reporting Council is probing several audits carried out by Deloitte and UK accounting firm Azets Holdings on Stenn Assets UK Ltd. and Stenn International Ltd. between 2017 and 2023, according to an emailed statement. The FRC noted that warnings over "suspicious transactions" led the companies to collapse into administration in December.

Stenn attracted backing from investors including Citigroup Inc., BNP Paribas SA and Centerbridge Partners, claiming to help suppliers get their invoices paid by blue-chip corporations around the world. The London-based firm collapsed into insolvency in December with the loss of most of its 200 jobs when lender HSBC Holdings Plc alleged that many of its transactions weren't genuine, rocking the UK capital's trade-finance scene.

UK Probes Deloitte, Azets Audits of Collapsed Fintech Stenn

"We will co-operate fully with the Financial Reporting Council's investigation," a spokesperson for Deloitte said in an emailed statement. "We remain committed to the highest standards of audit quality."

A spokesperson for Azets said that the firm "responded promptly" to the FRC's request for information and is also "cooperating fully" with the probe.

A Bloomberg investigation in April revealed that dozens of corporations that were supposed to be working with Stenn denied having any relationship with the firm. Some of its biggest suppliers were tiny companies in Asia with links to Russian investors, including one sanctioned by the US for allegedly enabling payments to Russian naval intelligence.

Officials at Interpath Advisory who are overseeing the administration are trying to track down outstanding invoice payments that are supposed to be owed to the Stenn subsidiaries and, in turn, to investors in securities the firm sold to firms including Citigroup and BNP Paribas.

A July 3 report shows that Stenn financed around \$1.1 billion of receivables. Total funds of \$100 million currently sit in Stenn Assets UK's collection accounts.

The administrators are pursuing investigations into the company's collapse and seeking information from Stenn's banks, according to the report. They have also issued director conduct assessments to the UK government.

A spokesperson for Interpath declined to comment.

(Updates with administrator's reports from the seventh paragraph.)

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Dentsply Investors Win Class Cert. Over Pandemic Issues

By **Katryna Perera**

Law360 (July 10, 2025, 8:23 PM EDT) -- A New York federal judge on Thursday certified a class of Dentsply Sirona Inc. investors who claim the dental health products supplier misled them about the extent of its pandemic-era woes.

U.S. District Judge Arun Subramanian issued an **order** certifying a class of all individuals and entities who purchased Dentsply's publicly traded common stock between June 9, 2021, and Nov. 13, 2022.

In granting certification, Judge Subramanian stated that the class meets all the necessary requirements, including numerosity, commonality, typicality and adequacy. Additionally, the judge rejected Dentsply's argument that the investors' proposed out-of-pocket damages model precludes certification.

The suit, filed in July 2022, alleges that Dentsply executives knowingly downplayed the company's supply chain issues during the COVID-19 pandemic and artificially inflated sales by forcing distributors to take on more inventory, a practice known as channel stuffing.

Dentsply then allegedly reported disappointing earnings for several quarters in a row, replaced its top brass, conducted an internal investigation and restated its financials, causing harm to investors.

Judge Subramanian **declined to dismiss** the suit last year, finding the complaint identifies dozens of actionable misleading statements and plausibly pleads knowledge of wrongdoing by Dentsply's former executives.

The investors are represented by Luke O. Brooks, Darryl J. Alvarado, Christopher Stewart, Hillary B. Stakem, Nicole Q. Gilliland, Jessica E. Roberston, Megan M. Sonney, Samuel H. Rudman and David A. Rosenfeld of Robbins Geller Rudman & Dowd LLP and Thomas C. Michaud of VanOverbeke Michaud & Timmony PC.

Dentsply Sirona Inc. is represented by Roger A. Cooper, Mark E. McDonald and Andrew W. Weaver of Cleary Gottlieb Steen & Hamilton LLP.

The case is San Antonio Fire and Police Pension Fund v. Dentsply Sirona Inc. et al., case number 1:22-cv-06339, in the U.S. District Court for the Southern District of New York.

--Editing by Jay Jackson Jr.

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Brookdale's \$1.9M Deal Ends Investor Suit On Understaffing

By **Emilie Ruscoe**

Law360 (July 10, 2025, 5:59 PM EDT) -- An investor in retirement home operator Brookdale Senior Living Inc. has gotten a final nod for a deal settling her understaffing claims against the company's executives and directors in exchange for corporate reforms and fees and expenses totaling \$1.9 million for her legal team.

In filings in Nashville federal court Wednesday, U.S. District Judge Aleta A. Trauger granted final approval to the stipulated settlement of the derivative suit between Brookdale investor Patricia Templin; two former Brookdale CEOs, Lucinda M. Baier and T. Andrew Smith; former Brookdale Chief Financial Officer Steven E. Swain; and 14 current and former members of the company's board.

In her order and final judgment, Judge Trauger found that the parties' settlement agreement is "fair, reasonable, and adequate as to each of the settling parties."

When the parties sought initial approval for their deal in May, they told Judge Trauger that their agreement "provides significant and material benefits to the company, was reached after intensive arm's-length negotiations between experienced and informed counsel on both sides, and is well within the range of what might be approved as fair, reasonable, and adequate at a final approval hearing."

The corporate governance reforms the parties agreed to include enhancements to its risk and audit committees structures. As part of the reform package, the parties acknowledged that the board has added two independent directors since the alleged misconduct.

The reforms also reflect that the company has made changes to its executive compensation determination processes so that awards to executives under the company's annual incentive plan are based in part on feedback from the residents of the company's senior living facilities and their families.

As part of the settlement agreement, the settling defendants didn't admit to any wrongdoing.

The latest version of the derivative claims, from January 2023, alleges that the Brookdale leaders breached their fiduciary duties in connection with alleged staffing issues.

Specifically, the investor claimed, Brookdale's senior homes were "chronically understaffed, evidenced by issuance of citations from state and local authorities, incredibly high turnover, and worst of all, resident injury and death."

The investor claimed those problems resulted from the companywide use of a software system that purported to calculate reasonable staffing levels for its facilities, but in reality computed staffing needs that were out of sync with facility needs.

The alleged understaffing led to a consumer class action, which was recently reopened after the parties failed to reach a settlement agreement during mediation, as well as a proposed investor class action, which Brookdale defeated in September 2021.

The derivative settlement agreements come after Judge Trauger in January 2024 denied the defendants' motion for judgment on the pleadings, finding that there was an "extraordinarily strong"

connection between the board delaying response to Templin's pre-suit demands for investigation and the timeline on which Templin filed her suit.

On Thursday, a representative for Brookdale told Law360 via email, "The named defendants and Brookdale are pleased with the settlement. Resolving this matter allows Brookdale to further focus on providing quality care and services to its residents."

Representatives for Templin and the individual defendants did not immediately respond to requests for comment Thursday.

Templin is represented by Michael I. Fistel Jr. and Mary Ellen Conner of Johnson Fistel LLP, James M. Ficaro of The Weiser Law Firm PC and Wade B. Cowan of Davies Humphreys Horton & Reese PLC.

The individual defendants are represented by Britt K. Latham of Bass Berry & Sims PLC and Geoffrey J. Ritts and Ashley F. Heintz of Jones Day.

Brookdale is represented by Brookdale is represented by L. Webb Campbell II, John L. Farringer IV and Brettson James Bauer of Sherrard Roe Voigt & Harbison PLC.

The case is *Anders v. Baier et al.*, case number 3:21-cv-00373, in the U.S. District Court for the Middle District of Tennessee.

--Additional reporting by Katryna Perera. Editing by Stephen Berg.

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Execs Of Device Co. Made \$6M From Insider Trading, Suit Says

By **Zach Dupont**

Law360 (July 10, 2025, 9:22 PM EDT) -- Five executives for electrotherapy device maker Zynex Inc. were hit with a derivative suit Wednesday in Colorado federal court saying they inflated the company's stock price to cash out on shares valued at more than \$6 million.

Zynex investor Patrick Ayers's complaint claims CEO Thomas Sandgaard, Chief Financial Officer Daniel Moorhead and board audit committee members Joshua R. Disbrow, Michael D. Cress and Barry D. Michaels conspired to sell pumped-up Zynex stock by concealing an oversupply scheme that would later drop the value of the stock by more than half.

This is the second investor suit over the purported scheme; a **proposed class action** filed in Colorado federal court in March alleges Zynex, Sandgaard and Moorhead oversold product to insurers to inflate its revenue.

"Sandgaard and Moorhead, as CEO and CFO, directly controlled false statements, such as the April 27, 2023, press release claiming a 36% revenue increase to \$42.2 million, which omitted that revenue was driven by fraudulent billing practices," Ayers says in his complaint.

Ayers' complaint adds a allegation that Sandgaard and Moorhead personally profited from selling company stock inflated from false representations made about the company's revenue to investors and the SEC.

Ayers claims that in 2023 Sandgaard sold 624,000 shares of Zynex stock for more than \$5.67 million and Moorhead sold 85,000 shares for nearly \$700,000.

"These sales harmed Zynex by, among other things, undermining investor trust and exacerbating stock price declines post-disclosure," Ayers says. "The insider trading by Sandgaard and Moorhead directly contravened the [company's] conflict of interest policy. ... These defendants prioritized personal gain over Zynex's interests."

Disbrow, Cress and Michaels are not accused of selling stock but are named in the complaint for allowing the trades from Sandgaard and Moorhead "which exploited material nonpublic information."

"In fact, the audit committee approved Zynex's May and June 2023 repurchases of 600,000 common shares directly from Sandgaard at prices that were artificially inflated by the individual defendants' misconduct," Ayers says.

The suit says the scheme came crashing to a halt after two years when the insurer for the U.S. military, Tricare, which represented more than 20% of Zynex's annual revenue, announced in March that it was suspending payments to Zynex over the allegations of overselling.

The following day, Zynex stock fell 51% from about \$7 to just over \$3.40. It was traded at \$2.30 as of Thursday.

In June, Zynex announced that Sandgaard would be replaced as CEO by Steven Dyson in August but will remain at Zynex as chairman of the board's technology committee. On July 2, Zynex said that Tricare will continue the payment suspension "while they conduct a further review."

Spokespersons for Zynex and counsel for Ayers did not immediately respond to requests for comment Thursday.

Ayers is represented by Jeffrey A. Berens, Bryan I. Schild and Michael I. Fistel Jr. of Johnson Fistel PLLP and Gregory M. Nespole, Correy A. Suk and Daniel Tepper of Levi & Korsinsky LLP.

Counsel information for the defendants was not immediately available Thursday.

The case is Ayers v. Sandgaard et al., case number 1:25-cv-02117, in the U.S. District Court for the District of Colorado.

--Additional reporting by Emilie Ruscoe. Editing by Brian Baresch.

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Stitch Fix Must Face Most Claims In Investor Action

By **Katryna Perera**

Law360 (July 10, 2025, 3:35 PM EDT) -- A California federal judge has declined to toss a revised complaint alleging that Stitch Fix Inc. and two of its former executives deceived investors about the impact of a new business line, saying the suit adequately made the case that the defendants knowingly made misleading statements.

U.S. District Judge P. Casey Pitts issued an **order** Wednesday allowing a majority of the investors' proposed class action claims to proceed against Stitch Fix, its founder Katrina Lake and its former CEO, Elizabeth Spaulding.

Stitch Fix is a clothing company that periodically sends customers a "Fix," a box of five trial items curated by the company's stylists. Customers can purchase the items in the Fix or return them, and they pay only for the items they keep, plus a styling fee.

Investors claimed that after Stitch Fix publicly announced in 2021 a second business line called Direct Buy — which allowed customers to shop directly from the company's website — Spaulding and Lake made several misleading statements and omissions about Direct Buy and how it would cannibalize the Fix business, and that they knew this would happen from internal test results.

Judge Pitts previously tossed the suit, with leave to amend, in **July 2024**. The operative complaint at the time alleged that Spaulding and Lake's public statements about the complementary nature of Fix and Direct Buy concerned only existing customers, while negative internal test results about the business line only measured the effects of Direct Buy on prospective Stitch Fix customers.

The judge found that because the investors did not adequately plead that Direct Buy was available to both new and existing customers at the time of Spaulding and Lake's statements about Direct Buy's success, the court could only reasonably infer that the statements pertained to existing customers and were therefore not misleading.

However, on Wednesday, Judge Pitts said the investors had cured this deficiency in the second amended complaint by clarifying that the "new customers" included in internal tests that showed significant cannibalization between the two business lines included both "net new" clients who had never engaged with Stitch Fix before and prospective customers who had signed up for an account but never made a purchase.

"Because plaintiffs plead that as early as June 2020 two versions of Direct Buy, one called Trending For You and another offered through a collaboration with a fashion influencer, were available to customers who had registered a profile but never purchased anything, plaintiffs plead facts showing that defendants' allegedly misleading statements about Direct Buy from this period onward potentially referred to both existing and new customers, making the omission of test results concerning new customers potentially material," the order said.

Judge Pitts also found Wednesday that some of the allegedly misleading statements made by Spaulding and Lake "directly contradicted what defendants knew at the time and would have given reasonable investors the impression of a state of affairs that differed materially from the one that actually existed."

The judge pointed to, among others, Lake's statement that the "two experiences are really additive" and Spaulding's statement that "the success in incrementality that direct buy has demonstrated to date gives us high conviction that our personalized shopping experience will significantly broaden the

appeal and reach of Stitch Fix," saying they were adequately alleged to be false.

According to the order, the defendants argued that the safe harbor provisions of the Private Securities Litigation Reform Act of 1995 protect their statements. However, Judge Pitts noted that most of the challenged statements "reference what has already happened and what is currently known."

Additionally, the statements do not constitute vague expressions of optimism, the judge said.

"Characterizations such as additive, incremental, and [complementary], and references to the results of data, are not the kinds of 'mildly optimistic subjective assessment[s]' that courts tend to find inactionable," the order said.

"Additive, incremental, and [complementary] are not empty corporate babble; they are terms with specific, technical meanings for investors concerning how two products interact in the market," the order further said. "Further, defendants' explicit and implicit references to internal data would have given investors reason to believe the statements were not simply subjective expressions of enthusiasm but rather evidence-backed assessments."

The second amended suit also adequately pleads scienter, Judge Pitts found, since the investors show that Spaulding and Lake knew about Direct Buy's negative impact on Fix.

"They allege that the company's data science team created Google Slides decks presenting detailed information about the tests, and that those decks were reviewed at weekly meetings with Spaulding that were held for that very purpose," the order said. "The decks contained data about how the tests were conducted and their results, as well as the data scientists' conclusion that Direct Buy performed poorly relative to Fix and their recommendation that the company not move forward with Direct Buy."

Lake had access to data showing that Direct Buy was cannibalizing Fix, according to the order, as she received weekly reports that included data about customer acquisition and retention, which indicated that Direct Buy was negatively impacting Fix.

Additionally, Judge Pitts stated that the investors presented facts showing that, because Direct Buy was so crucial to Stitch Fix's business, there is a strong likelihood that Lake and Spaulding, in their respective executive positions, were aware of the internal test results.

"After the COVID-19 pandemic dramatically changed consumer behavior, Direct Buy became 'a cornerstone of the company's growth strategy.' It was seen as an especially important vehicle for new customer acquisition," the order said. "Given the alleged importance of Direct Buy to Stitch Fix, it is reasonable for plaintiffs to rely on an inference that the defendants, as top executives in the company, were aware of tests results showing Direct Buy's failure as a new customer acquisition vehicle and its significant cannibalization of the company's core product."

The importance of Direct Buy to the company also leads to the inference that the defendants knew that failure to reveal information about the business line's cannibalization of Fix would mislead investors, according to the order.

Finally, the judge stated that although the investors have adequately pleaded a securities fraud violation, they have not pleaded control liability against either individual defendant.

"While Lake made three of the allegedly misleading statements and Spaulding made one, plaintiffs have not pleaded facts sufficient to allege that either of the individual defendants had control over the other," the order said.

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

The investors are represented by Rebecca E. Boon, Scott Foglietta, Alec T. Coquin, Samuel Coffin and Jonathan D. Uslander of Bernstein Litowitz Berger & Grossmann LLP.

Stitch Fix, Spaulding and Lake are represented by Patrick E. Gibbs, Brett H. De Jarnette, Janelle M. Fernandes and Amie L. Simmons of Cooley LLP.

The case is Retail Wholesale Department Store Union Local 338 Retirement Fund et al. v. Stitch Fix Inc. et al., case number 5:22-cv-04893, in the U.S. District Court for the Northern District of California.

--Editing by Rich Mills.

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Gauging The Risky Business Of Business Risk Disclosures

By **Lyle Roberts and Billy Marsh** (July 10, 2025, 2:23 PM EDT)

Public companies must include in their periodic filings disclosures about the risks that could materially affect the operation of the company's business in the future.[1] Historically, risk disclosures have served to protect companies against securities fraud liability. If a problem arises, the company can point to its risk disclosures as having warned investors of the risk beforehand.

Risk disclosures also allow the company to avail itself of the common law "bespeaks caution" judicial doctrine and the statutory safe harbor, the latter enacted as part of the Private Securities Litigation Reform Act, which bar liability for forward-looking statements accompanied by meaningful cautionary statements.[2]

However, with the rise of event-driven securities litigation — i.e., securities fraud actions based on external events that drive down a company's stock price, like a data breach or environmental disaster — risk disclosures have become more of a sword for the plaintiffs bar than a shield for public companies.[3]

In event-driven cases, investors often argue that one or more of the company's risk disclosures were false or misleading because the company underplayed the true nature or likelihood of the risk of the event that caused the stock price to drop. In other words, the risk disclosures are the statements alleged to have defrauded investors rather than some other affirmative statement on the topic made by the company.

But does it make sense to allow risk disclosures, which generally operate to protect publicly traded companies from liability, to be the basis of a securities fraud claim?

The U.S. Supreme Court had the chance to address that issue in *Facebook Inc. v. Amalgamated Bank*, but ultimately decided in November 2024 **not to hear the appeal** after oral argument had already taken place.[4] Lower appellate courts have issued decisions on this topic that are all over the map, with the key point of disagreement being what a risk disclosure implies to investors.

In what is arguably the most expansive standard in the country, the U.S. Court of Appeals for the Ninth Circuit **held** in *Facebook* in October 2023 that a risk disclosure can be actionable if the company fails to inform investors that the risk previously has materialized, even if whatever happened in the past does not have any known, ongoing or prospective impact on the company's operations.[5]

In *Facebook*, the company's risk disclosure about potential harm from data breaches did not disclose that the company had previously experienced a data breach.[6]

At the time Facebook published the risk disclosure, the past incident had been addressed and did not pose any known threat of harm to the company.[7] Nevertheless, the Ninth Circuit concluded that Facebook's risk disclosure could have misled investors into believing that the risk of harm from a data breach was "purely hypothetical" and "merely conjectural," even though the "risk had already transpired." [8]



Lyle Roberts



Billy Marsh

In contrast, other circuit courts — notably the U.S. Courts of Appeals for the First, Second and Tenth Circuits — have held that risk disclosures are actionable only if the company knows, but does not disclose, that the stated risk is currently materializing or virtually certain to materialize in the future, in light of a past occurrence or for some other reason.[9]

The U.S. Courts of Appeals for the Fourth and Sixth Circuits have gone one step further and held that risk disclosures cannot form the basis for a securities fraud claim for failure to disclose information about the past or present, except in the unusual circumstance where the disclosure explicitly brings the past or present into play.

Those two courts concluded that risk disclosures are forward-looking statements and are not meant to educate investors on what harms have previously affected the company. Accordingly, the U.S. Court of Appeals for the Sixth Circuit found in *Bondali v. Yum! Brands Inc.* in 2015 that "a reasonable investor would be unlikely to infer anything regarding the current state of a corporation's compliance, safety, or other operations from a statement intended to educate the investor on future harms." [10]

Which of these three competing standards is applicable to a company has significant litigation consequences, and it seems inevitable that the Supreme Court will need to take up the issue again.

One potential candidate for Supreme Court review involves an appeal of the U.S. District Court for the District of Oregon's August 2024 **dismissal** of *HRSA-ILA Funds v. Adidas AG*, a securities class action against the shoe company currently pending before the Ninth Circuit.[11] The appeal has been fully briefed, and the Ninth Circuit has indicated that oral argument will take place in October.

In that case, the plaintiff alleged that Adidas issued misleading risk disclosures about the potential negative impact on the company from "[u]nethical business practices" and the "improper behavior" of Adidas' business partners.[12]

The plaintiff argued that these disclosures were misleading because Adidas presented these risks as hypotheticals, but the company knew and failed to disclose that Ye — formerly known as Kanye West, an important former Adidas business partner — had previously engaged in antisemitic and other improper behavior in the course of the partnership.[13] Later, Adidas allegedly suffered significant reputational loss when Ye made antisemitic statements that received public condemnation and placed a spotlight on his past conduct.[14]

The district court sided with the defendants and dismissed the case, holding that the risk disclosures "neither stated nor implied" that "no celebrity partner was ever engaged in 'improper behavior.'" [15] According to the district court, a reasonable investor would have understood the risk disclosures to imply that "'improper behavior' was a given, not a hypothetical." [16] The district court also noted that Adidas had taken steps to address the risks stemming from Ye's conduct by the time the risk disclosures were made.[17]

The plaintiff's appellate briefing relies heavily on the Facebook decision in arguing that the past materialization of the risk needed to be disclosed.[18] If the Ninth Circuit applies its prior holding in Facebook and sides with the plaintiff, the case will squarely present the issue of risk disclosure liability for Supreme Court review once more. But even if the Ninth Circuit affirms, that result likely would not eliminate confusion on what information a public company must include in its risk disclosures to avoid liability.

Other lower courts have applied Facebook more broadly,[19] and the district court in the Adidas case relied in part on nuances in the wording of Adidas' risk disclosures to distinguish Facebook.

If the Ninth Circuit affirms on a unique factual distinction, public companies would be left guessing as to what they need to say in their risk disclosures to avoid a court finding that the risk disclosure is actionable for failure to disclose a past materialization of the risk. And whatever the Ninth Circuit decides in the Adidas case, the decision would not resolve the existing circuit split that makes some risk disclosures actionable in the Ninth Circuit and not in others.

What should the Supreme Court do with this issue?

It seems unlikely that any public company previously understood that its risk disclosures needed to include a description of specific instances in which the risk previously materialized, even if there was no reason to believe that the past incident had any relevance to the business going forward. The U.S. Securities and Exchange Commission regulations around risk disclosures certainly do not contain any such requirement.

Court decisions that force companies to lard their risk disclosures with details of past incidents increase the complexity of risk disclosures and the corresponding costs borne by companies trying to comply with these judicially created standards. These decisions also turn the protections offered by the bespeaks caution doctrine and the statutory protection for forward-looking statements — which also cover the risk disclosures themselves — on their head by converting the forward-looking risk disclosures by judicial fiat into actionable statements of current or historical fact.

That outcome does not seem compatible with how investors understand and use risk disclosures in their investment decisions, either.

A reasonable investor reads a risk disclosure in the context of what Item 105 — the relevant SEC rule — asks a company to disclose. The text of Item 105 calls for disclosure of "risk factors," which are defined as "material factors that make an investment ... speculative or risky." [20] "Risk" is, by definition, a forward-looking concept: one that concerns the "possibility of loss, injury, disadvantage, or destruction," according to the Sixth Circuit's *Bondali v. Yum! Brands* decision. [21] It would conflict with the ordinary meaning of "risk" to speak of a risk that something has occurred in the past.

Risk disclosures therefore serve a singular purpose: to identify and disclose to investors issues that could affect the company in the future. [22] Not only do reasonable investors understand that risk factors are entirely forward-looking, but they presumably would also expect them to be concise and efficient based on what the SEC has said about its risk disclosure requirements. In 2019, the SEC implemented amendments to Item 105 intended to "discourage ... disclosure of information that is not material," "to improve disclosures for investors," and "to simplify compliance efforts for registrants." [23]

When the Supreme Court does take up the issue, whether in the *Adidas* case or otherwise, it should clarify that the Fourth and Sixth Circuits have adopted the right approach. A company's risk disclosures are supposed to broadly alert investors to the future risks to their investment, not act as insurance for investors — in the form of securities fraud actions — every time those risks come to fruition.

Unless the company makes a specific false or misleading reference to a current or historical fact as part of a risk disclosure — e.g., "we have never had a data breach" or "we have no plans to engage in these activities in the future" — the risk disclosure should not be actionable based on the alleged failure to disclose past or present information.

That is the best way to balance investors' need for information about the risks facing a company, the regulatory goal that these disclosures be concise and efficient, and Congress' general desire to limit the use of securities litigation to meritorious claims. [24]

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Billy Marsh is a partner at the firm.

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[1] See 17 C.F.R. § 229.105.

[2] See *Kolominsky v. Root Inc.* , 100 F.4th 675, 688 (6th Cir. 2024) ("bespeaks caution" doctrine); 15 U.S.C. § 77z-2 and 15 U.S.C. § 78u-5 (statutory safe harbor for forward-looking statements).

[3] See generally Merritt B. Fox & Joshua Mitts, Event-Driven Suits and the Rethinking of Securities Litigation, 78 Bus. L. 1 (2023). These external events can include data security breaches, sexual harassment allegations, commercial litigation, allegations that a drug or product has side effects or caused injury, and regulatory investigations or enforcement actions.

[4] Facebook Inc. et al. v. Amalgamated Bank et al., No. 23-980 (U.S. Mar. 6, 2024) (improvidently granted).

[5] *In re: Facebook Inc. Sec. Litig.*, 87 F.4th 934 (9th Cir. 2023).

[6] *Id.* at 949.

[7] *Id.* at 951.

[8] *Id.* at 949.

[9] See *Indiana Pub. Ret. Sys. v. Pluralsight Inc.*, 45 F.4th 1236, 1255-57 (10th Cir. 2022); *Karth v. Keryx Biopharmaceuticals Inc.*, 6 F.4th 123, 135-38 (1st Cir. 2021); *Set Cap. LLC v. Credit Suisse Grp. AG*, 996 F.3d 64, 84-86 (2d Cir. 2021).

[10] *In re: Marriott Int'l Inc.*, 31 F.4th 898, 902 n.2 (4th Cir. 2022) (quoting *Bondali v. Yum! Brands Inc.*, 620 F. App'x 483, 491 (6th Cir. 2015)); see also Kolominsky, 100 F.4th at 689 (dismissing claim that risk disclosure should have said "marketing strategy was affecting" the business rather than "it could").

[11] See *HRSA-ILA Funds v. Adidas AG et al.*, No. 24-6655 (9th Cir.).

[12] *HRSA-ILA Funds v. Adidas AG*, 745 F. Supp. 3d 1127, 1140-42 (D. Or. 2024)

[13] *Id.* at 1133-36, 1140-42.

[14] *Id.* at 1135-36.

[15] *Id.* at 1140-42.

[16] *Id.* at 1140.

[17] *Id.* at 1143.

[18] See, e.g., *HRSA-ILA Funds v. Adidas AG et al.*, No. 24-6655 (9th Cir.), Dkt. No. 19.1 at 3-5, 28-32.

[19] See, e.g., *Lilien v. Olaplex Holdings Inc.*, 765 F. Supp. 3d 993, 1009-10 (C.D. Cal. 2025) (holding that haircare company was required to disclose as part of its risk disclosures that it once had to reformulate one of its products after the EU promulgated regulations that banned a specific ingredient).

[20] 17 C.F.R. § 229.105.

[21] *Bondali*, 620 F. App'x at 491 (quoting Webster's Third New International Dictionary 1961 (1986)) (emphasis in original).

[22] See *id.*

[23] Press Release, SEC Proposes to Modernize Disclosures of Business, Legal Proceedings and Risk Factors under Regulation S-K (Aug. 18, 2019), <https://tinyurl.com/y5phuht>.

[24] In 1995, Congress passed the Private Securities Litigation Reform Act in order "to curb frivolous, lawyer-driven litigation." *Tellabs Inc. v. Makor Issues & Rts. Ltd.*, 551 U.S. 308, 322 (2007).



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VC Giant Andreessen Rips Del. Courts, Plans Move To Nev.

By **Rae Ann Varona**

Law360 (July 10, 2025, 11:42 PM EDT) -- Venture capital giant Andreessen Horowitz on Wednesday announced plans to reincorporate in Nevada, saying that it was no longer a "no-brainer" to launch a company and incorporate in the historically corporate-friendly state of Delaware.

Legal and policy heads at Andreessen Horowitz suggested in a blog post that Delaware's Court of Chancery was losing its "reputation for unbiased expertise" and had "injected an unprecedented level of subjectivity into judicial decisions."

"This has introduced legal uncertainty into what was widely considered the gold standard of U.S. corporate law," the VC firm wrote.

It said that Nevada, meanwhile, has been building up a "technical, non-ideological forum for resolving business disputes."

Delaware has been seeing big names leave the state in a recent wave of dubbed "Dexits," with companies eyeing Texas and Nevada as their new legal homes.

Elon Musk, for example, announced in **February** that he was taking SpaceX's business incorporation to Texas, less than a month after Delaware Chancellor Kathaleen St. J. McCormick, in a first-of-its-kind ruling, **voided** the billionaire's \$55 billion Tesla pay package.

Andreessen Horowitz acknowledged Texas' **appeal** but said Nevada, where companies like Dropbox and Tripadvisor have also reincorporated, seemed the better option.

The firm took particular issue with the application of the so-called business judgment rule, which calls for a rebuttable presumption that boards of directors act in good faith and with due care when making business decisions.

Andreessen Horowitz said that the presumption was a "bedrock of any corporate code that seeks to encourage entrepreneurship and risk taking," and that Delaware has, over the years, developed exceptions that have recently "begun to swallow the rule."

Delaware courts have also, at times, seemed to be biased against tech startup founders and their boards, according to Andreessen Horowitz.

The upshot, it said, is legal uncertainty. It said that such uncertainty was especially concerning for tech startups that may not have the resources and time to expend on litigation.

But Nevada, unlike Delaware, has codified the business judgment rule in statute, Andreessen Horowitz said, "eliminating the ability of judges to modify or change the rule."

It noted that the Nevada Supreme Court had also ruled in 2021 that the statutory business judgment rule applied to claims against corporate officers and directors.

The firm said that while Delaware was a "pioneer in this area of law, what developed was a creature of judicial decision, not statute."

"The critical limitation of this approach has been made plain in recent years — what judges have given, they can take away," Andreessen Horowitz said.

Texas has also codified the business judgment rule. But Andreessen Horowitz said the Lone Star State held on to judicially created doctrines that could be used to circumvent the rule.

Andreessen Horowitz said Nevada was also attractive because of the state's broad protections against individual liability for officers and directors.

Monetary damages, it explained, are excluded if they result from an act or failure to act in a person's capacity as an officer or director unless a plaintiff rebuts a presumption that the officer or director acted in good faith and in an informed manner and also proves that the act or failure to act was a breach of a fiduciary duty involving intentional misconduct, fraud or a knowing violation of law.

Andreessen Horowitz said that while Delaware also allows companies to limit the damages of officers and directors, such limitations were also "subject to judicial doctrines."

"This is particularly troublesome where Delaware courts appear to show bias against founders and their boards, and are applying increasingly large damages against defendants," the firm said.

It said that Texas had similar rules to Delaware.

Nevada also has a bright line rule giving only 15% or greater stockholders the right to inspect a company's books and records, Andreessen Horowitz said. That means lawyers on the plaintiff side can't carry out "fishing expeditions and bring frivolous lawsuits," the firm said.

Andreessen Horowitz also suggested that Delaware's Court of Chancery was losing its edge of having judges with technical expertise.

Nevada, it said, "has taken steps to narrow the gap."

Andreessen Horowitz invited other companies to follow its move and tried to ease any uncertainty founders may have, especially in relation to investors.

"As the largest VC firm in the country, we hope that our decision signals to our portfolio companies, as well as to prospective portfolio companies, that such concerns may be overblown," the firm said.

--Additional reporting by Lauren Berg, Jeff Montgomery and Rose Krebs. Editing by Michael Watanabe.



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Apple, Visa And Mastercard Beat Payment Fee Collusion Suit

By **Rae Ann Varona**

Law360 (July 10, 2025, 8:19 PM EDT) -- An Illinois federal judge on Wednesday dismissed several retailers' proposed antitrust class action that accused Apple, Visa and Mastercard of scheming to restrain competition in point-of-sale transaction payment networks, saying the express terms of agreements retailers had claimed were anti-competitive showed otherwise.

U.S. District Judge David W. Dugan said that comparing the retailers' allegations concerning payment platform agreements to the actual provisions of the agreements "serves only to highlight the implausibility" of the retailers' Sherman Act claim.

The retailers alleged that Apple and the credit card companies, following the introduction of Apple's Apple Pay feature, conspired to forgo competition and agreed to instead allocate the market point-of-sale payment card network services in the U.S.

But Judge Dugan said that the retailers' allegations of per se horizontal market allocation agreements "mischaracterize, and are actually contradicted by," the agreements.

Those agreements, Judge Dugan said, indicate that Apple "did not agree to refrain from creating a payment network, to restrict bank-to-bank transfers, or to bar the access of competitors to Apple Wallet and the [Near Field Communication] technology."

The same was true for the retailers' contention that Visa and Mastercard paid Apple "cash bribes," as the agreements reveal that Visa and Mastercard billed and collected fees that were payable to Apple by payment-card issuers, Judge Dugan said.

In dismissing the lawsuit without prejudice, Judge Dugan said he would, however, give the retailers 30 days to file a second amended class action, should they want to.

Beverage retailer Mirage Wine & Spirits Inc. had kicked off the antitrust suit in December 2023, **alleging** that Visa and Mastercard were worried that Apple's Apple Pay feature on the iPhone, introduced in 2014, would drive down "lucrative" fees that they had long charged merchants. Mirage said Apple's iPhone had already displaced music players, cameras and GPS systems.

Mirage, later joined by other merchants, asserted in an amended complaint in August that Apple later agreed, among other things, not to establish its own payment network and to protect Visa and Mastercard's payment networks by blocking their competitors' access to Apple Wallet and its near field communication technology, which Apple Pay utilizes.

The retailers alleged that Visa and Mastercard, in exchange, agreed that Apple Pay transactions would run through their payment networks and that Apple would receive "cash bribes" or portions of the transaction fees.

The retailers, meanwhile, sustained "direct injury to their businesses or property" by having to pay artificially inflated fees to Visa and Mastercard for using their point-of-sale transaction payment networks, with a portion of the fees going to Apple, the retailers alleged.

They accused Apple and the credit card companies of violating Section 1 of the Sherman Act, which prohibits agreements that unreasonably restrain trade.

Apple, Visa and Mastercard **moved to dismiss** the retailers' lawsuit in September, with Apple saying in its motion that the retailers lodged a "speculative and implausible theory" and that the agreements expressly preserved Apple's ability to compete.

Visa and Mastercard said in a separate motion that the court could review the agreements "and see that they contain none of these alleged restraints."

In dismissing the lawsuit, Judge Dugan said that the court did review the agreements. He said the agreements' express terms, based on the court's review, supported Apple, Visa and Mastercard. He said the court's review confirmed that Apple, for instance, reserved the "unilateral right to change or suspend any aspect of Apple Pay at any time" and "retained the right to launch a competing payment network."

Visa and Mastercard also "retained the right to suspend aspects of their relationships" with Apple, he noted.

The payment platform agreements were also "silent on bank-to-bank transfers and the access of competitors to Apple Wallet and the NFC technology," he said.

The credit card companies had also argued that the retailers failed to offer circumstantial evidence to back their case. Apple had also argued that the retailers lacked standing to sue.

Judge Dugan agreed with both assertions, saying that the retailers' circumstantial allegations were "too speculative and conclusory."

As for standing, Judge Dugan said that the retailers "rely on conjecture."

"It is only in the event defendant Apple was successful at each of these steps that it could, without a guarantee, achieve savings for merchants like plaintiffs by forcing lower fees in the market," Judge Dugan wrote. "For these reasons, the court finds plaintiffs failed to state a sufficient link between the alleged antitrust violation and antitrust injury."

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

The retailers are represented by Stephen M. Tillery, Christopher M. Burke, Yifan (Kate) Lv and Marc Wallenstein of Korein Tillery LLC, by K. Craig Wildfang, Thomas J. Undlin, Stacey P. Slaughter, Ryan R. Marth, Geoffrey H. Kozen, Navy A. Thompson and Caitlin E. Keiper of Robins Kaplan LLP, by David R. Scott, Patrick J. McGahan, Carmen Medici and Sean Russell of Scott + Scott Attorneys at Law LLP, by Amelia F. Burroughs of Burroughs Legal, by Jennifer W. Sprengel, Daniel O. Herrera and Kaitlin Naughton of Cafferty Clobes Meriwether & Sprengel LLP, and by Michelle J. Looby and Abou B. Amara Jr. of Gustafson Gluek PLLC.

Apple is represented by Belinda S. Lee, Sarah M. Ray, Ashley M. Bauer, Aaron T. Chiu, Alicia R. Jovais and Gary Feinerman of Latham & Watkins LLP.

Visa is represented by Michael S. Shuster, Demian A. Ordway and Zachary A. Kerner of Holwell Shuster & Goldberg LLP, and by Robert J. Vizas, Anne P. Davis, Matthew A. Eisenstein, Valerie Hays and Nicholas Zebrowski of Arnold & Porter Kaye Scholer LLP.

Mastercard is represented by Brette Tannenbaum, Nina Kovalenko, Kenneth A. Gallo and Donna M. Ioffredo of Paul Weiss Rifkind Wharton & Garrison LLP.

The case is *Mirage Wine + Spirits Inc. v. Apple Inc. et al.*, case number 3:23-cv-03942, in the U.S. District Court for the Southern District of Illinois.

--Editing by Vaqas Asghar.



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Chhabria's Privacy Ruling An 'Outlier,' Judge Tells Tech Giants

By **Bonnie Eslinger**

Law360 (July 10, 2025, 11:22 PM EDT) -- Google and Meta urged U.S. District Judge Araceli Martínez-Olguín on Thursday to toss putative class claims alleging the companies unlawfully collected information from website users buying erectile dysfunction medication, pointing in part to a ruling on intent from her Northern District colleague, which the judge called an "outlier."

Judge Martínez-Olguín made the comment during a hearing in San Francisco over Meta and Google's respective motions to dismiss the proposed class action filed by three anonymous individuals who used the BlueChew website and sued the companies for "intercepting" their personally identifying and health information through online tracking tools.

Google and Meta both told the court that, among other arguments, the plaintiffs consented to BlueChew's use of the tracking tools and didn't show that the tech companies intended to receive their sensitive data.

Meta's lawyer, Margaret Upshaw of Latham & Watkins LLP, told the judge that the plaintiffs had not alleged facts showing that her client acted "consciously and deliberately with the goal of obtaining information." That's the sufficiency standard set by the Ninth Circuit, Upshaw said, adding that U.S. District Judge Vince Chhabria had applied that standard in recent privacy cases related to tracking tools.

Judge Martínez-Olguín interrupted.

"I'm going to pause you for a moment," the judge said. "I know Judge Chhabria has done that. He's also an outlier in this on this bench."

The judge noted that other Northern District colleagues, Judges William H. Orrick and P. Casey Pitts, had found differently.

Upshaw said the complaint before the court is "remarkably thin" compared to what came before Judge Orrick.

In addition, even the documents that the plaintiffs are relying on "show that Meta provided specific instructions" to BlueChew and others "on how not to send the information at issue in this case," Upshaw told the court.

Those instructions are in the terms of service for Meta's business tools, the lawyer said.

Under these circumstances, the plaintiffs can't create "a plausible inference" that "Meta acted consciously and deliberately to obtain this information," Upshaw said.

A lawyer for Google, Joshua D. Anderson of Cooley LLP, reiterated some of the same points about intent.

He added that the website developers are the ones that choose to incorporate the tracking tools and choose what data is collected and how it is used. And like Meta, Google's terms of service require that any website running Google Analytics not transmit any personally identifiable information, Anderson said.

Further, there's no allegation that anybody at Google even knew BlueChew had "sent data that was not consented to be sent or sent data that Google forbade it from sending," the lawyer for Google said.

Timothy Fisher of Bursor & Fisher PA, who represents the plaintiffs, agreed with the court's assessment of Judge Chhabria as an outlier and said Judges Orrick and Pitts had made more appropriate calls by saying the question of intent couldn't be decided at the pleading stage.

Judge Orrick, he said, "had an excellent quote about, 'Yeah, okay, they say this is what they're doing, but okay, actually, how did it work?'"

That requires discovery and a full evidentiary record, Fisher said.

In that **decision**, Judge Orrick said to determine what "Meta's true intent is, what steps it actually took to prevent receipt of health information, the efficacy of its filtering tools, and the technological feasibility of implementing other measures to prevent the transfer of health information, all turn on disputed questions of fact that need development on a full evidentiary record."

In the **2024 decision** from Judge Chhabria cited by both defendants — in a case accusing Google of illicitly scooping up users' personal data from healthcare providers' websites — the judge held that the plaintiffs didn't adequately allege that Google intentionally obtained patients' private health information, saying, "As already discussed, the complaint acknowledges that Google repeatedly told developers not to send personally identifiable information through use of its source code."

In addition, last year, Judge Pitts **refused** to release Meta from a consolidated class action accusing it of unlawfully collecting sensitive information from tax filing websites H&R Block, TaxAct and Tax Slayer, rebuffing Meta's argument that it did not intend to receive the information.

"Whatever agreements may have been in place, those agreements do not establish as a matter of law that Meta did not intend to receive the information plaintiffs claim was transmitted," Judge Pitts said.

According to their operative complaint, the website for BlueChew promises to offer patients a discrete way to access prescription medications for the treatment of the erectile dysfunction, but they don't know that sensitive, personal information that's sent through the website is being "intercepted" by some of the "largest advertising and social media companies in the country, including Facebook and Google," according to the operative complaint.

Google and Meta used the information for their own purposes, including for targeted advertising, according to the complaint.

The suit, first filed in September and amended in January, asserts causes of action for violation of the California Invasion of Privacy Act, the Pennsylvania Wiretapping Act, the Maryland Wiretapping and Electronic Surveillance Act, and seeks to represent classes of purchasers for each of the three states.

The three plaintiffs bringing the suit are anonymous, with one residing in each of the three states.

In their motion to dismiss filed in February, Google and Meta also argued that the plaintiffs waited too long to file their claims, and now they're barred by the statute of limitations.

The judge asked Fisher which claims would survive if she didn't side with the plaintiffs' argument that the tech companies had fraudulently concealed their collection of the data, thus extending the timeline for their suit.

Potentially only one, he said: the Maryland claim for a purchase made in 2024. The California plaintiff and the Pennsylvania plaintiff had both made purchases in 2022 and the California plaintiff had made an additional purchase in 2023.

"But I believe that would still be out of the statutory period," Fisher said.

Anderson said Google's updated 2024 privacy policy is very clear

"There's no ambiguity in the scope of consent on the 2024 privacy policy," he said. "It discloses that all of the data transmission is for targeted ads."

In its motion to dismiss, Google also argued that the plaintiffs were informed that using the BlueChew website would involve the collection and processing of data by Google Analytics.

BlueChew users have to consent to a privacy policy that discloses the automatic collection of user information through "cookies, web beacons, and other technologies," and are also told that BlueChew may share their personally identifiable information, including health information, with service providers, Meta said.

Judge Martínez-Olguín did not rule from the bench on Thursday but said she'd give the matter more thought before issuing a decision.

The plaintiffs are represented by L. Timothy Fisher of Bursor & Fisher PA.

Google is represented by Benedict Y. Hur, Simona A. Agnolucci, Joshua Douglas Anderson and Eduardo E. Santacana of Cooley LLP.

Meta Platforms is represented by Melanie M. Blunschi, Kristin Sheffield-Whitehead, Catherine A. Rizzoni and Margaret A. Upshaw of Latham & Watkins LLP.

The case is M.D. v. Google LLC et al., case number 3:24-cv-06369, in the U.S. District Court for the Northern District of California.

--Editing by Dave Trumbore.

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DuPont Reaches \$27M Settlement In NY PFAS Case

By **Jonathan Capriel**

Law360 (July 10, 2025, 4:54 PM EDT) -- The members of a proposed class of hundreds of residents whose drinking water was tainted by "forever chemicals" have told a New York federal judge that they've reached a \$27 million deal with DuPont, ending claims that it is responsible for the contamination, putting the total settlements achieved at \$92 million.

The final remaining defendant, E.I. du Pont de Nemours & Co. and the proposed class members in upstate New York penned a multimillion-dollar settlement days before a trial was set to begin, according to an announcement issued Tuesday by the counsel for the plaintiffs, Weitz & Luxenberg and Faraci Lange. In a text order issued on the same day, U.S. District Judge Mae A. D'Agostino acknowledged the settlement and said the court will await the filing of a motion seeking final approval.

Other notable defendants in the suit, Saint-Gobain Performance Plastics Corp., 3M Co. and Honeywell International Inc., were dismissed from the case after reaching a **\$65 million settlement** in 2021.

"On the eve of trial, after a nine-year fight that included an interim appeal to the Second Circuit Court of Appeals, we are gratified to have reached what we believe will be the final resolution of this case that will provide significant added benefit to the residents of Hoosick Falls and the town of Hoosick," co-lead counsel Stephen Schwarz of Faraci Lange in Rochester said in a statement issued Tuesday.

The plaintiffs claimed a facility in their town used a foam containing perfluorooctanoic acid, or PFOA, from the late 1960s to 2003. Its use polluted the air and groundwater, causing elevated levels of the chemical in residents' blood. Saint-Gobain was the latest owner of the facility, having purchased it from Honeywell.

In addition, 3M and DuPont are linked to the manufacturing of the Teflon products that were used and knew about the health risks PFOA posed long before they told the public, according to the suit. The residents said the manufacturers failed to warn them of the harm, according to court filings.

The plaintiffs are collectively represented by James J. Bilsborrow and Robin L. Greenwald of Weitz & Luxenberg PC, Stephen Schwarz and Hadley L. Matarazzo of Faraci Lange LLP and Gerald Williams of Williams Cedar LLC.

DuPont is represented by John M. Johnson, Lana A. Olson, Jeffrey P. Doss and M. Elizabeth Harrison of Lightfoot Franklin & White LLC, Benjamin W. Hill and Allee Von Stackelberg of Capezza Hill LLP and Andrew D. Carpenter of Shook Hardy & Bacon LLP.

--Additional reporting by Mike Curley and Melissa Angell. Editing by Rich Mills.

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