

Analysis

For New Partners in Plaintiff-Side Firms, A Focus on People and the Big Picture

July 16, 2025 | By  Ross Todd



(l-r) Guillaume Buell of Labaton Sucharow, John Vielandi of Labaton Keller Sucharow, Justin Hawal of DiCello Levitt, Juan Carlos Sanchez of Robbins Geller Rudman & Dow, and Steven Daroci of Seeger Weiss. Courtesy photos

Let's turn our attention once again to the litigators who have participated over the past year or so in the "[How I Made It](#)" series that our colleagues at [Law.com](#) curate. So far this year, we've drawn on insights from newly minted partners [in the Second Hundred firms](#) in the Am Law 200 and a group of women who made partner in [IP litigation practices](#).

This morning, we're going to focus on the responses of five litigators who practice on the plaintiffs' side of complex litigation: **Guillaume Buell** and **John Vielandi**, who both practice



Labaton Keller Sucharow, Justin Hawal of DiCello Levitt, Juan Carlos Sanchez of Robbins Geller Rudman & Dowd and Steven Daroci of Seeger Weiss. While the career paths that led them to plaintiff-side work differ, they all emphasized the need to understand how individual litigation tasks fit into the broader themes and strategies of a matter. They also stressed that the nature of their work requires team members to be flexible in dealing with different types of personalities among clients and colleagues.

Vielandi, who handles corporate governance and shareholder rights litigation [at Labaton in New York](#), has focused on that work throughout his career. He previously practiced at **Bernstein Litowitz Berger & Grossmann** for five years before joining Labaton in February 2019. He said he made an effort from early on to build strong relationships across the firm, not just with the people he worked with daily.

“I’ve always tried to be a team player—whether that means lending a helping hand, offering advice or supporting others in their work,” Vielandi said. “I think that combination of reliability, collaboration and a commitment to excellence played a key role in my path to partnership.”

Vielandi’s [Labaton colleague in New York](#), Guillaume Buell, has been at the firm for the better part of a decade. He was previously an associate at **Cahill Gordon & Reindel** in New York and **Hicks Davis Wynn** in Houston—having had two “tours of duty” at both Cahill and Labaton. He said, as he looks back at the twists of his career path, he wouldn’t change a thing because it led him to “the job of my dreams, with coworkers and clients that make my career second to none.”

Buell, who focuses on business development in his current role, said that he and his partners at Labaton don’t operate in “silos” and there is a lot of collaboration when it comes to evaluating cases, litigating them and growing the firm’s client base. He said that has given him a mindset to be driven to accomplish as much as he can.

“This can be a blessing and a curse because you’ve got to learn sometimes how to take a moment and catch your breath,” Buell said. “But because Labaton puts meaning behind the idea of working as partners, we do everything collaboratively and feed off of each other’s skills and abilities.”

Steven Daroci, who handles a mix of products liability, class actions, mass torts, commercial litigation and consumer litigation [at Seeger Weiss in Ridgefield Park, New Jersey](#), is the son of a personal injury attorney. He said he always had an interest in working on behalf of plaintiffs. He joined Seeger Weiss in July 2022 as counsel after making partner at **Fox Rothschild**, where he began as a first-year associate in 2013. He said that as a younger attorney, it was a challenge learning to work with different partners with different working styles and drastically different personalities.



“While stressful in real time, these circumstances can still be a learning opportunity by forcing you to be adaptive, by expanding your comfort zone, and by demonstrating the benefits and drawbacks of these different approaches,” he said.

Juan Carlos Sanchez, who handles securities fraud cases [at Robbins Geller in San Diego](#), has been with the firm full-time for 10 years. He summered at the firm in 2013, clerked for U.S. District Judge Nelva Gonzales Ramos of the Southern District of Texas and then joined the firm in fall 2015. Sanchez’s parents often worked two jobs apiece to make ends meet and now live in retirement off a pension from his father’s job as a custodian. He said, because of that, he always knew he wanted to be a plaintiff-side attorney and handle class actions “to produce the greatest benefit and impact to the greatest number of people.”

Sanchez said that his empathy has been a personality trait that has set him apart and helped him professionally. “When you empathize with a client’s plight, you really know what’s at stake—and it inspires you to do the best job imaginable,” he said. “I think some of the most important qualities in an attorney—always being prepared, pushing the envelope, recognizing opportunities, for example—stem from having empathy toward your client and being relentless with your advocacy on their behalf.”

Sanchez said this approach has led him to treat every client like a member of his family and to build teams that work toward building consensus. “You want to empower everyone on the team to speak their minds because a concern now could grow into a more serious problem later,” he said. “Foster an environment that’s flat, so a hierarchy doesn’t stop people from sharing with each other.”

Justin Hawal, meanwhile, handles a mix of class action litigation and civil rights, personal injury, products liability, privacy and whistleblower work [at DiCello Levitt in Cleveland, Ohio](#). He has been with the firm since its inception in 2017, having started with its predecessor, the **DiCello Law Firm**, in August 2014.

Hawal said he was asked to shift his focus to complex cases about halfway into his career. He said he felt overwhelmed at first, thinking he was behind other attorneys at his general level of experience who had focused on those cases earlier in their careers. But over time, he said he became proficient.

“This experience has given me the confidence that, no matter what legal problems I encounter, I can find solutions,” he said. “I try to focus on the things that I can control, including the process of delivering consistent and high-quality work product. From there, hopefully favorable results will follow.”



Seeing the Whole

These plaintiff-side practitioners said that one common mistake they see among their junior colleagues is that they don't consider how their work fits into the bigger picture—both in terms of individual cases and the broader practice of their firms.

"It's easy to get caught up in the specific task at hand and assume that what you're working on is the most important thing at that moment," said Labaton's Vielandi. "But in reality, a law firm is like a big machine, and it only functions well when everyone is supporting each other and working toward a common goal."

Robbins Geller's Sanchez said that it's important to think beyond the needs of your individual case to the firm's greater needs. "Also—and this should be a mantra—prepare, prepare, prepare. It's the not-so-secret secret sauce," he said.

Daroci of Seeger Weiss said the best lawyers work hard, take ownership of their cases and are proactive: They don't merely think of assignments in terms of checking off a to-do list. "Think about how your work fits into the larger litigation strategy, take initiative and anticipate follow-up issues," he said.

Labaton's Buell, meanwhile, said that it's critical for young lawyers to learn from defeat. He said one of his favorite quotes comes from Captain Jean-Luc Picard, the character portrayed by Sir Patrick Stewart in "Star Trek: The Next Generation," who said: "It is possible to commit no mistakes and still lose. That is not a weakness. That is life."

Buell said some of his biggest professional successes in litigation and business development have come out of defeat. "I was able to shake off a loss or failure, move on from it, learn from it and apply those lessons learned in winning the next motion or getting the next client," he said.

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Class Action

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Equinix Agrees to \$42 Million Investor Accounting Settlement (2)

July 16, 2025, 5:42 AM PDT; Updated: July 16, 2025, 8:58 AM PDT

- **Suit alleged misclassified expenses inflated accounting metric**
- **Settlement comes after motion seeking class certification**

Equinix Inc. agreed to pay \$41.5 million to end investor allegations that the digital infrastructure company misclassified recurring capital expenditures and inflated a key accounting metric.

The benefits fund serving as lead plaintiff sought preliminary approval of the proposed class settlement in the US District Court for the Northern District of California Tuesday. The deal would cover a class of those who acquired Equinix stock from May 3, 2019, through March 24, 2024.

The Uniformed Sanitationmen's Association Compensation Accrual Fund negotiated a settlement that "recovers approximately 18% of the estimated reasonably recoverable common stock damages," the motion said.

The accord comes after the lead plaintiff moved for class certification. Judge Vince Chhabria said in January that there was potential to demonstrate that Equinix and two then-executives defrauded investors knowingly in having inflated its adjusted funds from operation, allowing some of the suit's claims to proceed. Adjusted funds from operation, or AFFO, helps estimate a real estate investment trust's value. A recurring capital expense decreases AFFO while a non-recurring one wouldn't affect it.

Executives claimed that Equinix's high AFFO came from a "strong operating performance" when certain expenses like battery and lightbulb replacements should have been noted as recurring and deducted from its value, the suit alleged. Investors sued after a March 2024 short-seller Hindenburg Research report accused Equinix of accounting manipulation which boosted AFFO by a collective \$3 billion from 2015 onward.

Equinix sought dismissal, arguing that determining recurring and non-recurring expenditures are up to a company's discretion. But Chhabria in January said that didn't matter because the allegations pit the company's classification against its own definitions. In 2014, Equinix announced it was converting to a real estate investment trust and formulated its methodology for calculating AFFO, Chhabria said. Under the company's methodology, a reasonable investor could have assumed expenses like replacing chillers or batteries would be recurring, he said.

"Equinix consistently has denied the allegations in the lawsuit and is settling to avoid the time, costs, distraction, and uncertainties associated with protracted litigation," a spokesperson for the company said in an email, adding that the settlement was not a finding of wrongdoing and would be funded by insurance.

"As announced last year, an independent, third-party investigation conducted on behalf of the Audit Committee of the Equinix Board of Directors also concluded that Equinix's financial reporting has been accurate, and that the application of its accounting practices has resulted in an appropriate representation of its operating performance," the spokesperson added.

Robbins Geller Rudman & Dowd LLP, which didn't immediately respond to an email seeking comment, is lead counsel for the fund. It will seek fees not to exceed 25% of the settlement amount and up to \$300,000 in expenses.

Davis Polk & Wardwell LLP represents Equinix, former CEO and current board chairman Charles J. Meyers, and chief financial officer Keith D. Taylor.

The case is Uniformed Sanitationmen's Ass'n Comp. Accrual Fund v. Equinix, Inc. , N.D. Cal., No. 3:24-cv-02656, motion for preliminary approval 7/15/25 .

(Updates with Equinix's response to a request for comment in the seventh paragraph.)

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News from Bloomberg Terminal

Gores, SPAC Backers End UWM Merger Dispute for \$17.5 Million

July 15, 2025, 12:02 PM PDT

- Insiders got a windfall in the merger, investors said
- UWM Holdings Corp. will pay \$17.5 million in cash

By Jennifer Kay

(Bloomberg Law) --

Prolific SPAC sponsor Alec Gores and other architects of United Wholesale Mortgage LLC's blank-check merger have reached a \$17.5 million settlement to resolve investor claims they engineered a windfall for insiders in the 2021 transaction.

UWM Holdings Corp., the publicly traded entity created in the \$16 billion merger, agreed to pay the settlement in cash, under the terms of the accord approved Tuesday by the Delaware Chancery Court.

The settlement "shows a meaningful recovery for the class and is fair and reasonable on balance," Vice Chancellor Lori W. Will said in a bench ruling in Wilmington, Del.

The litigation was part of a wave of lawsuits challenging mergers with special purpose acquisition companies, designed to allow privately traded businesses to bypass initial public offerings. The UWM transaction was among the largest of a two-year SPAC deal boom that's since receded.

The defendants didn't include UWM, the country's largest wholesale mortgage lender, or its billionaire CEO, Mat Ishbia, who owns the NBA's Phoenix Suns and the WNBA's Phoenix Mercury.

The shareholders who challenged the merger believe their claims are strong, "but UWM wasn't a typical de-SPAC merger target," said Kelly Tucker of Grant & Eisenhofer PA, representing the two investors leading the case.

UWM "was extremely profitable before the merger," and as the stock traded above its \$10.01 redemption price at a high volume for a long time after closing, "the likely economic losses are less than other cases," she told Will.

The recovery amounts to 41 cents per share, Tucker said.

The judge also approved a \$3.5 million fee award for the investors' attorneys, who sought nearly \$4 million. The litigation was "not a particularly risky case to pursue," Will said, adding "I have depositions but no substantive motions."

The investors leading the case, Richard Delman and Michael Farzad, are also represented by Robbins LLP and Robbins Geller Rudman & Dowd LLP. The deal sponsors are represented by Ross Aronstam & Moritz LLP and Weil, Gotshal & Manges LLP.

The case is *In re Gores Holdings IV, Inc. S'holder Litig.*, Del. Ch., No. 2023-0284, settlement hearing 7/15/25.

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Securities Law

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Thoma Bravo's Everbridge Faces Revived Investor Class Action

July 15, 2025, 3:33 PM PDT

Everbridge Inc. investors successfully stated securities fraud claims over the software company's integration of acquired companies before Thoma Bravo LLC took it private, the Ninth Circuit said Tuesday.

The investors cited knowledgeable confidential witnesses to plausibly allege that key executives had the necessary level of intent for securities fraud in statements about integration and revenue, the US Court of Appeals said in reviving the proposed class action. The opinion was unpublished and unsigned.

- The complaint "suggests that issues with integration were widespread and that the company's officers misstated revenue estimates to conceal these issues," making the inference that Everbridge and the C-suite defendants intentionally or recklessly misled investors "at least as compelling as any competing inference," the appeals court said
- But the panel agreed with Judge Fred W. Slaughter of the US District Court for the Central District of California that Everbridge lacked the intent, or scienter, to misrepresent its acquisition strategy and motivations
- And while Slaughter correctly found some statements non-actionable, others were adequately alleged to be misleading and not protected from suit, Judges Susan P. Graber, Kim McLane Wardlaw, and Anthony D. Johnstone said

Labaton Keller Sucharow, LLP and Robbins Geller Rudman & Dowd, LLP represented the investors. Cooley LLP represented Everbridge and the individual defendants.

The case is Sylebra Cap. Partners Master Fund Ltd. v. Everbridge, Inc. , 9th Cir., No. 24-2474, unpublished 7/15/25 .

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Securities Law News

Pool Supplier Leslie's Beats Investor Suit Over Demand Drop (2)

July 15, 2025, 6:24 AM PDT; Updated: July 15, 2025, 10:37 AM PDT

- North Carolina treasurer leads proposed class suit on inventory
- Didn't adequately allege falsity, but can amend complaint

Leslie's Inc. defeated proposed class claims that the pool supplier hid its excess chlorine-based product inventory levels as pandemic demand waned, a federal judge ruled.

North Carolina's treasurer, the lead plaintiff, didn't sufficiently connect the dots between alleged misstatements and omissions to successfully plead falsity, Judge Sharad H. Desai of the US District Court for the District of Arizona said, tossing the suit Monday.

But issues of specificity on what exactly investors thought was false or omitted in purported misstatements about demand and inventory, and other shortcomings, could be fixed in an amended complaint, the judge said. Desai allowed the treasurer—currently Bradford B. Briner (R), who was sworn in in January—and additional plaintiff Macomb County Employees' Retirement System 30 days to amend the allegations.

Because Desai dismissed the consolidated complaint—filed when former North Carolina treasurer Dale Folwell (R) held the office—on falsity grounds, he declined to address whether it adequately alleged an overall inference of intent or reckless disregard by former CEO Michael R. Egeck and former chief financial officer Steven M. Weddell to defraud investors. But Desai noted that the complaint didn't sufficiently establish former employees' reliability and personal knowledge when citing confidential witness statements to allege corporate intent to deceive or recklessness.

The complaint didn't adequately allege that the importance of Leslie's chlorine-product business suggested the executives knew of inventory issues, which was needed to meet the US Court of Appeals for the Ninth Circuit's high pleading burden, Desai said. And the fact that Weddell's departure coincided with disappointing financial results didn't, on its own, suggest an inference of intent, he said.

Biggest Drop Since Debut

Leslie's revealed a decline in sales and disappointing gross profits in July 2023 while delivering preliminary results for the third quarter of that year. The company on July 13, 2023, lowered its full fiscal year outlook and announced Weddell would be replaced.

Share prices plummeted almost 30% July 14, the day after the announcement—the stock's biggest one-day drop since its 2020 market debut, according to data compiled by Bloomberg. The stock price tumbled almost another 19% over the next trading day to close at \$5.46 on July 17.

But before this, Leslie's and executives touted demand for the company's chemical products after a pandemic boom, the complaint said. They hid from shareholders that the company and its customers "had a glut of inventory, which would inevitably depress future demand," the complaint said.

"We're reviewing the Court's order with our counsel and will be working together on our next steps," a spokesperson for the treasurer said in an email.

The proposed class would include those who obtained Leslie's stock from Feb. 3, 2022, through July 13, 2023.

Robbins Geller Rudman & Dowd LLP is lead counsel for the state treasurer. Gibson Dunn & Crutcher LLP and Snell & Wilmer LLP represent Leslie's and the former executives.

Neither the law firms nor Leslie's immediately responded to emails seeking comment.

The case is W. Palm Beach Police Pension Fund v. Leslie's Inc. , 2025 BL 244579, D. Ariz., No. 2:23-cv-01887, 7/14/25 .

(Updates with a comment from the North Carolina treasurer's office in the ninth paragraph.)

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Securities Law News

Hims & Hers Shareholder Sues Top Brass Over Wegovy Maker's Drop

July 15, 2025, 1:34 PM PDT

- **COURT:** N.D. Cal.
- **TRACK DOCKET:** No. [3:25-cv-05866](#) (Bloomberg Law subscription)

Hims & Hers Health Inc. board members and executives failed to tell shareholders that its Novo Nordisk A/S Wegovy collaboration turned on the telehealth provider's selling of a copycat weight-loss drug, a lawsuit said.

Hims' share prices fell almost 35% to close at \$41.98 the day Novo said it was ending the deal over concerns about Hims selling compounded versions of semaglutide alongside Novo's branded Wegovy, said the stockholder's complaint filed in the US District Court for the Northern District of California on Monday. It was the stock's steepest single-day slide on record, according to data compiled by Bloomberg.



Top executives and board members hurt Hims' reputation and wallet by causing it to mislead investors about its ability to concurrently offer off-brand semaglutide and Wegovy and lacking internal controls, the shareholder derivative action said.

Meanwhile, six executives profited off of wrongly selling Hims stock, said investor Steven Jones' complaint, adding that all the trades were described as being made pursuant to regulations on insider trading. CEO Andrew Dudum sold more than 508,000 shares for \$27.1 million; chief financial officer Yemi Okupe sold more than 46,000 shares for \$2.4 million; chief operating officer Melissa Baird sold 33,333 shares for \$1.8 million; chief commercial officer Michael Chi sold over 27,600 shares for \$1.6 million; chief legal officer Soleil Boughton sold more than 17,700 shares for \$922,776; and principal accounting officer Irene Buckland sold 13,556 shares for \$778,328, Jones said.

Novo accused Hims on June 23 of deceptive promotion that put patient safety at risk through the continued sale of "illegitimate, knockoff versions" following the end of a nationwide shortage for injections of semaglutide, the main ingredient used to make approved diabetes and obesity treatments Ozempic and Wegovy.

The US Food and Drug Administration had declared an end to the nationwide shortage, which started in 2022, in February 2025. During the shortage, Hims and other companies had been allowed to produce and sell compounded semaglutide—an allowance that was extended a couple months past the declared end. As that courtesy wound down in April, Novo partnered with telehealth companies to push Wegovy, it said, while announcing the termination of its months-old agreement with Hims.

Dudum defended Hims' sale of the copycat weight-loss injections in an interview with Bloomberg days after Novo's announced termination, a position he's held since.

Jones alleged breach of fiduciary duties, gross mismanagement, waste of corporate assets, unjust enrichment, and securities law violations by 15 Hims board members and executives.

Rowley Law PLLC and the Law Office of Francis J. Flynn Jr. represent Jones.

His derivative lawsuit follows on a pair of proposed class actions containing similar allegations against the company, Dudum, and Okupe in the same court last month.

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

The case is Jones v. Dudum , N.D. Cal., No. 3:25-cv-05866, complaint filed 7/14/25 .

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12 firms vie for lead counsel in lovance stock drop lawsuit

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[dailyjournal.com/articles/386573-12-firms-vie-for-lead-counsel-in-iovance-stock-drop-lawsuit](https://www.dailyjournal.com/articles/386573-12-firms-vie-for-lead-counsel-in-iovance-stock-drop-lawsuit)

Jul. 16, 2025

Twelve firms compete for lead counsel in lovance Biotherapeutics securities lawsuit, citing large settlements and client losses after a 44% stock drop due to misleading revenue forecasts.

Twelve firms are battling to be appointed lead counsel in a putative securities class action accusing lovance Biotherapeutics of causing its stock price to drop 44% in a single day by misrepresenting the anticipated demand for one of its cancer treatments.

In the competing motions filed Monday, some of the firms cited their history of securing large settlements on behalf of investors to sway U.S. District Judge Eumi K. Lee in San Jose. Others claimed their clients' sizable losses compared to other potential class members justify their appointment.

Two related lawsuits filed on May 15 accuse lovance of misleading investors about its first-year revenue forecast for Amtagvi, a new melanoma treatment. The complaints claim the company expected \$450-\$475 million in first-year sales but cut that estimate by 40% on May 8, causing the stock to drop the next day.

The firms' motions included a request to consolidate the two cases. *Sundaram v. lovance Biotherapeutics, Inc. et al.*, 5:25-cv-04177 (N.D. Cal. filed May 15, 2025). *Farberov v. lovance Biotherapeutics, Inc. et al.*, 5:25-cv-04199 (N.D. Cal. filed May 15, 2025).

lovance's investor relations office could not be reached for comment regarding the underlying allegations on Tuesday.

Mark Molumphy, a Burlingame partner at Cotchett, Pitre & McCarthy LLP and attorney for one of the investors, said there were "several qualified firms" but explained why Lee should choose his firm.

"The Court will get to choose from several qualified firms to lead the case, a few based in this district, and investors like our client who had losses from both stock and options. It also helps to be so close to lovance's headquarters in San Carlos since many employees and former employees live on the Peninsula."

Molumphy's client is an investor who claims to have "the largest financial interest relief sought by the class" according to the motion to appoint. The investor purchased 5,100 shares and 1,005 call options of lovance stock between May 2024 and May 2025.

Lesley E. Weaver, partner in charge of Bleichmar, Fonti & Auld LLP's office in San Francisco, also filed a motion to appoint but declined to comment on Tuesday. Weaver argued in the motion that her firm is "among the foremost securities class action law firms in the country" and cited a recent \$420 million securities settlement against Teva Pharmaceuticals to justify the appointment.

Jennifer Pafiti, a Los Angeles partner at Pomerantz LLP, could not be reached for comment but claimed in Monday's motion to appoint that her client's claim of a \$1.2 million loss is "the largest financial claim at stake" in the litigation.

The other law firms that made their bid to be appointed lead counsel are: Kaplan Fox & Kilsheimer LLP; Saxena White P.A.; Glancy Prongay & Murray LLP; Kirby McInerney LLP; Ford & Diulio LLP; Squitieri & Fearon LLP; Moore Law, PLLC; The Rosen Law Firm PA; and Levi & Korsinsky LLP.

Two derivative shareholder lawsuits, where lovance investors are suing the executive board for breaches of fiduciary duties on behalf of the company itself, are also pending in the Northern District of California. *Gera et al v. Vogt et al.*, 3:25-cv-04794 (N.D. Cal. filed June 5, 2025). *Hollin v. Vogt et al.*, 3:25-cv-04740 (N.D. Cal. filed June 5, 2025).

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Facebook privacy practices the focus of \$8 billion trial targeting Zuckerberg



reuters.com/sustainability/boards-policy-regulation/facebook-privacy-practices-focus-8-billion-trial-targeting-zuckerberg-2025-07-16

Tom Hals

July 16, 2025

Item 1 of 2 Meta CEO Mark Zuckerberg looks on before the luncheon on the inauguration day of U.S. President Donald Trump's second Presidential term in Washington, U.S., January 20, 2025. REUTERS/Evelyn Hockstein/File Photo

[1/2]Meta CEO Mark Zuckerberg looks on before the luncheon on the inauguration day of U.S. President Donald Trump's second Presidential term in Washington, U.S., January 20, 2025. REUTERS/Evelyn Hockstein/File Photo [Purchase Licensing Rights, opens new tab](#)

- Trial centers on alleged data privacy violations by Meta leaders
- Meta shareholders seek \$8 billion in damages
- Defendants say they took steps to protect user privacy

WILMINGTON, Delaware, July 16 (Reuters) - An \$8 billion trial by Meta Platforms ([META.O](#)), [opens new tab](#) shareholders against Mark Zuckerberg and other current and former company leaders kicks off on Wednesday over claims that they illegally harvested the data of Facebook users in violation of a 2012 agreement with the U.S. Federal Trade Commission.

Jeffrey Zients, White House chief of staff under President Joe Biden and a Meta ([META.O](#)), [opens new tab](#) director for two years starting in May 2018, is expected to be one of the first witnesses to take the stand in the non-jury trial before Kathaleen McCormick, chief judge of the Delaware Chancery Court.

The case will feature testimony from Zuckerberg and other billionaire defendants including former Chief Operating Officer Sheryl Sandberg, venture capitalist and board member Marc Andreessen, and former board members Peter Thiel, Palantir Technologies ([PLTR.O](#)), [opens new tab](#) co-founder, and Reed Hastings, co-founder of Netflix ([NFLX.O](#)), [opens new tab](#). A lawyer for the defendants, who have denied the allegations, declined to comment.

The case began in 2018, following revelations that data from millions of Facebook users was accessed by Cambridge Analytica, a now-defunct political consulting firm that worked for [Donald Trump](#)'s successful U.S. presidential campaign in 2016.

The FTC fined Facebook \$5 billion in the wake of the Cambridge Analytica scandal, saying the company had violated a 2012 agreement with the FTC to protect user data.

Shareholders want the defendants to reimburse Meta for the FTC fine and other legal costs, which the plaintiffs estimate total more than \$8 billion.

In court filings, the defendants described the allegations as "extreme" and said the evidence at trial will show Facebook hired an outside consulting firm to ensure compliance with the FTC agreement and that Facebook was a victim of Cambridge Analytica's deceit.

Meta, which is not a defendant, declined to comment. On its website, the company has said it has invested billions of dollars into protecting user privacy since 2019.

The lawsuit is considered the first of its kind to go to trial which alleges board members consciously failed to oversee their company. This is often described as the hardest claim to prove in Delaware corporate law.

Boeing's current and former board members [settled](#) a case with similar claims in 2021 for \$237.5 million, the largest ever in an alleged breach of oversight lawsuit. The Boeing directors did not admit to wrongdoing.

In addition to privacy claims at the heart of the Meta case, plaintiffs allege that Zuckerberg anticipated that the Cambridge Analytica scandal would send the company's stock lower and sold his Facebook shares as a result, pocketing at least \$1 billion.

Defendants said evidence will show that Zuckerberg did not trade on inside information and that he used a stock-trading plan that removes his control over sales and is designed to guard against insider trading.

McCormick is expected to rule on liability and damages months after the trial concludes.

Reporting by Tom Hals in Wilmington, Delaware; Editing by Noeleen Walder and David Gregorio

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As class action trial looms, Meta and Flo could face 'mind-boggling' damages



reuters.com/legal/government/class-action-trial-looms-meta-flo-could-face-mind-boggling-damages-2025-07-15

Jenna Greene

July 15, 2025

Woman holds smartphone with Meta logo in this illustration picture taken October 28, 2021. REUTERS/Dado Ruvic/Illustration [Purchase Licensing Rights, opens new tab](#)

July 15 (Reuters) - It's hard to imagine more intimate queries than those that fertility tracking app Flo allegedly asked its users. Among them: When was your last period? How often do you have sex? Masturbate? Do you get yeast infections?

As app maker Flo Health and co-defendant Meta are set to face a class action trial in San Francisco federal court next week for allegedly violating the privacy of millions of Flo users, the question now is whether the companies will cut a deal or risk what Flo on [appeal, opens new tab](#) termed "mind-boggling" damages.

Litigators sometimes bandy about the phrase "bet-the-company case," but this could be the real thing. Facebook parent Meta is defending against claims of violating the California Invasion of Privacy Act, which carries statutory penalties of \$5,000 per violation.

That would add up to at least \$190 billion in damages if, as plaintiffs have [previously suggested, opens new tab](#), there are 38 million class members. If each app entry is treated as a separate violation, total damages could be quadrillions of dollars — "a sum so large it may as well be infinite," as Flo put it.

A spokesperson for Meta, which is represented by outside counsel from Latham & Watkins and Gibson, Dunn & Crutcher, said the plaintiffs' claims against the company "are simply false, and we are confident that the evidence at trial will demonstrate the realities."

Flo, represented by Dechert, separately is dealing with claims including violations of California's Confidentiality of Medical Information Act, which carries penalties of \$1,000 per violation. A spokesperson for the London-based, privately held company said Flo "is committed to protecting the privacy of its users, and any allegation otherwise has no merit."

The companies have argued that Flo's privacy disclosures gave users notice of the alleged misconduct and that they impliedly consented, that the shared data did not contain personally identifying information and that Meta never "intended" to intercept communications.

According to the Meta spokesperson, the company does "not want health or other sensitive information" and its terms "prohibit developers from sending any."

Google, which was also named in the suit, reached a settlement in principle last week on as-yet undisclosed terms. A Google spokesperson did not respond to my request for comment.

Given the risk of outsized verdicts (even those that don't involve 16 figures), class actions rarely go to trial. For example, Google last month [took a chance](#) on one involving cellular phone data, only to be hit with a [\\$314 million verdict](#) by a California jury on July 1.

The Flo plaintiffs invoke California's 1967 invasion of privacy law, a Cold War relic that makes it illegal to covertly eavesdrop or record telephone conversations. As I [previously wrote](#), the cause of action has enjoyed a resurgence of late among plaintiffs' lawyers, especially in connection with the use of chatbots, tracking pixels and other data analytics software.

The Flo jury trial, set for July 21 before U.S. District Judge James Donato, looms as current and former Meta leaders face an \$8 billion shareholder suit in Delaware that kicks off Wednesday. The shareholders allege Meta executives violated a 2012 agreement between Facebook and the Federal Trade Commission to protect users' data, my Reuters colleague Tom Hals [reports](#).

The Flo class action also has its roots in an FTC case. The agency [sued Flo, opens new tab](#) after The Wall Street Journal in 2019 reported that it was able to intercept identifying health information about Flo users transmitted by the app to Facebook.

The FTC's [2021 settlement](#) required Flo to obtain users' consent before sharing their health information and to notify affected women about the disclosure.

According to the follow-on [class action, opens new tab](#), which covers all Flo app users nationwide from Nov. 1, 2016, to Feb. 28, 2019, plus a California subclass, Flo integrated code from Meta and Google's software development kits, which are used for data analytics, into its app. That allegedly allowed the companies to review personal information on users' menstrual cycles, sex lives and pregnancies, despite promises by Flo that the data would remain confidential.

The third parties were "were free to use this data for their own purposes," including marketing and advertising, the complaint alleges. "If Plaintiff and Class members had known that Flo Health would share their intimate health data, they would not have used the Flo App."

Plaintiffs' lawyers from Labaton Keller Sucharow; Lowey Dannenberg and Spector Roseman & Kodroff did not respond to requests for comment.

Donato certified the class in May, [writing, opens new tab](#) that the "loss of control over one's personal information" is a concrete harm, "whether from stealing access to a personal diary in 1916 or obtaining user information in a healthcare app in 2016."

The decision prompted an [interlocutory appeal, opens new tab](#) in June by Flo to the 9th U.S. Circuit Court of Appeals. Flo argued that Donato wrongly held that the company's class action waiver was unenforceable. The judge deemed the provision unconscionable because it was buried in Flo's terms of service.

Flo also argued that the company's use of the software development kits is "a practice as unremarkable as it is widespread," and that it disclosed using the kits in its privacy policy and terms of service. Flo also said the transmitted data was de-identified, consisting of alphanumeric strings corresponding to the device on which the app was used.

The appeals court in [six-sentence order, opens new tab](#) on June 17 denied Flo's petition and declined to stay the lower court proceedings.

"Cases of this magnitude almost never proceed to trial," Flo noted in its appeal, describing the "hydraulic pressure" to settle.

I can only imagine. But if it does indeed go to trial, all I can say is, pass the popcorn.

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

Trial begins as Meta investors, Zuckerberg square off over alleged privacy violations



reuters.com/sustainability/boards-policy-regulation/facebook-privacy-practices-focus-8-billion-trial-targeting-zuckerberg-2025-07-16

Tom Hals

July 16, 2025

Item 1 of 2 Meta CEO Mark Zuckerberg looks on before the luncheon on the inauguration day of U.S. President Donald Trump's second Presidential term in Washington, U.S., January 20, 2025. REUTERS/Evelyn Hockstein/File Photo

[1/2]Meta CEO Mark Zuckerberg looks on before the luncheon on the inauguration day of U.S. President Donald Trump's second Presidential term in Washington, U.S., January 20, 2025. REUTERS/Evelyn Hockstein/File Photo [Purchase Licensing Rights, opens new tab](#)

- Trial centers on alleged data privacy violations by Meta leaders
- Meta shareholders seek over \$8 billion in damages
- Defendants say they took steps to protect user privacy

WILMINGTON, Delaware, July 16 (Reuters) - An \$8 billion trial by Meta Platforms ([META.O](#)), [opens new tab](#) shareholders against Mark Zuckerberg and other current and former company leaders kicked off on Wednesday over claims they illegally harvested the data of Facebook users in violation of a 2012 agreement with the U.S. Federal Trade Commission. The trial started with a privacy expert for the plaintiffs, Neil Richards of Washington University Law School, who testified about Facebook's data policies.

"Facebook's privacy disclosures were misleading," he told the court.

Jeffrey Zients, White House chief of staff under President [Joe Biden](#) and a Meta ([META.O](#)), [opens new tab](#) director for two years starting in May 2018, is expected to take the stand later on Wednesday in the non-jury trial before Kathaleen McCormick, chief judge of the Delaware Chancery Court.

The case will feature testimony from Zuckerberg and other billionaire defendants including former Chief Operating Officer Sheryl Sandberg, venture capitalist and board member Marc Andreessen as well as former board members Peter Thiel, Palantir Technologies ([PLTR.O](#)), [opens new tab](#) co-founder, and Reed Hastings, co-founder of Netflix ([NFLX.O](#)), [opens new tab](#).

A lawyer for the defendants, who have denied the allegations, declined to comment.

McCormick, the judge who [rescinded Elon Musk's](#) \$56 billion Tesla pay package last year, is expected to rule on liability and damages months after the trial concludes.

The case began in 2018, following revelations that data from millions of Facebook users was accessed by Cambridge Analytica, a now-defunct political consulting firm that worked for

[Donald Trump's](#) successful U.S. presidential campaign in 2016.

The FTC fined Facebook \$5 billion in the wake of the Cambridge Analytica scandal, saying the company had violated a 2012 agreement with the FTC to protect user data.

Shareholders want the defendants to reimburse Meta for the FTC fine and other legal costs, which the plaintiffs estimate total more than \$8 billion.

In court filings, the defendants described the allegations as "extreme" and said the evidence at trial will show Facebook hired an outside consulting firm to ensure compliance with the FTC agreement and that Facebook was a victim of Cambridge Analytica's deceit.

Meta, which is not a defendant, declined to comment. On its website, the company has said it has invested billions of dollars into protecting user privacy since 2019.

The lawsuit is considered the first of its kind to go to trial that alleges that board members consciously failed to oversee their company. Known as a Caremark claim, such lawsuits are often described as the hardest to prove in Delaware corporate law. However, in recent years, Delaware courts have allowed a growing number of these claims to proceed.

Boeing's current and former board members [settled](#) a case with similar claims in 2021 for \$237.5 million, the largest ever in an alleged breach of oversight lawsuit. The Boeing directors did not admit to wrongdoing.

The Meta trial comes four months after [Delaware](#) lawmakers [overhauled](#) the state's corporate law to make it harder for shareholders to challenge deals struck with controlling shareholders like Zuckerberg. The bill, which did not address Caremark claims, was drafted after the state's governor met with representatives of Meta.

Most publicly traded companies are incorporated in the state, which generates more than a quarter of the state's budget revenue. Meta, which was reportedly considering leaving Delaware earlier this year, is still incorporated in the state.

Andreessen Horowitz, the venture capital fund co-founded by Andreessen, [said](#) earlier this month that it was reincorporating in [Nevada](#) from Delaware and encouraged other companies to do the same. The company cited the uncertainty of the state's courts and referenced the Musk pay ruling.

Andreessen is expected to testify on Thursday.

In addition to privacy claims at the heart of the Meta case, plaintiffs allege that Zuckerberg anticipated that the Cambridge Analytica scandal would send the company's stock lower and sold his Facebook shares as a result, pocketing at least \$1 billion.

Defendants said evidence will show that Zuckerberg did not trade on inside information and that he used a stock-trading plan that removes his control over sales and is designed to guard against insider trading.

Class Action

[Subscribe](#)

Hedge Funds Lose Appeal Over Argentine GDP-Linked Securities

July 16, 2025, 9:19 AM PDT

Aurelius Capital Management and other hedge funds can't maintain a suit against the Republic of Argentina over debt securities, the Second Circuit ruled Wednesday.

The suit over economic performance-linked payments allegedly due to the holders doesn't meet exceptions to contractual clauses barring litigation over the securities, the US Court of Appeals for the Second Circuit said in an unsigned, unpublished opinion. The court affirmed a decision of the US District Court for the Southern District of New York dismissing the consolidated suits on the basis of the "no-action" clauses.

- The funds, which say they're now in compliance with the clauses and may sue again after the appeal, alleged Argentina improperly withheld 2013 payments tied to the country's gross domestic product under securities issued during restructurings of sovereign debt in 2005 and 2010
- The Second Circuit rejected the funds' argument that the suit met a contractual exception in seeking principal or interest, because payment instead "turns on the performance of the Argentine economy"
- The funds saw an additional exception where none existed, and Argentina's no-action clause defense wasn't forfeited in earlier proceedings, according to the panel, which consisted of Judges Steven J. Menashi and Alison J. Nathan of the appeals court, along with Judge Katherine Polk Failla of the Southern District of New York

Eric Grannis, who practices in New York, represented the hedge funds. Sullivan & Cromwell LLP represented Argentina.

The case is *In re Argentine GDP-Linked Sec. Litig.*, 2d Cir., No. 24-1209, unpublished 7/16/25.

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Securities Law News

Compass Minerals Shareholders Settle Salt Mining Upgrade Suit

July 15, 2025, 9:59 AM PDT

- Derivative settlement would add corporate oversight reforms
- Suit alleged misstated new system's costs, production capacity

Compass Minerals International Inc.'s board and top executives agreed to appoint a new chief accounting officer to end a shareholder lawsuit alleging current and former leaders misstated the costs and capacity of its new salt mining system.

The shareholders leading the combined suits asked Chief Judge Eric F. Melgren of the US District Court for the District of Kansas to preliminarily approve the settlement on Monday. The plaintiffs' counsel is also seeking approval for \$1.4 million in attorneys' fees and expense reimbursement.

The settlement, in which Compass' leaders denied wrongdoing, would resolve two shareholder derivative actions that alleged lackluster reporting systems and internal controls led the company to mislead investors about the benefits of transitioning its rock salt mine in Goderich, Ontario, Canada, to a form of "continuous mining and continuous haulage" from 2017 through 2022.

Rather than a traditional "drilling-and-blasting" procedure, this version uses complex machinery to cut and transport salt for processing, the shareholders said. But the transition was behind schedule and production was below levels needed to meet cost-savings, among other issues, said stockholders Shiva Stein and Fabrizio Morelli's lawsuits.

In addition to the adding an officer charged with overseeing accounting and financial reporting processes, the corporate governance reforms would include updating its audit and disclosures committees' charters; having the board review quarterly reports about mining issues, costs, and production; instituting a compensation "clawback policy" in which the board can seek reimbursement of incentive compensation tied to an executives' illegal misconduct; and reimbursing for director education programs.

Compass named Ashley Ward, who was formerly vice president, corporate controller for the company, as its chief accounting officer in June.

Similar Claims

Melgren preliminarily approved a \$48 million accord in April to settle a proposed class action against Compass Minerals and certain former executives containing similar allegations.

The company paid \$12 million to stave off Securities and Exchange Commission claims in 2022 that it misled investors about the costs of the mining upgrade and failed to properly assess some financial risks.

Another set of derivative actions involving Compass' leaders allege that the company misled them about securing a US Forest Service contract for the 2024 wildfire season following its acquisition of wildfire retardant maker Fortress North America LLC. After an initial inspection found corrosion in airplanes used to deliver fire retardant, the Forest Service decided against the contract, Compass Minerals said in 2024.

Compass agreed to pay \$4.9 million to resolve a proposed class action alleging similar issues, according to a motion filed in June seeking preliminary approval of that settlement.

Rigrodsky Law PA represents Stein; The Brown Law Firm PC represents Morelli. Cleary, Gottlieb, Steen & Hamilton LLP and Husch Blackwell LLP represent the brass and Compass Minerals, a nominal defendant. Neither sides' law firms nor Compass Minerals immediately responded to emails seeking comment.

The case is Stein v. Crutchfield , D. Kan., No. 2:23-cv-02038, 7/14/25 .

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Securities Law News

BSC Ventures Workers Get Nod for \$8 Million Stock Plan Accord

July 15, 2025, 5:41 AM PDT

Wilmington Trust NA and two former directors of envelope maker BSC Ventures Holdings Inc. secured initial approval for an \$8 million class settlement with participants in BSC's employee stock ownership plan.

The agreement is slated to provide average gross payments of about \$15,000 to 534 people covered by the BSC stock plan between January 2016 and December 2024. It represents about 33% of the participants' best possible recovery in the case, according to court filings.

- Judge Jennifer L. Hall granted preliminary approval to the deal and scheduled a Dec. 3 final approval hearing in an order docketed Monday in the US District Court for the District of Delaware
- The lawsuit, which withstood a motion to dismiss in 2021, says Wilmington served as the BSC plan's trustee and represented the plan when it acquired 100% of BSC's stock for the allegedly inflated price of \$50 million in a 2016 transaction largely financed by debt

The plan participants are represented by Bailey & Glasser LLP and Feinberg, Jackson, Worthman & Wasow LLP. The defendants are variously represented by Moore & Van Allen PLLC, Morris James LLP, and Groom Law Group.

The case is Henry v. Wilmington Tr., NA , D. Del., No. 1:19-cv-01925, 7/14/25 .

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Class Action

Subscribe

Pinnacle West Reaches \$7 Million Deal in Pension Math Lawsuit

July 16, 2025, 7:34AM PDT

- **Suit challenges lifespan data backing pension calculations**
- **Several large employers have been sued over pension math**

Pinnacle West Capital Corp. will pay \$7 million to settle with retirees who accused the Arizona-based utility holding company of shortchanging pensions that include post-death payments for workers' surviving spouses.

The proposed deal, announced Tuesday in the US District Court for the District of Arizona, will boost the monthly retirement checks of about 900 retirees who began receiving pensions that include post-death spousal payments after November 2016. This "outstanding" deal represents about one-third of the retirees' estimated damages, they said in a motion asking that the agreement receive preliminary approval.

The lawsuit says Pinnacle calculates certain optional pension formats using outdated life expectancy data that causes workers who select these formats to see their benefits improperly reduced compared to other retirees. Dozens of large employers have been sued in recent years over the actuarial and interest rate assumptions used by their pension plans, causing district courts to weigh whether these assumptions are legally required to be reasonable. Cases have advanced against Pinnacle, Citgo Petroleum Corp., and Huntington Ingalls Industries Inc., while lawsuits involving Kellanova, FedEx, Southern Company Services Inc., and Partners Healthcare were dismissed.

Pinnacle's settlement is subject to approval from Judge Susan M. Brnovich, who said in her 2023 opinion greenlighting the case that pension plan sponsors must use reasonable actuarial assumptions and interest rates when calculating optional pension formats, even though the statutory language governing these benefits doesn't include an explicit reasonableness requirement.

The retirees are represented by Izard, Kindall & Raabe LLP, Motley Rice LLC, and Keller Rohrback LLP, which are authorized to seek up to one-third of the settlement value as attorneys' fees.

Covington & Burling LLP and Snell & Wilmer LLP represent Pinnacle.

The case is Skrtich v. Pinnacle W. Cap. Corp. , D. Ariz., No. 2:22-cv-01753, settlement motion 7/15/25 .

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Securities Law News

Insight

How a Delaware Ruling Offers Guidance for Defensive Board Action

July 16, 2025, 1:30 AM PDT

Jones Walker attorneys explain how a recent Delaware ruling offers a roadmap for board action when preparing for proxy contests and shows the importance of maintaining good internal governance practices.

Proxy contests drain valuable company resources over issues that may not affect stockholder value in any meaningful way. Surviving these contests is fraught with legal technicalities and public relations potholes.

Advance notice bylaws are the most crucial tool used to manage these proxy contests. These are guidelines that stockholders must follow to nominate directors and make proposals at stockholder meetings. Activist investors have challenged dozens of advance notice bylaws formally in litigation and informally through demand letters, books and records requests, or other pressure campaigns, causing some companies and advisers to suffer from the yips when dealing with the issue.

One recent Delaware ruling offers a roadmap for board action in preparation for and during proxy contests and illuminates the importance of maintaining good internal governance practices.

In *Vejseli v. Duffy*, the board of Ionic Digital Inc., a private Delaware corporation facing an imminent proxy contest, reduced the size of the board by eliminating the two open director seats. Without disclosing the reduction, the board announced the date of the stockholder meeting, triggering a 10-day window in Ionic's advance notice bylaw for stockholders to nominate directors for election at the upcoming stockholder meeting.

The stockholders mounting the proxy contest submitted nominations for two open board seats. After the nomination window expired, the board disclosed the reduction and rejected the nomination notice because the stockholders failed to comply with certain requirements in the advance notice bylaw. The stockholders sued.

Because the board approved the reduction during an imminent proxy contest, the Delaware Court of Chancery applied a heightened standard of review. That caused the court to find that the purpose of reducing the board seats was to prohibit the stockholders from nominating candidates—an invalid corporate purpose under Delaware law. In essence, the board rigged the game against stockholders mounting a proxy contest.

However, underscoring the importance and commonplace nature of advance notice bylaws, the court also held that the board properly rejected the stockholders' nomination notice for failure to comply with certain disclosure requirements found in Ionic's advance notice bylaw.

In its reasoning, the court noted that Ionic's disclosure requirements served legitimate objectives and that the lack of disclosure or concealment of facts important to a stockholder nominations or proposals could threaten an informed stockholder vote.

This portion of the ruling demonstrates Delaware courts' willingness to uphold advance notice bylaws and their enforcement when done properly.

Nevertheless, the court invalidated the board size reduction and ordered Ionic to reopen the 10-day nomination window under its advance notice bylaw so stockholders could nominate directors for the two original open seats, giving the stockholders a rare "do-over."

Companies can view this ruling (and other recent Delaware rulings such as *Assad v. Chambers*, *Siegel v. Morse*, and *Kellner v. AIM Immunotech Inc.*) as a guide for how to best plan for, address, and survive a proxy contest. A few important takeaways:

- Boards should engage legal counsel periodically to have an orderly and effective process in place before any stockholder activism. Counsel should review and update bylaws and other internal governance documents, policies, and procedures to address stockholder nominations and proposals and other important corporate governance developments.
- The board should discuss any action that may restrict stockholder nominations and proposals or other important stockholder rights with legal counsel and other appropriate outside advisers. Boards should take these types of actions only for valid corporate purposes.
- Appropriate officers or legal counsel should contemporaneously document the reasoning, purposes, and justifications for taking any action that may restrict stockholder nominations and proposals or restrict other important stockholder rights. This documentation should be reflected in meeting minutes approved by the board shortly after the meeting—whether before, during, or after a proxy contest.
- Communications between and among the board, management, and outside parties in connection with any board action that may restrict stockholder rights should take place through formal, pre-designated channels only and remain consistent.
- If a board finds itself in a proxy contest and finds it necessary and in the best interest of the company and its stockholders to take actions that may be adverse to the stockholder(s) waging the contest, the board should engage legal counsel and other appropriate advisers before taking such action.

With shareholder activism continuing to be somewhat commonplace, advance notice bylaws remain one of the most important tools for corporate boards to manage its meeting process effectively and efficiently.

These recent Delaware decisions highlight the importance for boards to be proactive rather than reactive in maintaining current governance best practices. Boards must be vigilant in tracking the latest developments in governance best practices and regularly review their internal governance documents to keep up with the latest tools for managing activism.

The case is *Vejseli v. Duffy*, 2025 BL 174010, Del. Ch., C.A. No. 2025-0232-BWD, decided 5/21/25 .

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9th Circuit weighs whether boutique deserves 'big law' rates in price-fixing case

DJ

[dailyjournal.com/articles/386575-9th-circuit-weighs-whether-boutique-deserves-big-law-rates-in-price-fixing-case](https://www.dailyjournal.com/articles/386575-9th-circuit-weighs-whether-boutique-deserves-big-law-rates-in-price-fixing-case)

Litigation & Arbitration,

Antitrust & Trade Reg.,

9th U.S. Circuit Court of Appeals

Jul. 16, 2025

A four-lawyer firm told the 9th Circuit it deserved rates comparable to large defense firms after a \$680,000 jury verdict in an antitrust case, but the trial judge disagreed.

A partner at a San Francisco boutique told a 9th U.S. Circuit Court of Appeals panel Tuesday that his attorney fee award was unfairly reduced because his firm and clients are smaller than those of large firms.

U.S. District Judge Michael W. Fitzgerald of Los Angeles awarded Gaw Poe LLP \$3.1 million in attorney fees after it won a Robinson-Patman Act lawsuit by convenience store wholesalers who successfully sued Prestige Consumer Healthcare Inc. for charging them more for eye drops than Costco Wholesale Corp. and Sam's Club, a division of Walmart Inc.

The Robinson-Patman Act, known as RPA, is a 1936 federal antitrust law.

Fitzgerald's attorney fee award was significantly less than the \$7.45 million the plaintiffs sought. He wrote in his ruling that the reduction was justified in part by the size of the firm and its clients.

"Notwithstanding Plaintiffs' counsel's background, accolades, and expertise in this area of the law, it is simply unreasonable to award big law rates to a four-person firm representing mom-and-pop warehouses," Fitzgerald wrote in his attorney fee ruling.

But judges on the 9th Circuit panel seemed sympathetic to Gaw Poe partner Mark W. Poe's argument, even though the jury's award was just \$680,000 -- for damages after findings of Robinson-Patman Act and California Unfair Business Practice Act violations -- before it was trebled.

"We are, by far, the most experienced and have the highest reputation of any RPA litigation counsel in the country," Poe told the panel.

Under Fitzgerald's logic, "Lawyers and partners at bigger law firms that no one has ever heard of in this practice area would get far higher rates," Poe added.

"'You're great,' is what you're saying," 9th Circuit Judge Salvador Mendoza Jr. responded with a chuckle.

Circuit Judge Kim McLane Wardlaw said the appellate court has never considered firm size when awarding attorney fees. "Why would firm size make a difference?" she asked. *L.A. International Corp. et al. v. Prestige Brands Holdings Inc. et al.*, 24-3776 (9th Circ., filed June 18, 2024).

Michael L. Fox, managing partner of Duane Morris LLP's San Francisco office, which represents defendant Prestige Consumer Healthcare Inc., said the "exorbitant attorney fees" should be reduced further but focused his argument on trying to persuade the panel to order a new trial in the case.

The lawsuit concerns Clear Eyes Redness Relief eye drops, for which Prestige negotiated specific discounts and redemptions to Costco and Sam's Club. Fox argued that Fitzgerald's instructions to the jury were incorrect, leading to a rare plaintiffs' win under the RPA and a permanent injunction against his client.

"Competition was fostered by what Prestige was doing [by selling through chain stores], not by what plaintiffs are trying to enforce here," Fox said.

Judges on the panel, which included 9th Circuit Judge Anthony D. Johnstone, peppered Fox with skeptical questions.

But once Poe stood up during oral arguments, he focused exclusively on the Fitzgerald attorney fee award that he said was too low.

Wardlaw cited her experience as an O'Melveny & Myers LLP partner to ask about the appropriate way to determine attorney fees.

"Maybe I would have awarded a higher fee, having been from a big law firm and understanding what it takes to prevail in an antitrust case such as this, especially in such an archaic area of the law, but did he abuse his discretion?" Wardlaw asked. "That's a pretty

high standard."

"I believe that he did," Poe said, citing the reputation and skill of the lawyers, not the size of their firm. "It's quite clear from his opinion that he put a downward adjustment based on his view that we were a smaller firm."

He said plaintiffs' firms are almost always smaller than defense firms that represent large corporations, which will result in a "disparity" in rates.

Poe, who previously worked at Morrison & Foerster LLP before co-founding his own firm, said a defense firm's decision to "rent the top floor in the U.S. Bank Building should weigh in its favor" in determining its attorney fee award.

He also argued that trial judges shouldn't worry about "setting a benchmark" for future cases, which he said is contrary to 9th Circuit precedent.

#386575

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News

'A Daft Suggestion': Judge Declines to Kick Hundreds of Paraquat Cases Out of Philadelphia

July 16, 2025 | By  Aleeza Furman

What You Need to Know

- A judge has soundly rejected defendants' efforts to transfer a batch of paraquat cases out of Philadelphia.
- The judge held that the defendants' arguments 'utterly fail[ed]' to establish convincing justification for transferring the cases.
- Philadelphia's first paraquat trial is scheduled to begin in October.



Judge Joshua Roberts of the Philadelphia Court of Common Pleas. Courtesy photo

With the first trials in the Philadelphia paraquat mass tort fast approaching, defendants in the litigation made a late-stage push to transfer a significant chunk of the program's caseload to other jurisdictions across the country.

The move did not go over well with the mass tort judge.

Judge Joshua Roberts of the Philadelphia Court of Common Pleas [denied](#) a motion on July 11 from Syngenta Crop Protection LLC and Chevron U.S.A. Inc. that challenged the plaintiffs' choice of forum in Philadelphia paraquat cases involving plaintiffs who are not Pennsylvania residents. In Roberts' ruling, the judge held that the defendants' arguments "utterly fail[ed]" to establish convincing justification for transferring the cases.

Syngenta and Chevron had filed a motion in May seeking to dismiss nine cases where the plaintiffs are not Pennsylvania residents and asking the court to order more than 900 plaintiffs who are not Pennsylvania residents to show cause for why their cases should not be dismissed with leave to refile in jurisdictions where the plaintiffs reside. Invoking the doctrine of forum non conveniens, Syngenta and Chevron contended that allowing the cases to remain in Pennsylvania would hamper the defendants' ability to obtain information related to the case and make it difficult to compel witnesses to attend trial.

In the words of Motley Rice member Mike Daly, plaintiffs liaison counsel in the Philadelphia paraquat litigation, "They basically wanted to set precedent that non-Pennsylvania plaintiffs can't litigate in the Philadelphia mass tort program."

Roberts was skeptical of the defendants, to say the least.

Roberts wrote in his order that the evidence the defense submitted attesting to challenges they anticipated in obtaining subpoenas outside of Pennsylvania "border[ed] on bad faith." Roberts held that the defendants had plenty of resources to obtain foreign subpoenas, and he ruled that the defendants failed to provide any affidavits to show that a witness would be unable to attend trial in Philadelphia.

Roberts also pushed back against the defendants' assertion that the litigation posed administrative challenges to the court. Noting the mass tort program's history of handling large-scale litigation, Roberts wrote, "It is a daft suggestion by defendants to tell this court what it is, or is not capable of handling."

"The ruling and the reasoning are spot on," Daly asserted. "We're very fortunate in Philadelphia to have such a well-managed and well-staffed mass tort program. A lot of states don't have the benefit of that."

In denying the motion, Roberts expressed doubts about the timing of the defendants' challenge. The nine cases the defendants sought to transfer had been pending in the court for more than three years, and the motions came just months ahead of the first scheduled trials in the paraquat mass tort. Five of the cases those nine cases were listed as either "primary" or "backup" cases for the upcoming trials.

Philadelphia's first paraquat trial had been on track to begin in early August, but last week the parties in the case informed the court that they had reached a settlement. Now, according to Daly, the program's first trial is slated to begin in October, with others likely to follow in January and April of 2026.

Daly said that, to his knowledge, the October trial is slated to be the first paraquat case in the United States to go before a jury.

A spokesperson for Chevron said in statement, "Chevron never manufactured paraquat and has not sold paraquat since 1986. It has long maintained that it should not be liable in any paraquat litigation." Syngenta did not respond to requests for comment.

According to the Philadelphia Court of Common Pleas website, the paraquat mass tort currently houses about 1,200 cases, in which plaintiffs generally allege that the weedkiller causes Parkinson's disease. Daly said the number is on track to grow, as new cases are still being filed.

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News

Critical Mass With Law.com's Amanda Bronstad: Could Texas Camp Face Lawsuits Over Flood Deaths? Boeing Averts Another Max-8 Trial Amid Air India Investigation

July 16, 2025 | By  Amanda Bronstad



FILE - Debris covers the area of Camp Mystic in Hunt, Texas, Monday, July 7, 2025, after a flash flood swept through the area. Photo: Eli Hartman/AP

Welcome to **Law.com Class Actions: Critical Mass**, a weekly briefing for class action and mass tort attorneys.

This week: Could **Camp Mystic**, where 27 campers and counselors died in the July 4 flooding in Texas, face tort lawsuits? **Boeing** settled what would have been the first-ever Max-8 trial set to

begin on Monday. Find out who appeared for **Huntington National Bank** and **Western Alliance Bank** in lawsuits alleging kickbacks involving claims administrators in class action settlements.

I'm **Amanda Bronstad**. Feel free to reach out to me with your input. My email is abronstad@alm.com. Follow me on [LinkedIn](#) or X: @abronstadlaw



Mikal Watts, partner at Watts Law Firm, poses Wednesday, April 13, 2016 at his prior office in San Antonio. Photographed for Texas Lawyer Magazine. Photo©Mark Sobhani Photography

'This is a Political Failure, Not a Tort Failure'

With dozens of people still missing from the devastating floods in Texas, the focus remains on the death toll, which now surpasses 130. But some reports have surfaced about the actions of **Camp Mystic**, an all-girls camp where 27 kids, counselors and the owner died in the July 4 flood. In particular, the Federal Emergency Management Agency, in response to appeals, [repeatedly removed the camp's buildings](#) from their 100-year flood map, loosening regulations and insurance requirements despite its close proximity to the Guadalupe River.

I reached out to [Mikal Watts](#) (**Watts Law Firm**), who has a ranch less than 10 miles from the flooding where volunteers from various organizations are receiving housing and food. When asked whether lawyers are looking at lawsuits, he told me:

“There is no viable lawsuit here, and none should be brought. This is a political failure, not a tort failure. An early warning siren system was asked for, but the state declined to pay for it. This is an executive and legislative branch failure for which there is likely discretionary function immunity.

“The trial lawyers I have spoken with are more focused on marshaling their collective resources to help with the rebuild of the devastated areas, rather than suing a Christian girls’ camp during the search for the bodies of those lost.”



A crane lifts the tail of the Air India plane, which crashed on Thursday, from the roof of a building in Ahmedabad, India, Saturday, June 14, 2025. Photo: Ajit Solanki/AP

Air India: ‘Every Reason to Suspect the Aircraft Was at Fault’

Boeing avoided the first trial over its ill-fated 737 Max 8 aircraft again after reaching a confidential settlement on Friday in a case slated to begin Monday in federal court in Chicago.

Paul Njoroge, who is from Toronto, lost his wife and three children, along with his mother-in-law, in the 2019 crash of **Ethiopian Air** Flight 302. The crash occurred less than six months after a similar Max 8 disaster involving **Lion Air** Flight 610 in Indonesia. Both crashes grounded the Max 8 for more than a year and led to an investigation that found problems in software malfunctions that caused the planes to nosedive.

The trial would have pitted [Bob Clifford](#) (Clifford Law Offices) against Boeing counsel [Dan Webb](#) (Winston & Strawn) and came about three months after another Max 8 case was settled just prior to trial. The next trial is scheduled for Nov. 3.

The civil trials are moving ahead as a preliminary report in the June 12 crash of **Air India** Flight 171 focused on potential flaws in the Boeing 787 Dreamliner's fuel cutoff switches. [Mary Schiavo](#) (**Motley Rice**) told me the report's early findings appear to temper speculation that one of the pilots was at fault, particularly given the "very tight time sequence" in which they attempted to restart fuel seconds after determining it was cut off:

"Every case of pilot suicide I have worked on had sounds on the CVR [cockpit voice recorder] of disagreements or fights over the controls or intentional statements on the CVR indicating deliberate attempts of sabotage. I see nothing in the report that should lead anyone to conclude pilot suicide/murder, and the investigation risks getting sidetracked and failing to examine every 787 system that could have caused this. There remains every reason to suspect the aircraft was at fault rather than the pilots until all these systems and lines of code are examined."



Jeffrey Kessler, partner at Winston Strawn. Photo: Ryland West/ALM

Who Got the Work?

Sullivan & Cromwell and **Winston & Strawn** appeared for banks sued by **Boies Schiller** over [alleged kickbacks involving claims administrators](#) in class action settlements. For **Western Alliance Bank**, Sullivan & Cromwell partners [Kyle Mach](#) and [Brendan Cullen](#) appeared in a California case, and [Andrew Soven](#) (**Polsinelli**) in a Pennsylvania case that was amended to add banks as defendants. Winston & Strawn's [Amanda Groves](#), [Jeffrey Kessler](#), [George Mastoris](#) and [Lauren Duxstad](#), of counsel, showed up for Huntington National Bank in a Florida case.

Here's what else is happening:

Talc Trial: Another talc trial commenced on Monday in Boston, following a prior jury's [award of \\$8 million](#) in a mesothelioma case against Johnson & Johnson last month. [Danny Kraft](#) (**Dean Omar**) faced off against [Morty Dubin](#) (**Kirkland & Ellis**), who left **King & Spalding** [two months ago](#). The plaintiff, Paul Lovell, was diagnosed with mesothelioma in 2021 after decades of using Johnson & Johnson's baby powder.

Cashed Out: The **U.S. Court of Appeals for the Third Circuit** [reversed certification](#) of a class action against **Progressive Insurance** after concluding that the actual cash value for totaled vehicles was too individualized. [Jeff Cashdan](#) (**King & Spalding**), who represents Progressive, said similar cases are pending before appeals courts in the Fourth, Seventh and Ninth Circuits. Plaintiffs' counsel were **Carney Bates & Pulliam**'s [Hank Bates](#) and [Lee Lowther](#), and [Jacob Phillips](#) (**Jacobson Phillips**).

Formula Forum: A federal judge overseeing hundreds of lawsuits in the multidistrict litigation over cow's milk-based infant formula [rejected plaintiffs' attempts](#) to remand six cases to the **Philadelphia Court of Common Pleas**, where they were originally filed. **U.S. District Judge Rebecca Pallmeyer**, of the **Northern District of Illinois**, ruled the cases belonged in federal court because the plaintiffs' lawyers at **Kline & Specter** and **Keller Postman** had added hospitals as defendants solely to establish jurisdiction in Pennsylvania state courts. Pallmeyer's decision, which she certified for interlocutory appeal to the **U.S. Court of Appeals for the Seventh Circuit**, could impact dozens of infant formula lawsuits.

Thanks for reading Critical Mass! I'll be back next week.

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Securities Law News

Insight

Class Actions, Already Weakened, Won't Replace Injunctions

July 16, 2025, 1:30 AM PDT

Washington & Lee professor Suzette Malveaux says SCOTUS has chipped away at class actions for decades, leaving people harmed by unconstitutional policies after the ban on universal injunctions to seek justice one drop at a time.

A single federal district court judge did exactly what the US Supreme Court dreaded: stopped the administration's birthright citizenship executive order from going into effect nationwide.

In *Barbara v. Trump*, a New Hampshire judge granted a preliminary injunction in a provisional class action—covering not only the named plaintiffs, but a class of thousands of babies coast-to-coast who will lose their citizenship under the administration's dangerous and constitutionally dubious executive order.

This lower court ruling, while groundbreaking, isn't surprising. It was only a matter of time. Just a few weeks to be exact.

Last month, the Supreme Court ruled in *Trump v. CASA* that a federal district court judge may not issue injunctive relief beyond the parties to a lawsuit, even when a government policy threatens to irreparably harm thousands of others in the same way. The court effectively eliminated one of the most important remedies available to everyday Americans challenging blatant violations of their constitutional rights—the universal injunction.

At the center of *Trump v. CASA* is the Trump administration's executive order denying birthright citizenship to thousands of children born in the US whose parents are undocumented immigrants. It is widely accepted by courts and legal scholars alike that the executive order violates the Fourteenth Amendment of the Constitution and over a century of precedent.

Not surprisingly, individual pregnant women, immigrant rights organization CASA, and almost half the states sued the administration and successfully received emergency relief—temporarily stopping the government in its tracks from wreaking havoc on Americans nationwide. The Supreme Court's decision largely reversed that.

The saving grace to this draconian ruling was the possibility of individuals bringing a class action. Rather than plaintiffs seeking relief solely for themselves, they may represent a larger group of people who have been similarly harmed.

A class action is a powerful and important tool. It provides the strength in numbers to challenge widespread wrongdoing by the government and big corporations—from wage theft, to denial of veterans' benefits, to mass pollution. A class action allows workers, consumers, and small businesses to pool their resources, attract a lawyer, get systemic relief in one stroke, and protect themselves from retaliation.

Indeed, the solicitor general at oral argument in *Trump v. CASA* touted the class action as a potential alternative to universal injunctions. He isn't alone. Many others have argued that aggrieved individuals should simply pursue a class action.

But this is a set up.

On the one hand, restrictive precedents prevent relief as a member of a class action. As I've written elsewhere, Congress, the Supreme Court, and lower courts have slowly and effectively chipped away at plaintiffs' capacity to act collectively under the modern class action rule, Rule 23.

On the other hand, under *Trump v. CASA*, significant relief beyond the parties has been essentially eliminated. For decades, the Supreme Court allowed courts to broadly check presidential overreach. But now, when the Trump administration has issued an unprecedented number of policies that have set off alarm bells for the rule of law, the Supreme Court has said, "Enough!"

We are on the *Titanic* in treacherous and uncharted waters. And as the US sinks, the Supreme Court has decided we must bail ourselves out one bucket, if not one drop, at a time.

This is a boon for executive power to the detriment of the American people. Citing my scholarship in opposition, in *Trump v. CASA* the court's majority ironically concluded it was the lower courts who were out of line:

"Some say that the universal injunction 'give[s] the Judiciary a powerful tool to check the Executive Branch,'" Justice Amy Coney Barrett wrote for the majority. "But federal courts do not exercise general oversight of the Executive Branch; they resolve cases and controversies consistent with the authority Congress has given them. When a court concludes that the Executive Branch has acted unlawfully, the answer is not for the court to exceed its power, too."

The court skirted the issue of whether universal injunctions are constitutional, and concluded instead that, based on the Judiciary Act of 1789, the universal injunction lacked a sufficient "historical pedigree" to survive. Legal historians, scholars, and advocates disagree about how to interpret the history of federal courts' equitable authority to issue universal injunctions, with the court ultimately picking one side. The result of the court's cramped interpretation is devastating.

As I warned in 2017, while universal injunctions are imperfect, they are “better than no justice at all.” This isn’t hyperbole. It’s what happens when people face widespread constitutional harm, but the legal system offers them no realistic remedy. Most Americans can’t afford to hire a lawyer, bring a lawsuit, or even know where to begin. Those once protected by universal injunctions, are now on their own.

In response to this historic loss, class actions have been put forward as a ready alternative.

However, such aggregate litigation isn’t a panacea. It’s naïve to think class actions are easy to bring. As a civil rights class action attorney, civil procedure scholar, and law professor over the course of 30 years, I can assure you they aren’t. For starters, class actions can be expensive, time consuming, highly complex cases, which (like universal injunctions) encourage forum shopping.

Moreover, the court has helped ensure their demise. Justice Samuel Alito’s messaging in the birthright citizenship decision is a case in point. In his concurring opinion, he warns that class actions threaten the court’s ruling as a “potential significant loophole” that courts should guard against. He reminds courts to be “rigorous” and practice “scrupulous adherence” to the class action rule, and to be “vigilant” about “potential abuses.”

He signals the scarcity of aggregation, limiting it to “discrete scenarios.” The concurrence cautions litigants to be wary of unfairness and to seek an immediate appeal of any class certification decision they don’t like under Rule 23(f).

Rather than a full-throated welcome of aggregate litigation to provide nationwide relief to those suffering under unconstitutional policies, the court has once again teed up class actions as the bogey man. Having essentially killed the universal injunction, the court now aims to put the class action on life support.

At oral argument, the handwriting was on the wall. While the solicitor general showcased the class action as the obvious alternative to a universal injunction, that praise was self-serving and fleeting.

Predictably, in *Barbara v. Trump*, the administration has followed the court’s lead. The government has raised a familiar litany of concerns about why the birthright citizenship case shouldn’t be a class action under Rule 23: the named plaintiffs’ claims don’t have enough in common with those of the class and are atypical; the class representatives aren’t up for the job; aggregation is premature and requires discovery into the facts.

Tracking the warnings of *Trump v. CASA*, the administration follows the decision’s playbook, characterizing the class action as an “‘end-run around’ universal injunctions.”

In the end, the court has left us with a paradox. It recognizes the tsunami of government harm, yet insists courts offer relief one drop at a time, or worse “no justice at all.”

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California Brief

Chobani Fails to Toss Consumer Suit Over 'Only Natural' Yogurt

July 15, 2025, 8:47 AM PDT

- Sufficiently alleged ingredients were manufactured
- Judge dismissed claims over alleged artificial coloring

Chobani LLC will continue to face at least part of a proposed class action alleging the company used misleading and false packaging claiming its Zero Sugar Greek yogurt contains "only natural ingredients."

Judge Benjamin J. Cheeks of the US District Court for the Southern District of California denied the company's motion to dismiss, finding the complaint sufficiently alleged that the yogurt products contain stevia leaf extract and monk fruit extract, which have undergone transformative manufacturing processes that a reasonable customer wouldn't consider natural.

The court cited the complaint's description of the 11-step manufacturing process required to turn stevia leaves into stevia extract, as well as how monk fruit becomes extract.

The claims are more than speculative because Plaintiff has sufficiently connected the manufactured ingredients to the products for purposes of the present motion," Cheeks said in his July 11 decision.

This case is one of numerous lawsuits against Chobani over claims of the company's products containing zero sugar, vanilla flavoring, or humanely sourced ingredients. The yogurt maker has largely prevailed.

Named plaintiff Laura Willis Albrigo alleged that saying the yogurt was natural despite its manufactured components and artificial coloring violated California's Unfair Competition Law and False Advertising Laws, and that Chobani engaged in unjust enrichment.

Although he allowed the claims related to manufactured ingredients to proceed, Cheeks dismissed the claims over artificial coloring.

But the judge denied Chobani's motion to dismiss based on arguments that the plaintiff failed to substantiate her "only natural ingredients" assertion, and that her alleged overpayment for the yogurt wasn't an injury-in-fact. Chobani's claim that Albrigo lacked standing for injunctive relief was moot, he said.

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

Albrigo is represented by Fitzgerald, Monroe, Flynn PC. Chobani is represented by Hogan, Lovells US LLP.

The case is Albrigo v. Chobani, LLC , 2025 BL 244927, S.D. Cal., No. 3:24-cv-01418, 7/11/25 .

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Class Action

Subscribe

Protein Powder Maker Defeats Consumers' PFAS Deception Claims

July 15, 2025, 10:05 AM PDT

- **Buyers said PFAS presence undermined marketing statements**
- **They didn't plausibly allege the products had PFAS, judge said**

Consumers who alleged Kos Inc. tricked customers into thinking its protein powder was "organic" despite the presence of PFAS didn't plausibly show that the products actually contained the chemicals, a federal judge said.

The US District Court for the Southern District of New York on Monday dismissed the consumers' complaint without prejudice.

Though the consumers said they tested the products they bought for PFAS, they didn't "mention any facts about what the testing even entailed," Judge Nelson S. Román said.

Plaintiffs Catherine Barnes and Elizabeth Menkowitz alleged Kos deceptively advertised its plant-based protein powder as "wellness" and "superfood" products that are "nature-powered" and "organic." They said these marketing claims were undermined by allegedly dangerous levels of PFAS, also known as forever chemicals because of their inability to break down easily in the human body or in nature.

Menkowitz said that she sent the protein powder she bought for testing, which revealed the product contained high levels of the chemicals. But, "she pleads no information as to the testing methodology, the date or place of the testing, who conducted the testing, or what the exact component of the product was tested," Román said.

The consumers also "fail to sufficiently link the results of their third-party test to their purchased" products, the judge added. The third-party testing wasn't done at a point in time near the purchase dates, so the consumers couldn't show they overpaid for the product.

They also couldn't show that the product was worth less than what they paid because they didn't identify specific misrepresentations on the product label, Román said.

"They paid for and received protein powder," Román said.

The consumers can file an amended complaint by the end of August.

The consumers are represented by Bursor & Fisher PA.

Is brainless use of AI turning attorneys' brains to mush?

DJ**dailyjournal.com/articles/386569-is-brainless-use-of-ai-turning-attorneys-brains-to-mush**[Bookmark](#)[Share](#)**Jul. 16, 2025**

An MIT study shows that reliance on AI alone reduces cognitive function, but AI plus brainpower yields superior results

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"This is your Brain on Drugs" was a dramatic 1987 anti-drug public service announcement that showed two eggs being fried in a pan. Apparently inspired by the PSA message, the Massachusetts Institute of Technology set out to determine what happens to a human brain using generative AI.

The study, "*Your Brain on ChatGPT*" set out to determine "the cognitive cost" of using the generative AI platform, ChatGPT, as a complete substitute for brainpower. The study found that using generative AI alone deteriorated cognitive thinking, but using AI to refine an essay drafted with just brainpower yielded superior results.

Fifty-five students aged 18 to 39 from the five universities in the greater Boston area participated in the study. They wore a cap connected to an electroencephalograph that monitored brainwave activity during an essay writing task. Thirty-five participants were undergraduate and 20 were postgraduate students (14 were still in school and six were working at one of the universities as post-doctorates).

Participants were divided into three groups: one used ChatGPT as the sole resource of information for the essay writing task, the second group could use any website for assistance, and the third group could use only their own knowledge - no electronic tools were allowed. The drafters attended three drafting sessions on three separate topics over a four-month period.

According to the study, the EEG revealed significant differences in brain function. Brain-only participants exhibited the most widespread brain function. Drafters using only standard search engines showed moderate brain function and participants using only ChatGPT displayed the weakest brain function.

In a fourth session, 18 of the participants agreed to return to refine one of their previous essays, but with a twist. The ChatGPT users were reassigned to the brain-only group, and drafters who used only their brain were reassigned to use ChatGPT. The ChatGPT group essays showed only modest improvement. But the essays written by participants who initially used only brainpower and then used ChatGPT to refine them uniformly outscored all of the essays initially prepared using ChatGPT. The essays were graded by both a human teacher and an AI "teacher."

The brain function and behavior of the two groups showed a similar result. The brainpower drafters who switched to ChatGPT showed an increased ability to integrate content in their essays and tended to execute more information-seeking prompts, had better recall of the content and a sense of ownership of the essay than the ChatGPT drafters.

What does this say about attorneys using AI? The MIT study suggests that, rather than supplanting thinking, generative AI, when used as an assistive tool rather than a generator, likely improves attorney work product. It might enable attorneys to sharpen their thinking and improve contracts, memos or briefs by identifying additional associated theories or spotting issues they didn't think of when unassisted. Of course, the key is the way generative AI is used.

Intrigued by this study, I tried an experiment. I uploaded an actual demand letter I had written on a breach of contract matter into the AI function on my legal research platform. I prompted the AI tool to generate a draft of a complaint for breach of contract based on the demand letter.

Interestingly, the AI tool generated a complaint not only for breach of contract, but on its own, added a claim for unjust enrichment and fraudulent misrepresentation. The facts in my demand letter did indeed support these two additional claims, but nothing in my prompt asked the AI tool to suggest additional causes of action. To be clear, had I actually intended to file the complaint, I would have verified *everything* AI included in the new claims.

Generative AI is based on probabilities of the next words or concepts likely to be associated with words in a prompt, so it makes sense that the AI platform identified additional causes of action that were often associated with breach of contract. The AI tool, however, did not identify a fairly obvious cause of action for unfair business practice.

Using a generative AI platform *properly*, to assist or sharpen a manually drafted document, seems to be a productive and legitimate use of AI in law practice. Spitting out a draft with no brainpower and not even cite checking is not productive or legitimate. Tools are not the problem - blind use of them is.

I recall a few years ago reading a pleading filed by someone at another firm that very closely resembled a pleading I had filed on the same topic. Of course, there are some arguments that are so basic, they are bound to be similar. But the giveaway came when I found that the other attorney had actually replicated a typo in my original document!

That's not much different from "borrowing" work created by a human brain or submitting a brief generated by an AI platform without double-checking anything. At a minimum, attorneys should realize they have to verify cites they found with their brainpower to ensure they haven't been overruled or de-published. The same should be true of AI-generated cites. Yet the headlines continue to feature attorneys being sanctioned for filing documents with fake citations.

The bottom line is that using your brain first and getting an assist from AI won't turn an attorney's brain to mush. Intelligent use of AI could sharpen the final work product and make it easier to remember and articulate a legal argument or negotiating position. If you draft it, you own it and can defend it.

#386569

Securities Law News

White House Readies Order to Bring Private Equity to 401(k)s

July 15, 2025, 3:33 PM PDT

The Trump administration is finalizing an executive order that would pave the way for 401(k) retirement savings plans to invest in private equity, according to people familiar with the matter.

President Donald Trump could sign the directive soon, but details are still being discussed and no date is set for an announcement, said the people, who asked not to be identified discussing private deliberations. The move would be a major win for the industry, which has been lobbying to secure a piece of the roughly \$12.5 trillion held in 401(k)s.

Top officials in Washington have been weighing a directive for months that would ease the legal concerns that have long kept alternative assets out of most worker defined-contribution plans. Retirement portfolios are mostly concentrated in stocks and bonds in part because corporate plan administrators are reluctant to venture into illiquid and complex products.

The directive would be the biggest move yet by the Trump administration to bring private equity to retirement plans. It advances measures taken during his first term, including guidance from the Department of Labor that retirement plan administrators wouldn't be violating their responsibilities if they included private equity in their portfolios. That guidance was later rolled back by the Biden administration.

Alternative and traditional asset managers are eager to grab a slice of the defined-contribution market, which they see as the next frontier of growth. Institutional investors like US pension funds and endowments have reached the limit of what they can put into private equity amid a broader slowdown in dealmaking and a lack of distributions to clients.

Read More: Private Equity Covets New Golden Age in \$12 Trillion of 401(k)s

Opening 401(k)s to private markets products would offer savers more investment options and, proponents argue, greater potential upside. But with that comes greater risk and higher fees that may leave retirement plan administrators vulnerable to lawsuits. The plans to soon release the executive order were reported earlier Tuesday by the Wall Street Journal.

Money managers have pitched policymakers on the argument that savers' portfolios don't reflect changes in finance as public markets shrink. The number of publicly traded US firms has greatly declined since a peak in the 1990s, while private equity assets more than doubled in the decade ending in 2023.

--With assistance from **Silla Brush**.

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Securities Law News

Matt Levine's Money Stuff: Put the Crypto in the Index Funds

July 15, 2025, 11:12 AM PDT

Vanguard Strategy

The basic situation is that the US stock market will pay \$2 for \$1 worth of cryptocurrency. If a small public company has a \$100 million pot of Bitcoin or Ethereum or Trumpcoin or what have you, its stock will be worth at least \$200 million. This trade is baffling and magical; it was pioneered by MicroStrategy Inc. (which now calls itself Strategy, and which has about a \$70 billion stash of Bitcoins and a \$138 billion equity market capitalization), and is now regularly and successfully imitated by all sorts of random small companies.

I make fun of this a lot, but it is worth asking what it means that the stock market will pay \$2 for \$1 worth of crypto. There are in principle three sorts of answers:

1. A Bitcoin in the hands of a crypto treasury company is *really worth more* than a Bitcoin in your hands, because the treasury company can do stuff (investor education! lending! leverage! staking! tokenization! stuff!) with the Bitcoin that you could not easily do. Therefore the premium is justified for business reasons.
- 2. There are vast pools of institutional capital that (1) want to own Bitcoin but (2) *can't* own Bitcoin directly, or through futures or exchange-traded funds or other more normal (and lower-premium) mechanisms. Therefore the premium is justified for market-segmentation reasons: Crypto treasury companies are getting paid a durable premium for bringing crypto to institutional investors in investable form.
- 3. Retail investors are lazy and/or confused and buy hyped crypto treasury stocks without understanding the enormous premium they are paying for crypto exposure. Therefore the premium is justified for meme reasons.

Every crypto treasury company says some version of No. 1 — it will *do stuff* with crypto, not just hold it — but I have never found it particularly compelling. No. 3 — “lol retail” — makes a lot of intuitive sense, and I’ve written a version of it. (“The obvious appeal of the crypto treasury strategy for most small US public companies is probably along the lines of ‘nobody is paying attention to our tiny company, but if we announce we’re buying a big pot of crypto, retail traders will get excited and overpay for our stock.’”)

But No. 2 is the interesting one. If the story is “giant asset managers want Bitcoin exposure, and Strategy is the only convenient way for them to get Bitcoin exposure, so they are willing to pay a 100% premium to buy Strategy and get Bitcoin exposure,” then that’s ... super weird? And yet maybe true? When I look at Strategy’s shareholder list on Bloomberg, the second-biggest holder is Capital Group, the big active mutual fund manager, with 6.99% of the stock. Is this a good holding for Capital? Well, I mean, it’s up about 175% over the last 12 months, versus about 13% for the S&P 500 index. So: yes?

Should Capital just *buy Bitcoin*, instead of paying a 100% premium to hold Bitcoin through Strategy? (As Jim Chanos would argue?) Maybe, but it’s a moot point: Capital’s biggest holding of Strategy is through its Growth Fund of America, which “invests primarily in common stocks” and “may also invest in other equity-type securities,” but doesn’t seem to have Bitcoin (or Bitcoin ETFs) in its mandate. If you are a long-only equity mutual fund manager and your investment thesis is “I should buy Bitcoin,” then over the last year (1) you were right and (2) *you weren’t allowed to buy Bitcoin*. So maybe Strategy was the best practical way to implement that thesis.

(*Should* you be allowed to implement that thesis? Should you just change your fund’s mandate to allow Bitcoin? If you are a long-only equity mutual fund manager, are your clients paying you for Bitcoin exposure? Is it your job to buy them Bitcoin? Uh, I don’t know, I can see arguments either way, but in any case you are not *technically* giving them Bitcoin exposure: You’re giving them *Strategy* exposure, and *Strategy is a stock*.)

So one thesis for Strategy’s premium could be something like “institutional equity investors will come to demand Bitcoin-in-stock-form faster than Strategy can sell it to them.” Another, related but slightly different thesis is something like “*index funds* will be forced to buy Strategy at whatever the premium is.” Capital is the second-biggest Strategy shareholder, but Bloomberg’s Vildana Hajric reports on the biggest:

Bitcoin is not “appropriate” for long-term investors. Also, digital assets are more a speculation and less an investment. And they’re an “immature asset class” with little history and “no inherent economic value” that can wreak “havoc” on portfolios.

Vanguard Group Inc. executives, channeling the logic of the venerable Jack Bogle, have made their opinions on crypto clear. Yet thanks to the cold logic of index investing, the \$10 trillion money-management giant is now the biggest backer of Strategy, the software firm that famously reinvented itself as a proxy for Bitcoin and became a poster child for the industry’s ambitions.

Vanguard owns more than 20 million shares, nearly 8%, of all of Strategy’s outstanding Class A common stock, and likely surpassed Capital Group Cos. for the no. 1 spot sometime in the fourth quarter, according to data compiled by Bloomberg based on regulatory filings. The dozens of Vanguard mutual funds and ETFs that hold the stakes track everything from small- and mid-cap benchmarks to momentum, value and growth gauges, among others.

And Strategy isn’t even in the S&P 500. (“Vanguard’s single biggest stake in the company is in its \$1.4 trillion Total Stock Market Index Fund (VITSX), which has 5.7 million shares, worth roughly \$2.6 billion.”) But it’s working on getting in. Think what fun we will have when that happens.

Also: This is fine? I make fun of this stuff all the time, but what do I know? Yesterday I made fun of a new crypto treasury company whose treasury will be filled with HYPE tokens. “The name here is particularly on-the-nose,” I wrote. But I make fun of regular old public companies sometimes too, and sometimes those stocks go up anyway, and nothing here is investing advice, and *my* money is mostly in index funds. I have learned that my desire to make fun of some goofy financial thing is *completely unrelated* to whether that thing’s price will go up. I have no particular insight into which financial assets will go up, so I try to be a price taker as much as possible: I try to invest in the market portfolio and get the market return. A lot of investors are in the same situation, or should be.

In 2005, “the market portfolio” included mostly stocks and bonds. In 2025, it absolutely includes cryptocurrency, which is now a multi-trillion-dollar asset class. There are various ways to get exposure to crypto (you can just buy Bitcoin, or Bitcoin ETFs, etc.), and I am sure that like 10 people are going to email me about their startups that offer convenient ways to get *indexed* exposure to crypto (you give them \$100 and you get \$100 of market-cap-weighted exposure to a bunch of big crypto tokens).

But the simplest and laziest way to get sort-of-index-ish exposure to crypto is to *own the total US stock market*, because the stock market now includes an ever-growing supply of crypto treasury companies. You might not want crypto in your stock index fund — *Vanguard* doesn’t want crypto in its stock index funds — but the whole point of an index fund is that you don’t want to invest in what you want! (Or in what a fund manager wants.) You don’t trust yourself (or your fund manager) to want the right things. You want to invest in what the market wants, and what the market wants is crypto.

Tariff clause

Superior Industries International makes aluminum car wheels, which it sells to the companies that make the cars. It makes the wheels for US cars in Mexico. You see the problem. Making aluminum wheels in Mexico to sell in the US was until recently a decent business; this March, Superior said that “the overall cost for us to manufacture wheels in Mexico is currently lower than in the United States, due to lower labor costs.” And then President Donald Trump announced high tariffs on Mexico and on aluminum, and now it is a worse business.

To be fair, it wasn’t a *great* business before; Superior’s 2024 highlights include “maintained profitability despite tough industry environment” and “refinanced all existing debt; maturities extended to 2028.” Superior was already bit fragile. But then Trump got going on tariffs and things got worse. In May, Superior added a restructuring expert to its board of directors. By June, the New York Stock Exchange was threatening to delist Superior because its market capitalization was less than \$50 million and it had negative shareholders’ equity. It also needed more cash, so in June it struck an agreement with some of its lenders — who had already loaned it \$520 million — to borrow an extra \$70 million to keep it going.

If you were one of Superior’s lenders, and you got a call asking for more money in June 2025, how would you have answered? Was this a good investment? Plausibly the answer would be “depends on the tariffs.” Trump announced high across-the-board tariffs in early April, and then “paused” them for 90 days a week later; June 2025 was sort of the middle of the pause, when uncertainty was arguably maximized. Plausibly your credit evaluation would be:

1. If the tariffs are real, we should not be lending another \$70 million — on top of our existing \$520 million of loans — to a company that makes aluminum car wheels in Mexico to sell in the US.

- 2. If the tariffs are just a negotiating ploy, it's fine.

What do you do with that evaluation? One answer might be “you make an informed estimate of the probabilities of each outcome, you figure out the right interest rate for the loan in each scenario, you probability-weight them and charge the company the blended rate.” Other answers are “you figure the risk is too high and say no” or “you confidently figure that the risk is overstated and say yes.” But the answer you really want is:

1. We lend you the money if the tariffs are fake;

- 2. We don't if they're real.

That is, instead of evaluating and pricing this risk yourself, you put the risk back on the borrower: The borrower gets the money in the no-tariffs state of the world, but not in the yes-tariffs state of the world.

That is not exactly easy to structure, but it's not completely impossible either. The key ingredients are:

1. Instead of giving the company all the money now, you parcel it out over time.

- 2. You write into the contracts something like “if tariffs happen, you have to give back all the money immediately.” Not just the new money, but also the \$520 million that you've already loaned to Superior.

This is not perfect: If the tariffs are real, the company probably won't have enough money to pay you back. But at least you catch the problem early, and ideally are first in line to get paid back. Instead of lending the company a lot more money for three years and hoping it makes it through tariffs, you lend the company a little more money for a month and see what happens with the tariffs.

This is roughly what Superior's lenders did: In exchange for the extra \$70 million of commitments (\$10 million of which was funded right away), Superior agreed to a tariff clause requiring it to pay back all of its loans if:

There occurs any tariffs on any of the shipments of the Borrower or its Subsidiaries into the U.S. exceeding 20.0% of the product value (the “Tariff Threshold”); provided that, if on or prior to the date that is sixty (60) days after the date such tariffs exceed the Tariff Threshold, the Borrower enters into agreements (or otherwise makes arrangements) such that such tariffs are either paid by or otherwise covered by (including as a result of price increases) the customers of the Borrower and its Subsidiaries, then no Event of Default in respect of this section (12) shall be deemed to have occurred.

If there are no tariffs, or if Superior can pass on the tariffs to its carmaker customers, no problem. If there are 20+% tariffs and Superior can't pass them on, no money.

Six weeks later, the uncertainty has not resolved exactly, but things have not improved, and last week Superior agreed to hand over the keys to the company to its lenders. (Technically the lenders “will convert up to approximately \$550 million of their term loan claims into 96.5% of the common equity” of the company.) Ah well. Superior was viable in the no-tariffs state of the world, not viable in the yes-tariffs state of the world, and the bad state came true.

JPMorgan private credit

A weird theme in modern banking is that, if you ask a bank for a loan, the bank will say “yes we would be happy to help you find that loan, we have lots of specialist bankers who are expert in the loan markets and who can help you connect and negotiate with lenders,” and you might say “well okay sure but you are a bank, why don't you just lend me the money,” and the bank will say “ahahahahahaha you dear sweet summer child, we can't *lend* you *money*, are you nuts? What if you didn't pay us back? We are a *bank*, we can't take that risk.”

I am exaggerating, but this is roughly the story for large loans to risky corporate borrowers (and particularly private equity buyouts). In modern times, the normal way those loans get made is that a bank structures the loan and then sells it to a group of investors (credit funds, collateralized loan obligations, etc.); this is called the “broadly syndicated loan market.” The bank takes some risk — it commits to backstop the loan, and if it can't sell the loan it will be stuck with it — but does not, in the ordinary course, expect to lend the company the money itself; its job is to find other people to lend the money. More recently, banks have “gotten into private credit,” which means that they (1) raise dedicated funds from outside investors and then (2) use those funds to make loans, directly, to companies. Here again, though, it's not the bank's money; the bank's job is still to find other people to lend the money. In the broadly syndicated loan market, it negotiates the loan first and then finds the money; in the private credit market, it finds the money first and then negotiates the loan. But either way the bank is not trying to be in the business of using its own balance sheet to make loans.

It is a weird state of affairs, and here is a funny Wall Street Journal story about how JPMorgan Chase & Co. had various unsatisfying experiences with broadly syndicated loans and “getting into private credit” (raising funds to make loans), and then eventually realized “wait, we are literally JPMorgan, we have so *much money*, we can just use *our* money to make loans”:

The bank rolled out a private-credit fund roughly modeled on the old Highbridge unit, again under Erdoes and in the asset-management division. The idea was to have it be separate from the core bank so it wouldn't be subject to punitive regulations. Erdoes installed one of her lieutenants, Meg McClellan, as the global head of private credit in 2020 and hired two senior bankers from Wells Fargo with a background in lending to smaller companies. They hired a half-dozen analysts and got \$10 billion from the bank to get the strategy going.

By early 2022, Dimon and Erdoes scrapped the whole strategy. Dimon decided instead to put the bank's balance sheet to work, allocating some of JPMorgan's \$100 billion in excess capital to the investment bank for private lending. The funds are above the reserves banks are required to hold to protect deposit accounts.

In the new setup, investment bankers working with companies could offer them loans directly, instead of having to pass over a Chinese Wall to Erdoes' asset-management division to get approval for a deal.

It does seem like an advantage? It is striking that JPMorgan's strategy of "we have money so let's use it to make loans" is unusual among banks, controversial within JPMorgan, and only came to them after several false starts along the lines of "let's see if someone else would give us money to make loans." But it's a good idea. Bloomberg's Hannah Levitt reports:

JPMorgan Chase & Co. created a unit in its commercial and investment bank focused on bespoke financing structures across public and private markets.

The business, dubbed strategic financing solutions, will be a collaboration between banking, markets and sales, according to an internal memo Monday. It will initially focus on structured private solutions, infrastructure finance, strategic asset-backed securities finance, merchant banking and direct lending.

It turns out that a lot of companies want to borrow money in weird ways, and that is a somewhat difficult thing to *intermediate*: If a client comes to you looking to get a specific sort of weird loan, you are unlikely to be able to go out and find another client who wants to *make* exactly that sort of weird loan, even if it's a good investment. But if you just have money, you can make the weird loan yourself.

Windsurf

There you go:

Artificial intelligence coding startup Cognition AI Inc. has agreed to buy what remains of Windsurf for an undisclosed sum days after Alphabet Inc.'s Google struck a \$2.4 billion deal for Windsurf's top talent and licensing rights. ...

The Cognition deal includes Windsurf's intellectual property as well as its remaining employees, cash, assets and brand. Windsurf has \$82 million in annual recurring revenue and its enterprise business has been growing fast, Cognition co-founder and CEO Scott Wu wrote in a note to staff.

All of Windsurf's employees will participate financially in the deal and see their vesting schedules accelerate, Wu wrote. "Jeff and I worked together to ensure that every single employee is treated with respect and well taken care of in this transaction," Wu said in the note.

We talked yesterday about Google's deal to acquire 0% of Windsurf for \$2.4 billion, which provided a lot of cash for the top talent and venture-capital investors but left the remaining employees somewhat in the lurch, arguably undermining the implicit startup social contract. Now they are less in the lurch. Ben Thompson notes: "What is noticeably absent is a purchase price; in fact, my strong suspicion is that the purchase price nets out to \$0." The Google deal was the exit for Windsurf's founders and investors; the Cognition deal is the possibly less exciting exit for the employees. The social contract is a bit more fragile than it was a week ago — what's to stop Google from hiring the next startup's founders without giving the VCs or employees anything? — but for now it has held.

AI for quants

The most important modern meta-skill is statistical inference with computers. If you can cause a computer to look at a big pile of data and use it to make predictions, there are many things you can do with that skill. You can, for instance, advance humanity's understanding of distant galaxies. In some ways that is the paradigmatic use case; people who hire machine learning researchers love to hire astrophysics PhDs. In other ways, it is not the paradigmatic use case, because it is *extremely* difficult to make money by advancing humanity's understanding of distant galaxies. Neil deGrasse Tyson seems to do well, but otherwise it's a pretty small market.

There are other, more lucrative use cases. If you can train a computer on a pile of data about soccer or hockey, and then use it to predict which young prospects will become good soccer or hockey players, that is a skill worth many, many millions of dollars, and so we talk from time to time around here about soccer and hockey astrophysicists. But even that is small potatoes compared to the big three, each of which is worth many hundreds of billions of dollars:

1. Training a computer to predict which advertisements to show to people online.
- 2. Training a computer to predict which stocks will go up.
- 3. Training a computer to predict the best next word in an essay, or the next pixel in a picture.

These are normally called "big tech," "quant finance" and "AI labs," respectively, though all of those labels are somewhat loose. Traditionally big tech and quant finance were lucrative and desirable employers of machine-learning researchers. But, uh, I don't know if you've noticed, but now top researchers at AI labs are regularly in the news for getting nine-figure pay packages. I am sure that many of the astrophysicists who work at quantitative finance firms do it because they love the people that they work with and the problems that they work on; they love the excitement of the markets and the immediate results they can get from applying math to trading strategies. But probably a few of them are in it for the money, and now the money in AI is sooooooooooooooooooooo good. As I wrote last year (about DeepSeek, an AI lab that grew out of a quant hedge fund):

An important story in the development of modern finance was "if you are good at building computers that can process natural language, you can pivot to building computers that can pick which stocks will go up, and get much richer." This is essentially the story of Renaissance Technologies, whose central innovation was to hire computational linguists, because there was not much money in building computers that could talk and lots of money in building computers that could pick stocks.

But that is an old story, and now everyone has a computer that can pick stocks, while there is infinity money in building a computer that can talk. So now the people who got good at building computers that can pick stocks are pivoting to processing natural language.

Anyway, at Business Insider, Alex Morrell and Julia Hornstein have a story about OpenAI hiring all the quants:

Poaching quants for Silicon Valley isn't new. But AI startups awash in cash can not only match but outbid Wall Street pay. Junior and midlevel traders at top high-speed trading firms are now fielding multimillion-dollar packages — up sharply from a year ago, quants and quant recruiters with direct knowledge of the offers told Business Insider.

OpenAI has scooped up researchers, engineers, and senior recruiters from firms like Hudson River Trading and Citadel Securities. Last year, it hired HRT's longtime HR chief. ...

Math olympiad champs have long felt the smart money — the low-risk, high-reward wager — was at a top-tier quant hedge fund or prop trading firm. Leaving would mean accepting a comparatively uninspiring Big Tech gig, often working on internal systems like improving advertising algorithms, or a high-risk gamble on a startup in bootstrap mode.

As some AI valuations soar into the billions, though, the risk calculus is shifting for some quants.

"Optimizing ads at Google gets boring," said Paul Carr, who recruited quants for years as a business development head at prop trading firm Tower Research. "This is different."

I feel like there was a period where big tech could out-compete quant finance for astrophysicists, because big tech could say "we are changing the world, while quant finance is just moving money around." And then everyone figured out that big tech was just "optimizing ads." But now we are still in the honeymoon period for AI, so AI labs can out-compete quant finance by saying "we are changing the world, while quant finance is just moving money around." In two years you'll be like "optimizing engagement for ChatGPT gets boring," or "optimizing universal surveillance for our AI overlords gets boring," but for now it is world-changing and exciting. Also though the money is better.

Things happen

Stealth Stake Sales Helped UnitedHealth Beat Wall Street Targets. JPMorgan's Surprise Dealmaking Gain Shows Tariff Fear Easing.

BlackRock Hits Record \$12.5 Trillion in Assets Amid Turmoil. Americans' New Tax Rates Depend on Who They Are and What They Do. Catastrophe bond sales hit record as insurers offload climate risks. At Vanguard, the Man From BlackRock Ushers in a Quiet Revolution. Calpers pushes further into private equity after best results in 4 years. Trump's Tax Law Sweetens Secondary Deals in Venture Capital. "Public equity markets don't seem to buy what the private markets are selling." Crypto Asset Manager Grayscale Files Confidentially for US IPO. Citi Plans ' Strata Elite' Credit Card to Rival Amex Platinum. The Chainsmokers' VC Firm Mantis Raises \$100 Million in Fresh Funding.

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- 1. MicroStrategy discloses its Bitcoin holdings weekly; the latest is 601,550 Bitcoins, at a price of about \$116,200 as of this morning. It no longer makes computing its fully diluted shares outstanding easy, but last month I found 312.8 million (slide 41 here), though that's probably a bit bigger now. (It keeps selling stock and convertibles in at-the-market offerings.) Multiplying 312.8 million by about \$442 per share as of this morning gets you about \$138 billion.
- 2. Still not investing advice.
- 3. I first saw this story in a LinkedIn post from Daniel Wertman of Noetica.
- 4. For instance, on the Money Stuff Podcast two weeks ago, Gappy Paleologo explained why astrophysicists make the best hedge-fund researchers.

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<https://www.wsj.com/finance/stocks/tokenized-stocks-prices-crypto-exchanges-856ea114>

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Want to Trade Amazon on Crypto Exchange? The Price Might Be Off by 300%

Digital tokens tracking popular stocks such as Apple deviate wildly from underlying prices and raise concerns about lack of regulatory oversight

By [Alexander Osipovich](#) [Follow](#) and [Vicky Ge Huang](#) [Follow](#)

July 15, 2025 5:30 am ET

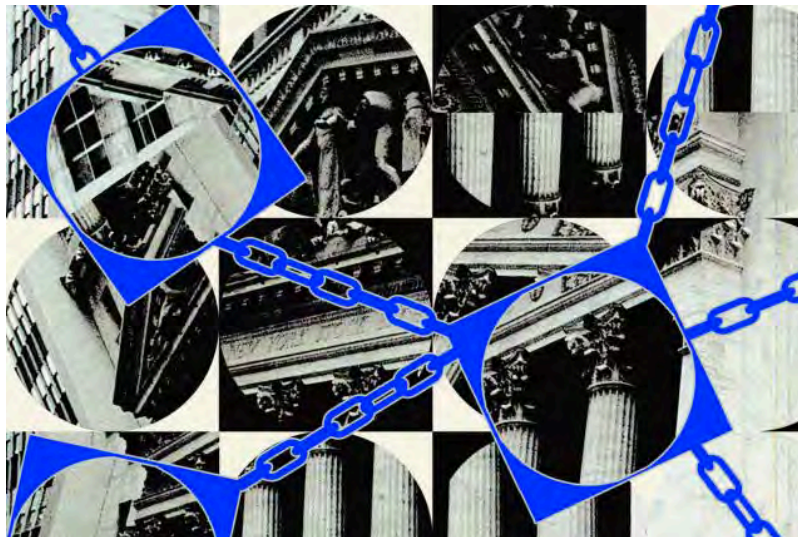


ILLUSTRATION: ALEXANDRA CITRIN-SAFADI/WSJ; GETTY

Crypto companies have grand plans to reinvent the stock market using blockchain technology. They are off to a bumpy start.

Digital tokens designed to track popular stocks such as [Amazon](#) AMZN **0.29%** ▲ .com and [Apple](#) have deviated wildly from the price of the underlying shares since their launch two weeks ago. [Robinhood Markets](#) HOOD **-0.42%** ▼ is facing scrutiny from its European regulator after it launched a token designed to let investors bet on OpenAI —without getting permission from the artificial-intelligence startup. And even some

industry insiders fret that such “tokenized” stocks create opportunities for bad actors to engage in insider trading and market manipulation without getting caught.

In a [flurry of announcements](#) in late June, companies including Robinhood, Kraken, Gemini and Bybit unveiled blockchain-based versions of U.S. stocks and exchange-traded funds for non-U.S. customers. Crypto executives hailed them as a way to let people worldwide invest in [Tesla](#), [Nvidia](#), the [SPDR S&P 500 ETF](#) and [other buzzy securities](#), especially in countries where it is difficult to buy U.S. stocks through a local brokerage.

“By tokenizing equities, we believe we can export U.S. capital markets anywhere in the world,” said Gemini co-founder Cameron Winklevoss.

Tokenized stocks are part of a broader effort to rebuild traditional markets on the technology that underpins bitcoin and other digital assets. Investors can now buy tokens to bet on assets ranging from U.S. Treasuries to private-credit funds to [shares of Elon Musk’s SpaceX](#). Such experiments have proliferated in recent months as President Trump has installed crypto-friendly regulators and ended the Biden administration’s enforcement-heavy approach to the industry.

Potentially, blockchain could accelerate the process of settling stock transactions, allow 24/7 trading and enable other innovation. But the new breed of tokenized stocks have sometimes resembled a buggy, version 1.0 product that investors should approach with caution.



Robinhood CEO Vlad Tenev speaks at the company’s event in France, in this still image from Robinhood’s YouTube channel.

On July 3, for instance, the price of AAPLX—a token tracking Apple—briefly jumped to \$236.72, a 12% premium to where the stock was trading at the time, according to data

provider CoinGecko. A similar token tracking Amazon surged to \$891.58 on July 5, four times the stock's previous closing price, CoinGecko data shows.

The same token, AMZNX, suffered an even wilder dislocation on Jupiter, a peer-to-peer platform for crypto trading, early on July 3. Blockchain data shows that an unknown user trying to buy about \$500 worth of the token briefly sent its price to \$23,781.22, more than 100 times Amazon's closing price the previous day.

Such tokens, marketed as "xStocks," are issued by Backed Finance, a Switzerland-based company that partnered with Kraken and Bybit to debut dozens of stock-tracking tokens on June 30. Backed aims to keep xStocks in line with the underlying stocks by buying shares and creating new tokens, or redeeming the tokens and selling shares.

But with xStocks thinly traded across multiple crypto exchanges, they are susceptible to sharp price moves when users buy or sell more than the markets can handle. Such moves can be exacerbated when the stock market is closed on nights and weekends.

"We are actively tracking any of these price dislocations and engaging with exchanges to make sure they work to fix this and follow best practices to make sure this does not happen," a Backed spokesman said.

Robinhood debuted its tokenized stocks at a splashy June 30 event in France inspired by the 1955 Alfred Hitchcock classic "To Catch a Thief." To promote the launch, which is limited to European customers, the company conducted a free giveaway of tokens tied to the performance of OpenAI and SpaceX, neither of which is publicly traded.

OpenAI [disavowed](#) the tokens, tweeting: "We did not partner with Robinhood, were not involved in this, and do not endorse it." Lithuania's central bank, which regulates Robinhood's European arm, has said that it contacted Robinhood to ask the company to explain the tokens and how they were marketed to customers.

"We're confident in our program and are in contact with regulators to address any questions," a Robinhood spokesperson said. The brokerage's chief executive, Vlad Tenev, posted on X that Robinhood has been contacted by "many private companies that are eager to join us in the tokenization revolution."

Skeptics worry that tokenized stocks could become a way to circumvent oversight. In the U.S. stock market, exchanges monitor for manipulation and other abuses, while brokerages must know the identity of their customers. That allows regulators to probe suspicious activity and identify the people behind it.

But such controls don't necessarily exist with tokenized stocks. Backed's xStocks, for instance, are "permissionless," meaning they can be moved freely between different users and trading platforms. Some platforms, such as Kraken, maintain records on their customers, but xStocks can also be traded on anonymous platforms like Jupiter.

Backed says transactions on public blockchains are more transparent than those in traditional finance, making it possible to monitor and detect illegal activity. Still, other industry players worry that tokenized stocks being traded on anonymous platforms is a recipe for trouble. Such arrangements could facilitate abuses such as insider trading, said Carlos Domingo, CEO of tokenization startup Securitize.

"It's a can of worms and it is going to explode at some point, because people will find ways to do something illegal with these tokens," Domingo said.

Write to Alexander Osipovich at alexo@wsj.com and Vicky Ge Huang at vicky.huang@wsj.com

Appeared in the July 16, 2025, print edition as 'Stock-Tracking Tokens Go Wildly Off Course'.

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Securities Law News

Polymarket Probe Ended by DOJ in Win for Crypto Bets Under Trump

July 15, 2025, 8:00 AM PDT

A pair of US investigations into crypto-betting platform Polymarket that went full-throttle in the waning days of the Biden administration are now being shut down just as Donald Trump's White House seeks to give the industry a boost.

The predictions exchange received formal notice earlier this month from the US Justice Department and Commodity Futures Trading Commission that the probes had ended, according to a person with direct knowledge of the matter, who asked not to be identified discussing the confidential inquiries.



Polymarket CEO Shayne Coplan

Photographer: Michael M. Santiago/Getty Images

Representatives for Polymarket, the CFTC and DOJ declined to comment.

The decisions are the latest example of US authorities reversing course on Biden-era actions involving digital-asset firms. Some in Washington are celebrating what's being billed as "Crypto Week" with plans to usher in industry-backed rules that have sent the price of Bitcoin to a record.

Polymarket's popularity surged during last year's election campaigns as users flocked to the platform to place cryptocurrency wagers on the outcome. But that also drew investigators, examining whether the site was accepting trades from US-based users in violation of a previous settlement with federal regulators.

The situation escalated dramatically a week after the November elections, when FBI agents carried out a pre-dawn raid at the Soho penthouse of **Shayne Coplan**, the force behind Polymarket. Soon after, the 27-year-old chief executive officer lashed out on social media, describing the action as a "last-ditch effort" to go after companies deemed to be associated with President Joe Biden's political opponents. He also made light of the seizure of his mobile phone on the same day.

The bravado captured the mood in the broader crypto community, which saw Trump as a full-throated proponent who would reverse Washington's Biden-era crackdown on crypto firms deemed to be running afoul of regulations.

So far, that has proved right. Congress is expected to send the first major legislation to regulate some digital assets to the president's desk for his signature after a House floor vote this week.

Read more: Traders Defying US Ban Embrace Polymarket With Election Bets



CFTC Chairman nominee Brian Quintenz

Photographer: Paul Miller/Bloomberg

The confluence of digital assets and prediction markets — which allow users to bet on all sorts of future events — stand to occupy a chunk of the CFTC's time in the Trump administration.

Brian Quintenz, an executive at a16z, the digital asset-focused arm of venture-capital giant Andreessen Horowitz, has been nominated to lead the agency. Quintenz has served on the board of directors of Kalshi, Polymarket's chief rival.

The CFTC had its own investigation into the platform. The derivatives regulator, which oversees prediction platforms because their contracts are considered akin to swaps, had entered into a settlement with Polymarket in January 2022 over allegations it failed to register with the agency. As part of the deal, Polymarket vowed to wall off US traders from its exchange.

Both the CFTC and Justice Department lawyers in Manhattan were investigating whether the New York-based platform continued accepting wagers from people in the US using virtual private networks or other means to bypass the company's controls. The prediction market notched about \$2.6 billion in trading volume in November.

The resolution of the two investigations may even pave the way for Polymarket to officially re-enter the US market. That could include registering with the CFTC as a futures exchange or potentially acquiring another entity with a CFTC license.

Polymarket has been building a war chest with new investment rounds led by **Peter Thiel's** Founders Fund. It also recently announced a partnership with Elon Musk's X and xAI to offer event forecasts on the social media platform.

--With assistance from **Ava Benny-Morrison**.

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Securities Law News

SEC Dropping Bribery Case Against Former Cognizant Executives

July 15, 2025, 2:56 PM PDT

The US Securities and Exchange Commission moved to dismiss a long-running bribery case against two former executives of Cognizant Technology Solutions Corp., the latest sign of the Trump administration's shift away from enforcing the Foreign Corrupt Practices Act.

The regulator and the two former executives — Gordon Coburn and Steven Schwartz — filed a joint motion Tuesday in New Jersey federal court to drop the case. The filing calls for dismissing the case with prejudice, meaning it can't be refiled.

The SEC's decision to seek dismissal of this action "does not necessarily reflect the commission's position on any other case," the agency said.

A federal judge in New Jersey in April tossed criminal charges against the duo. Alina Habba, the interim US Attorney for New Jersey, requested the move after President Donald Trump issued an executive order calling for a pause to FCPA enforcement.

US prosecutors in 2019 charged Coburn, the company's former president, and Schwartz, its former chief legal officer, with authorizing \$2 million in illegal payments to secure a permit for a new office in India. The pair disguised the payments by funneling them through a construction company, authorities said.

Cognizant in 2019 paid \$25 million to settle SEC claims that the company violated anti-bribery laws. The SEC also filed a civil lawsuit against the former executives.

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US retail

'Amazon of guns' backed by Donald Trump Jr sinks on stock market debut

GrabAGun says it is 'built for the next generation of firearms enthusiasts and sportsmen'



Donald Trump Jr, left, and financier Omeed Malik discuss GrabAGun's trading debut in a television interview © Bloomberg

George Steer in New York

Published AN HOUR AGO



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Shares in an online gun retailer backed by Donald Trump Jr slid in a volatile market debut as investors assessed the latest push by the US president's son into the so-called anti-woke economy.

GrabAGun, a marketplace “built for the next generation of firearms enthusiasts and sportsmen,” merged with a special purpose acquisition company earlier this week and began trading on the New York Stock Exchange on Wednesday under the ticker PEW — “a little take off of ‘pew pew,’ like shooting a gun,” Trump Jr explained in an interview with Bloomberg.

Shares in the company plunged as much as 24 per cent as trading began, but recovered by mid-morning, and were last down 12 per cent.

GrabAGun chief executive Marc Nemati, told Trump Jr’s podcast, *Triggered*, last week that the platform was aimed at “the younger demographic, people like me, who buy everything online”. In a presentation to investors last month, GrabAGun said millennials and Gen Z “are now shaping the future of firearms retail”.

“Why shouldn’t we be able to buy a firearm, which is protected by the second amendment, in the same vein,” Nemati added, referring to the US Constitution provision permitting people to “keep and bear arms”. GrabAGun’s public offering represented a “middle finger” to the advertising companies and social media groups that he said had shunned gun retailers in recent years.

Companies marketing themselves as antidotes to “woke” corporate America have enjoyed a bounce since Donald Trump’s 2024 election victory, as members of the president’s inner circle have tapped into what GrabAGun described in a regulatory filing as the “burgeoning patriotic parallel economy”.

Trump Jr will act as a consultant to the company, which he has promoted heavily on social media site X and his podcast, which airs on Rumble, an alternative to YouTube. He also owns 300,000 shares in an affiliate of GrabAGun.

Former Bank of America Merrill Lynch executive Omeed Malik, who has emerged as a financier to the Maga economy, runs the Spac that GrabAGun merged with and likens the Texas-based group to an “Amazon of guns”. The Spac holds about \$170mn from its public offering in 2023.

Malik fundraised for Trump’s 2024 election campaign and founded anti-ESG investment firm 1789 Capital, where Trump Jr is a partner. Malik heads another Spac that in 2023 merged with PublicSquare, an ecommerce platform similar to eBay and Amazon for users who value “life, family and freedom”.

PublicSquare derives the bulk of its revenue from sales of red meat, “natural health” remedies and financing gun purchases, including on GrabAGun.

Established in 2007, GrabAGun says it holds a licence for retail firearm sales and that potential buyers must complete background checks before picking up their guns from licensed dealers.

“Accessories and ammunition” can be sent directly to customers, it adds.

GrabAGun booked revenue of \$93.1mn in 2024 and boasts that its mobile-first platform includes a “shoot now, pay later” feature allowing customers to finance purchases on credit.

US banks, law firms and other large companies have come under pressure from the Republican party’s demands that they reverse initiatives to boost diversity and work less with the oil and gas industry.

Corporate policies concerning firearms are also in flux. In June, Citi ditched measures introduced in 2018 that limited which firearms companies it would do business with.

Announcing the U-turn, Citi said it “appreciate[s] the concerns that are being raised regarding ‘fair access’ to banking services” and that it would update its employee code of conduct and global financial access policy “to clearly state that we do not discriminate on the basis of political affiliation”.

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Tesla debuts in India, but its cars likely cost too much for most Indians



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Private security guards stand amidst rain outside India's first Tesla showroom in Mumbai, India, Tuesday, July 15, 2025. (AP Photo/Rafiq Maqbool)

NEW DELHI (AP) — [Tesla Inc.](#) opened its first showroom in [India](#) on Tuesday, marking the electric vehicle maker's long-anticipated debut in the world's third-biggest automotive market.

Located in the Bandra-Kurla Complex, an upscale business center in the financial capital [Mumbai](#), the showroom will serve as Tesla's flagship retail and experience outlet as the company introduces its EV lineup to Indian customers.

Tesla's entry to India comes after years of delays and policy friction, marking a pivotal expansion in a fast-growing consumer base while global sales are plunging and the company faces challenges in its two core markets, China and the U.S.

Sales of Tesla electric cars [fell sharply from April to June](#) as boycotts over Elon Musk's political views continued keeping buyers away.

For India, Tesla's entry signals rising investor confidence and strengthens its move towards clean mobility, although Tesla's higher pricing is likely to make its cars unaffordable for most Indians.

The country's nascent electric vehicle market made up a little more than 2% of total car sales last year. But the government wants to change that and increase the electric vehicle share to 30% by 2030.

Tesla will begin by importing and selling its popular Y model cars in India. The base price would be 6.78 million rupees (\$79,089) for the long-range, rear-wheel drive vehicle, according to a presentation by the company during the showroom launch Tuesday. Delivery is expected to start from the third quarter, Tesla officials said.

By comparison, the price tag is around \$44,990 in the U.S without a federal tax credit.

Tesla will compete mostly with German luxury carmakers such as BMW and Mercedes Benz Group AG, and not budget Indian players like Tata Motors Ltd. and Mahindra & Mahindra Ltd. The luxury car market makes up just about 1% of total vehicle sales

The debut by American EV giant, however, would bring in world class technology to the country, auto analyst Gaurav Vangaal said.

“With deeper local investments, Tesla can accelerate India’s EV ecosystem, drive innovation and support the government’s goal of higher EV penetration,” said Vangaal, an associate director with S&P Global Mobility.

Prime Minister Narendra Modi’s government has wooed Tesla for years for its global brand value and to boost the country’s clean energy endeavors.

CEO Elon Musk invited Indians in April 2016 to [preorder the upcoming Tesla Model 3](#). Several customers placed an order but the cars never arrived and the booking amount had to be refunded.

Despite his earlier enthusiasm, in 2019 Musk expressed concern in a post on his social media platform X that import taxes could double prices of Tesla cars, making them “unaffordable.”

Tesla pressed Indian authorities to cut import taxes on EVs, which were up to 100%, to be able to test the local market. New Delhi, however, wanted Tesla to set up manufacturing facilities so a comprehensive policy could benefit all the players in the sector.

The dynamics changed after [Modi and Musk met in the U.S.](#) in February during a state visit by Modi.

Barely a month later, India rolled out a new policy to woo the likes of Tesla, reducing import taxes to 15% from 70% to 100% for EVs priced cheaper than \$35,000 as long the automaker committed to building a factory in the country within three years.

Soon after, Musk announced he would visit India in April to meet Modi. It was widely expected he would unveil Tesla’s plans to set up manufacturing facilities and commit billions of dollars in investments. But Musk cancelled the visit, citing “very heavy Tesla obligations,” and travelled to China instead.

Since then, Tesla has conveyed it does not have an immediate interest in manufacturing in India.

U.S. President [Donald Trump](#) has said it would be “unfair” to the U.S. if Tesla builds a factory in India to circumvent that country’s tariffs. India and the U.S. are currently negotiating a bilateral trade agreement for greater market access and reducing tariffs on most goods, including automobiles.

Besides bringing Tesla to India, Musk's India ambition has been to launch Starlink's commercial internet services. The plan got a boost recently after [the company secured regulatory clearances](#).

Starlink now needs to secure telecommunications airwaves from the government, which may take at least a couple of months, before the services are formally launched.

By RAJESH ROY Associated Press

Rafiq Maqbool in Mumbai contributed to this report.

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Securities Law News

US Audit Board Chair Resigns Under Pressure from Trump's SEC (2)

July 15, 2025, 1:36 PM PDT; Updated: July 15, 2025, 3:07 PM PDT

- Republicans targeted board for elimination in mega tax bill
- Williams sparked audit industry ire for tougher oversight

The chair of the US audit board said Tuesday that she will step down later this month at the request of SEC Chair Paul Atkins, setting up the third swing in leadership and priorities since 2017 for the Enron-era regulator.

Erica Williams' resignation gives the Trump administration the freedom to name a new steward and reshape the agenda of the Public Company Accounting Oversight Board, the regulator tasked with overseeing US auditors. The Securities and Exchange Commission oversees the board's budget and appoints its members, who serve five-year staggered terms.

Williams informed PCAOB staff late Tuesday, according to an email obtained by Bloomberg Tax.

"With high economic uncertainty increasing the risk of fraud, the PCAOB's mission is as important as ever," Williams said in a statement. "It's critical the expert PCAOB staff continue to be empowered to carry out their work of ensuring American investors are protected."

Her pending departure leaves the audit regulator without a steward at a critical juncture for an agency Congress created to be an independent watchdog. Republicans tried to zero out the board's funding and transfer the agency's mission to the SEC as part of their massive tax and spending bill, but were forced to pull the measure to meet Senate rules.

The proposal, which the PCAOB campaigned against forcefully, would have stripped out the cornerstone of a landmark corporate reform law that regulated the audit industry in order to restore investor trust in corporate reporting after accounting scandals toppled Enron Corp. and WorldCom Inc.

Without those structural reforms, the SEC can continue to influence the PCAOB under its existing authority.

Atkins, during his previous stint on the commission, called to keep the board's spending and rule-writing in check. But during a June budget hearing, he told senators that the board's duties "are vital" and said he would seek additional funding for the SEC to carry out that work.

Calling to reset the commission's priorities, Atkins has promised to review disclosure requirements, craft new rules for the crypto market, and focus the commission's enforcement on fraud that harms investors. Replacing PCAOB leadership could trigger a similar swing in the audit regulator's agenda.

"We look forward to advancing our oversight responsibilities of the PCAOB as it continues its important work," Atkins said in a statement confirming Williams' resignation.

Priority Shift

Williams, who took the helm in 2022 and had four years left of her current term, jolted the audit industry by tripling financial penalties to \$35.7 million for enforcement cases in the past three years and highlighting rising deficiencies in routine audit inspections. She sparked industry ire as she marched to set higher standards for how auditors vet corporate financial statements with a suite of rule updates.

But new leadership at the SEC has already forced the board to shelve rule changes on disclosures and how auditors respond to corporate lawbreaking.

The audit industry has pushed for its regulator to be more receptive to concerns about what auditors see as flawed, rushed rule-writing and sought a more restrained approach to enforcement.

Atkins could seek deeper changes to the board's makeup beyond replacing its chair, repeating the playbook from the Biden and first Trump administrations.

Then-SEC Chair Jay Clayton took advantage of expired or nearly expired terms to replace all five members of the board in 2017. Just four years later, Biden SEC Chair Gary Gensler fired the head of the PCAOB and asked other board members to reapply for their seats.

Under Atkins, the SEC could also demand the PCAOB roll back its budget, shrink its staff, or possibly cut board members' pay.

Board members are among the highest-paid financial regulators in Washington, though they have gone without a pay raise since 2009. The PCAOB chair earns \$673,000 and the other board members earn \$547,000 annually.

(Updates with additional reporting. Previous updates added quotes from Erica Williams and Paul Atkins.)

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Court Reporters Defend Suit Saying Group Coerces Dues

By **Bryan Koenig**

Law360 (July 15, 2025, 4:47 PM EDT) -- A pair of court reporters defended their New Jersey federal court proposed class action accusing the National Court Reporters Association of anticompetitively conditioning needed certification on expensive membership with the group, arguing the NCRA can't try to argue that membership and certification are one and the same.

In opposing the NCRA's motion to dismiss, the court reporters **argued in a brief** Monday they've adequately shown injury from being forced to pay annual membership fees, that the ongoing nature of group membership requirements makes the lawsuit timely and that NCRA can't avoid claims of illegally tying membership with certification by contending the two are synonymous.

The plaintiffs, Cindy Jenkins of Illinois and Kelly Palazzi of New Jersey, said court reporters have little choice but to continue paying \$300 a year for NCRA membership, on top of taking the test needed to qualify as a registered professional reporter because the group conditions granting the certification most employers require on maintaining membership.

The two also assailed NCRA for arguing in its motion to dismiss that passing the test is just one component of membership, which also comes with commitments to continuing education, ethics and more, meaning the two aren't distinct products necessary to make an allegation of anticompetitive tying.

There are actually six different types of NCRA membership, and the retired and student members don't need to meet certification requirements, according to Monday's brief. Jenkins and Palazzi argued that the difference means membership and certification are separate products.

"NCRA attempts to blur the distinction between these products by asserting that the 'test is simply a component of membership,' yet offers only evidence that NCRA tests serve as a component of NCRA certification," the plaintiffs said.

"This contradiction exposes the fundamental flaw in NCRA's defense. NCRA membership and NCRA certification serve different functions and constitute separate products. NCRA's own admission that one product is needed to 'ensure' the other reveals how NCRA improperly ties these distinct products together," they continued. "If membership and certification were truly the same product, NCRA would not need to use one to 'ensure' the other."

The case contends NCRA certification is either required or accepted by 95% of states that require court stenographers to be certified, adding this gives the group dominance over the market and allows it to collect around \$2.8 million in annual membership dues.

The court reporters **first filed suit** at the beginning of the year and amended their complaint in April, forcing NCRA to file its **new motion** to dismiss last month.

In addition to arguing there aren't multiple products to be anticompetitively tied together, the group argued the lawsuit is time-barred because it targets years-old practices, that the named plaintiffs can't show injury because they live and work in states that don't require NCRA certification, and that certification requirements are decided by states.

The court reporters countered Monday that the suit is timely because each payment of the annual

membership dues "constitutes a new cause of action" and that the ongoing tying arrangement "constitutes a continuing violation."

They also said NCRA can't use state requirements to absolve itself because the group actively lobbies legislatures "to embed NCRA requirements in state laws." And they assailed arguments that court reporters' home states don't require membership.

"While only the [registered professional reporter] examination is required by New Jersey law, and setting aside the also important factor of one's ability to work across state lines, remotely or otherwise, certification is required by most employers," they said. "Thus, in order to satisfy employer requests and to maintain their work, Palazzi and her fellow New Jersey NCRA [certified court reporters] are forced to maintain NCRA certification — something NCRA uses to force them to also purchase annual membership."

NCRA membership is particularly important now in the age of increasing remote work and opportunities that cross state lines, according to the brief. The nature of modern work also means NCRA can't attack the proffered market definition by focusing on individual state certification requirements, the plaintiffs said.

"The transformation from local to interstate practice creates a regulatory maze that (by design) only NCRA certification can effectively navigate," they said.

Counsel for NCRA declined comment. Counsel for the plaintiffs did not immediately respond to a request for comment Tuesday.

The proposed class is represented by Christopher L. Ayers of Seeger Weiss LLP, and Stuart A. Davidson, Anny M. Martin, Facundo M. Scialpi and Arthur L. Shingler III of Robbins Geller Rudman & Dowd LLP.

The NCRA is represented by Roberto A. Creagh, Richard P. Sybert and Hannah E. Brown Goehring of Gordon Rees Scully Mansukhani LLP.

The case is Palazzi et al. v. National Court Reporters Association, case number 2:25-cv-00077, in the U.S. District Court for the District of New Jersey.

--Additional reporting by Matthew Perlman and Jack Karp. Editing by Lakshna Mehta.



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Pool Supply Co. Escapes Investor Suit Over COVID-Era Sales

By **Sydney Price**

Law360 (July 15, 2025, 11:08 PM EDT) -- Arizona-based pool supply company Leslie's Inc. won dismissal, for now, of an investor class action led by North Carolina's state treasurer that alleged the company botched disclosures about waning demand during the COVID-19 pandemic, with the court finding the allegations failed to state a claim for federal securities law violations.

U.S. District Judge Sharad H. Desai **said in an order** Monday that the suit brought by Leslie's investors — of which the North Carolina's treasurer on behalf of retired state employees is the lead plaintiff — has not "connected the dots" between the alleged misstatements and the reasons they were allegedly false or misleading. The treasurer has 30 days to refile an amended complaint, according to the order.

According to the suit, which was most recently amended in February 2024, a form of stabilized chlorine called trichlor was becoming scarce due to supply chain disruptions at the onset the pandemic, as well as a fire at one of the main chlorine production factories in the U.S.

In response, the complaint says, consumers began stockpiling chlorine in case of a shortage, but Leslie's allegedly claimed its stronger sales and record financial results were a result of the company's growth initiatives.

In July 2023, the company allegedly revealed that sales for the third quarter of the year were down 9% year-over-year and that gross profits were expected to fall nearly 18%, the investors said. The press release also stated its then-Chief Financial Officer Steven M. Weddell would step down, effective Aug. 7, 2023.

On this news, the price of Leslie's shares dropped more than 29%, from a closing price of \$9.52 on July 13, 2023, to a closing price of \$6.70 on July 14, 2023. The price continued to dip another 18% the next trading day to close at \$5.46 per share on July 17, 2023, according to the complaint, **first filed** in September that year.

The investors alleged former Leslie's employees confirmed that the company needlessly piled up excess inventory of chemical pool treatment products, but Judge Desai said Monday that when refiling the suit, the treasurer must cure deficiencies regarding confidential witness statements.

Even though the suit sufficiently alleged that each of the former employees worked for Leslie's during the class period — between Feb. 3, 2022, and July 13, 2023 — it does not sufficiently establish their reliability and personal knowledge, Judge Desai said.

"For instance, the consolidated complaint provides no information about the job responsibilities for the former allocations and planning analyst or the former inventory planner that would show the former employees had personal knowledge about, for example, what 'management's goal' was or how it was 'internally recognized that [Leslie's] financial projections for 2023 were unachievable,'" the judge said Monday.

In a motion to dismiss the suit, Leslie's challenged the plaintiff's use of the core operations theory — which says that senior management's awareness of a company's key activities and problems can be inferred when the alleged fraud concerns those operations.

Judge Desai on Monday sided with the defendants in determining that the North Carolina treasurer has not met the "high burden" of applying the core operations theory based solely on trichlor's prominence to Leslie's business due.

"It is unclear whether trichlor/chlorine-based chemicals specifically, as opposed to chemicals overall, could be considered in and of itself in Leslie's core businesses," Judge Desai said. "The consolidated complaint alleges that 45% of Leslie's business is in chemicals but also alleges that Trichlor only comprises 15% of Leslie's total sales."

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

The proposed class is represented by Darren J. Robbins, Tor Gronborg, Laurie L. Largent and Sarah A. Fallon of Robbins Geller Rudman & Dowd LLP, Thomas C. Michaud of VanOverbeke Michaud & Timmony PC, and Hart L. Robinovitch of Zimmerman Reed LLP.

Leslie's and the individual defendants are represented by Patricia Lee Refo and Megan Carrasco of Snell & Wilmer LLP, and Monica K. Loseman and Allison K. Kostecka of Gibson Dunn & Crutcher LLP.

The case is Treasurer of the State of North Carolina et al. v. Leslie's Inc. et al., case number 2:23-cv-01887, in the U.S. District Court for the District of Arizona.

--Editing by Lakshna Mehta.

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Biohaven's Drug Prospects Were Overhyped, Suit Says

By **Emilie Ruscoe**

Law360 (July 15, 2025, 11:22 PM EDT) -- Biopharmaceutical company Biohaven Ltd. was hit with an investor suit claiming it overstated the odds that two of its product candidates would receive regulatory approval, hurting investors as it announced disappointing results.

In a complaint filed Monday in Connecticut federal court, investor Kayla Taylor took aim at Biohaven, its CEO Vlad Coric and its Chief Financial Officer Matthew Buten, alleging they gave investors unrealistic expectations about the odds of two would-be drugs getting the green light to go to market.

Taylor describes Biohaven as a developer of immunology, neuroscience and oncology, and said its product candidates include troriluzole, a treatment for the neurodegenerative brain disorder spinocerebellar ataxia, and BHV-7000, which treats bipolar disorder.

Taylor's suit pointed to the May 2022 outcome of a Phase 3 trial evaluating troriluzole, describing the trial's findings as failing to meet the study's primary endpoint.

Despite those trial results, Taylor claims, "at all relevant times, defendants continued to consistently tout troriluzole's purported viability and regulatory prospects as a treatment for SCA based on certain post-[hoc] analyses and additional data."

Biohaven announced in May 2023 that it submitted a new drug application for troriluzole to the U.S. Food and Drug Administration, Taylor says, and in October 2023, the company told investors the European Union's Medicines Agency accepted the company's application for authorization to market troriluzole as a treatment for SCA.

But despite making those specific advances with regulators, Taylor claims, the company overstated both its prospects of receiving regulatory approval for its therapy as a treatment for SCA and its likelihood of getting a green light for its bipolar disorder treatment.

"All the foregoing, once revealed, was likely to have a significant negative impact on Biohaven's business and financial condition," the suit says.

The complaint alleges Biohaven's stock price declined after numerous disclosures. For instance, in July 2023, when Biohaven announced the FDA rejected its troriluzole application, trading prices for the company's shares fell 22.61%, from \$23.80 to \$18.42.

Then, in March, when the company announced disappointing results from a late-stage study of its bipolar disorder treatment, trading prices for Biohaven shares fell from over \$37 to just over \$32, a decline of nearly 14%.

The investor added that the company saw trading prices dip again in April, when news reports stated that, according to the European Medicines Agency, Biohaven had withdrawn its troriluzole MAA in March.

In May, when the company announced, among other things, that the FDA wanted time for "a full review of Biohaven's recent submissions related to information requests from the FDA" regarding its SCA treatment, trading prices fell again, closing under \$16, down nearly 20% from its earlier trading

price of nearly \$20.

The proposed class includes those who purchased Biohaven shares between March 2023, when the company indicated it may submit the SCA application to the FDA, and May 2025, when the company announced the FDA's latest review directives.

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

Taylor is represented by Emily C. Finestone, Jeremy A. Lieberman and J. Alexander Hood II of Pomerantz LLP.

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

The case is Taylor v. Biohaven Ltd et al., case number 3:25-cv-01120, in the U.S. District Court for the District of Connecticut.

--Editing by Drashti Mehta.

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Deep Sea Mining Co. Gets Suit Over 'Green' Investments Axed

By **Katryna Perera**

Law360 (July 15, 2025, 9:09 PM EDT) -- A New York federal judge has dismissed in its entirety a suit accusing The Metals Co. Inc. of misleading investors about the magnitude of its "green" investments and its private equity backing before going public, finding that the suit's challenged statements were not false when made.

U.S. District Judge Eric Komitee issued a **66-page order** on Friday dismissing the complaint filed by Bruce Carper that **alleged** the Canadian deep-sea minerals exploration company defrauded investors about its deep-sea mining operations and supposed equity investments to drive up its stock prices through financial filings and public statements.

The Metals Co. was born out of a merger in 2021 between DeepGreen Inc. and a special-purpose acquisition company called Sustainable Opportunities Acquisition Corp.

According to the order, at the outset, the defendants had argued in their dismissal motion that co-lead plaintiffs Point12 Diversified Fund LP and Kyle Autry lack constitutional and statutory standing to challenge some of the suit's alleged misstatements.

Judge Komitee partially agreed Friday, saying the plaintiffs lack statutory standing to challenge three of the 12 statements identified in the complaint. However, the plaintiffs do have traditional Article III standing to bring their claims, the judge noted, since at least one of the alleged misstatements plausibly injured them.

Ultimately, however, the plaintiffs' standing is irrelevant since none of the complaint's challenged statements were false, the judge said.

Judge Komitee found the plaintiffs failed to adequately plead the falsity of The Metal Co.'s statements about its purported private equity financing and statements made by executives about how much cash the company had to achieve certain goals.

Additionally, statements made by Gerard Barron, the CEO of DeepGreen and then The Metals Co., about achieving certain milestones were opinion, the order states, since they concerned his expectations for the company's growth, future revenues and performance.

Judge Komitee further found that three statements identified in the complaint relating to the environmental impact of harvesting nodules from the ocean floor were not misleading by omission because the plaintiffs do not identify any specific facts that were omitted from those statements.

"Second, it should go without saying that a defendant may not be held liable when an issuer's disclosures 'warn[ed] investors of exactly the risk the plaintiffs claim was not disclosed,'" Judge Komitee said.

Finally, Judge Komitee found that the suit does not plausibly plead a specific motive to defraud on the part of the defendants.

"Plaintiffs' primary argument is that, because TMC had 'itself said that it needed \$7 billion for large-scale production,' the company's survival was demonstrably 'dependent on serial capital raises' ... in this predicament, according to the plaintiffs, 'TMC was existentially threatened' by the possibility that

those capital-raising efforts would fail," the judge said.

"The need to raise additional capital to finance operations, however, constitutes the kind of generalized motive, 'possessed by virtually all corporate insiders,' that does not suffice to establish scienter," the judge further said. "The plaintiffs [also] do not allege that the individual defendants sought to increase the price of TMC shares so they could personally benefit from later stock sales."

The suit also does not adequately allege recklessness by the defendants or the core operations theory, the judge found.

In a statement to Law360 on Tuesday, Jeff Hammel of Latham & Watkins LLP, counsel for the defendants, said, "We believed these claims were entirely without merit, and are pleased with the court's thorough and well-reasoned opinion dismissing the case."

"With this matter concluded, The Metals Company is focused on advancing its mission of responsibly developing a new source of critical minerals to support energy, defense, manufacturing and infrastructure supply chains," Hammel added.

Counsel for the plaintiffs did not respond to requests for comment on Tuesday.

In March 2021, DeepGreen said in a press release that its merger with the SPAC, Sustainable Opportunities Acquisition Corp., would include a \$330 million private investment and that the company's ocean mining operations would be environmentally conscious. By September of that year, The Metals Co. was listed on the NASDAQ stock exchange.

The complaint focuses on the time period from March 2021, when The Metals Co. was formed, to October 2021, when a market research firm reported the company had allegedly inflated its expenses to make its operations seem larger than they actually were.

The complaint points to a fall in share prices on two occasions after Bloomberg and Bonitas Research published reports on the company's project in September and October 2021, respectively.

Bloomberg reported the company was unable to secure \$330 million from two private investors and questioned the company's supposed sustainability practices regarding its deep-sea mining operations. Bonitas Research reported the company had pumped up its expense numbers to deceive investors about its operations.

The Metals Co. sued the two would-be investors for allegedly reneging on their agreements to fund the company, but the suit was voluntarily dismissed shortly after being filed, according to the court docket.

The plaintiffs are represented by Joshua B. Silverman of Pomerantz LLP, and Peretz Bronstein and Eitan Kimelman of Bronstein Gewirtz & Grossman LLC.

The defendants are represented by Colleen C. Smith, Jeff G. Hammel, Kristin N. Murphy, Morgan E. Whitworth and Ashley K. Gebicke of Latham & Watkins LLP.

The case is Carper v. The Metals Co. Inc. et al., case number 1:21-cv-05991, in the U.S. District Court for the Eastern District of New York.

--Editing by Lakshna Mehta.



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MaxLinear, Silicon Motion Beat Suit Over Failed \$3.8B Merger

By **Rae Ann Varona**

Law360 (July 15, 2025, 11:31 PM EDT) -- A California federal judge on Tuesday threw out a proposed class action that accused semiconductor company MaxLinear and chipmaker Silicon Motion of misleading investors about a \$3.8 billion merger that fell through, saying Silicon Motion shareholders couldn't sue MaxLinear or prove that Silicon Motion knew about an alleged breach of the merger agreement.

U.S. District Judge Cathy Ann Bencivengo ruled that shareholders of Taiwanese chipmaker Silicon Motion Technology Corp. failed to allege enough facts showing that the company, its CEO and chief financial officer knew or should have known that the company breached the merger agreement with MaxLinear and ultimately prevented the deal from closing.

Judge Bencivengo said in her **decision** that the determination that Silicon Motion breached the agreement, as alleged, was made "solely by MaxLinear, who never informed [Silicon Motion]."

The investors also failed to identify what the purported breach even was, when it occurred, or who at Silicon Motion was aware of it, the judge said.

"This is wholly insufficient to survive a motion to dismiss a securities fraud claim," Judge Bencivengo wrote. "With nothing but conclusory allegations to support their claim that [Silicon Motion] defendants knew or should have known of the breach, plaintiffs fail to adequately allege scienter."

As for claims filed against MaxLinear, Judge Bencivengo ruled that because the investors were Silicon Motion shareholders, they lacked standing to sue MaxLinear.

She explained that under Ninth Circuit precedent, plaintiffs seeking to sue under Section 10(b) of the Securities Exchange Act must have purchased or sold the securities about which alleged misrepresentations were made.

The investors "lacked statutory standing against MaxLinear because MaxLinear's alleged misrepresentations were about MaxLinear, not [Silicon Motion]," Judge Bencivengo said.

MaxLinear announced in May 2022 that it was acquiring Silicon Motion for \$3.8 billion in a cash-and-stock deal that valued the combined company at **\$8 billion**. The merger was expected to carry a robust assortment of products for the broadband, connectivity, data storage, and wired and wireless infrastructure markets, with an annual revenue exceeding \$2 billion.

But MaxLinear pulled out of the deal in late July 2023, citing among its reasons that Silicon Motion suffered a material adverse effect and breached the merger agreement. The company said in a comment on the terminated deal that Silicon Motion intended to pursue monetary damages at an international arbitration organization based in Singapore, but that MaxLinear was "entirely confident" in its decision.

Investor Water Island Event-Driven Fund sued in August 2023, and later that year, a group of private investment funds — the Westchester Funds, Alpine Funds, Atlas Funds and Kryger Funds — was appointed lead plaintiff.

The funds, which sought to represent investors who purchased Silicon Motion shares from May 5,

2023, through July 26, 2023, filed their most recent complaint in September after Judge Bencivengo dismissed their case **without prejudice**.

The investors alleged that MaxLinear and Silicon Motion had repeatedly told them through SEC filings that they provided investors with all material information concerning Silicon Motion's financial condition and securities in connection with the merger; that MaxLinear was fully committed to the deal; and that the merger could close as soon as China's main antitrust regulator approved it.

They asserted that when the regulator approved the merger on July 26, 2023, and given the companies' statements affirming their commitment to closing the deal, investors "flooded the market on unusually high trading volume," only for MaxLinear to announce the same day that it was terminating the tie-up.

MaxLinear had said that certain conditions of the agreement weren't satisfied or were waived as of May 5, 2023.

The investors said that MaxLinear's unexpected announcement caused the "immediate collapse" of the price of Silicon Motion's American depository shares. They said the announcement specifically caused a "decline of nearly \$30 per ADS in less than one hour, on unprecedented trading volume of 17,771,620 ADSs."

In again dismissing the suit, Judge Bencivengo said Tuesday that the investors also failed to prove that three statements by Silicon Motion were misleading because they omitted the company's purported breach.

One statement was from a press release in which Silicon Motion stated it would release second-quarter 2023 financial results on July 27 of that year, but not conduct a customary earnings conference call due to restrictions associated with the merger with MaxLinear, nor provide updates on the merger.

"Omission of the claimed breach did not create the impression that the merger was not facing any issues and that it would be completed," Judge Bencivengo wrote. "Rather, it only communicated that the merger was still in progress/effect and that no updates would be given."

The judge also rejected the investors' contention that Silicon Motion violated federal securities laws by not updating its earlier statements with the breach or "other material breaches" of the merger.

She said that the investors didn't specify what securities law the company and its brass allegedly violated. Moreover, neither the Ninth Circuit nor the U.S. Supreme Court "recognizes a duty to correct," the judge said.

"Even if [Silicon Motion] defendants did have such a duty though, plaintiffs fail to show that [Silicon Motion] defendants knew or should have known about the breaches or lack of integration activity before MaxLinear publicly announced it was terminating the merger," Judge Bencivengo wrote.

The investors are represented by David R. Kaplan, Emily Bishop, Steven B. Singer, David J. Schwartz, Joshua H. Saltzman, Joseph E. White III, Lester R. Hooker and Jonathan D. Lamet of Saxena White PA, and Vincent R. Cappucci, Andrew J. Entwistle, Robert N. Cappucci, Jonathan H. Beemer and Jessica A. Margulis of Entwistle & Cappucci LLP.

MaxLinear is represented by Jordan Eth, Christin Hill and Hanna M. Lauritzen of Morrison & Foerster LLP.

Silicon Motion is represented by David R. Singh and Evert J. Christensen Jr. of Weil Gotshal & Manges LLP.

The case is Water Island Event-Driven Fund v. MaxLinear Inc. et al., case number 3:23-cv-01607, in the U.S. District Court for the Southern District of California.

--Additional reporting by Sarah Jarvis and Charlie Innis. Editing by Adam LoBelia.



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Weedmaps, SPAC Officers Want Out Of Investor SEC Fine Suit

By **Sydney Price**

Law360 (July 15, 2025, 5:11 PM EDT) -- Cannabis tech company Weedmaps Technology Inc. and leaders of a blank check company that it merged with have asked to be released from an investor's proposed class action alleging damages following the U.S. Securities and Exchange Commission's announcement that it fined Weedmaps \$1.5 million for allegedly making misleading statements about its monthly active users.

In motions filed Friday, WM Technology and its officers argued that the investors' claims are time-barred and fail to plead falsity, while the former officers of special purpose acquisition company Silver Spike Acquisition Corp. — which merged with WM Technology in 2021 — claimed they had no involvement in the day-to-day operations of Weedmaps, which runs a website and mobile applications that allow consumers to find legal cannabis dispensaries.

The suit alleges Weedmaps inflated its monthly average users metric after going public. According to a cease-and-desist order issued by the SEC last year, a "large and increasing" percentage of users of WM Technology's website were actually people who visited a third-party site and were automatically shown WM Technology's site, but did not engage.

But WM Technology said Friday that it reported monthly average users consistent with its definition for the calculation. Statements that the monthly average user metric was a key indicator of growth are inactionable puffery, it argues.

Phrases like "key indicator of growth" and "value proposition" are not objectively verifiable, WM Technology said.

"Plaintiffs fail to allege how a statement referencing generic and aspirational phrases could in some way be interpreted as a guarantee that [monthly average users] would be free from paid advertising traffic," the motion states.

WM Technology manipulated the key financial statement for several months, the suit alleges, but the truth began to emerge on Aug. 9, 2022, when the company disclosed in an SEC filing that its board of directors had received an internal complaint regarding "the calculation, definition, and reporting of [its monthly average users]."

On this news, WM Technology shares declined 87 cents each, or about 25%, to close at \$2.59 per share that day, according to the suit.

Weedmaps argued the two-year statute of limitations began to run when the first alleged corrective disclosure was made in August 2022.

"All of plaintiffs' scienter allegations were known or, with reasonable diligence, should have been known before the statute of limitations expired in August 2024," Weedmaps said.

In their separate motion, three Silver Spike officer defendants said they left their roles at the SPAC upon completion of the merger, and are not mentioned in the SEC's complaint against Weedmaps.

"With the exception of the registration statement and proxy, the statements that the SEC challenged were made after the merger, once the Silver Spike individuals had ceased to be officers," the motion

states.

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

The proposed class is represented by Laurence M. Rosen of The Rosen Law Firm PA.

The WM Technology defendants are represented by Sarah M. Lightdale, Alexandra R. Mayhugh, Maximilian Sladek de la Cal, Nicholas R. Orr and Heather M. Speers of Cooley LLP.

The Silver Spike officers are represented by Edmund Polubinski, Daniel J. Schwartz, Marie Killmond and Mary Kate Sherwood of Davis Polk & Wardwell LLP and Anjani Mandavia of Mandavia Ephraim & Burg LLP.

The case is Ishak v. WM Technology Inc. et al. case number 2:24-cv-08959, in the U.S. District Court for the Central District of California.

--Editing by Jay Jackson Jr.

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Class Action Targets Archery Cos. For Alleged Price-Fixing

By **Alex Lawson**

Law360 (July 15, 2025, 3:26 PM EDT) -- A Tennessee man alleged a vast scheme to fix prices on archery goods in a proposed class action in federal court Monday, naming the sport's top trade association, manufacturers and retailers as key figures in the decade-long conspiracy.

The Archery Trade Association functioned as the "centerpiece" of the conspiracy, the suit explained, coordinating and sharing sensitive information between competing businesses to set minimum price floors, a strategy that could only pay dividends if the bulk of the industry were participating in it.

"Defendants realized the necessity to act collectively to implement and vigorously enforce minimum advertised price policies throughout the industry in order to combat true price competition," the complaint said. "These policies were intended to eliminate price competition and increase profit margins for manufacturers and retailers."

The allegations were laid out by Hugh Hansen, a purchaser of bows, arrows, arrowheads, targets and other accessories looking to represent a class of consumers who bought archery goods from the defendant companies since January 2014, when Hansen claims that the price-fixing conspiracy began.

Along with the ATA, the suit names large retailers like Dick's Sporting Goods, Bass Pro Shops and Cabela's as defendants, along with equipment manufacturers like Bowtech Inc. Representatives for those companies did not immediately respond to requests for comment Tuesday.

The suit pegs the market for archery products at \$1.2 billion for 2024 and nods to the growth of the ATA from about 500 member businesses in 2000 to 2,500 members in 2023. The industry began clamoring about pricing policies as far back as 2011, the complaint said, adding that the ATA began pressuring all of its members to adopt minimum advertised prices, or MAP, soon after retail heavyweights joined its board in 2014.

"ATA's new activist position on the issue of MAP following Cabela's and Bass Pro Shops' placement on the ATA Board of Directors is no mystery. With two of the largest Archery Product retailers now leading the ATA, industry participants had much greater assurance that if they adopted and enforced MAP policies, their competition would as well," the suit said.

Citing the ATA's official rules, the suit laid out how repeat violators of the minimum pricing policy could be cut off from distribution chains.

ATA also rolled out information-sharing efforts like ATA Connect, an online forum billed as "a safe, confidential space to network and solve industry challenges through constructive discussions," but that the suit contends became an avenue to collude on pricing strategies.

"In an enforced conspiracy, access to this sensitive competitive information serves as the tool to monitor that cartel members are adhering to the conspiracy and declining to pursue co-conspirators' market share," Hansen's complaint said.

Hansen is represented by Charles Barrett, Michael J. Flannery, Evelyn Riley and Cody McCracken of Cuneo Gilbert & LaDuca LLP.

Counsel information for the defendants was not immediately available.

The case is Hansen v. Archery Trade Association Inc. et al., case number 3:25-cv-00779, in the U.S. District Court for the Middle District of Tennessee.

--Editing by Patrick Reagan.

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Players' Atty Gets \$1.4M In Fees For NFL Race-Norming Deal

By **David Steele**

Law360 (July 15, 2025, 9:57 PM EDT) -- The attorney representing former NFL players when the league pledged to stop using "race-norming" when deciding payments from the concussion settlement was awarded nearly \$1.4 million in attorney fees Tuesday by the Pennsylvania federal judge overseeing the settlement.

U.S. District Judge Anita B. Brody granted the request for \$1,385,859.97 made by Christopher Seeger of Seeger Weiss LLP in November. His petition was unopposed and covered his work on the revisions on race-norming between August 2020 and April 2024, Judge Brody said.

The NFL and the class of players in the concussion settlement **reached an agreement** on the league's admitted use of race-norming in October 2021. Two Black former NFL players sued the NFL in 2020, accusing it of using a lower baseline of cognitive function for Black class members when determining the extent of neurological damage, thus decreasing the chance of approval of damage payments and the amount of the payments.

In the 2021 settlement, the NFL promised not to use "race norms or race demographic estimates" in evaluating players, regardless of race. Black players were able to reapply for damages and undergo new evaluations after the 2021 settlement.

Judge Brody's award to Seeger was the first in response to an attorney fee petition covering the time spent removing race norming from the settlement. The time billed included revising testing protocols, putting the new agreement into place and "responding to numerous telephone calls and emails from class members and their individual attorneys with respect to the application" of the agreement, according to the order. The fees to Seeger will come from the qualified settlement fund set aside as part of the overall agreement.

In the most recent report by the settlement's special masters filed to the court in May, the race-norming revision was mentioned prominently. The running total through April of players evaluated and of total payouts made included footnoted information on how players were reevaluated at no cost after the revelation of the NFL's race-norming practices. In all, the report said 6,291 individual retired players received 7,012 evaluations in the first 10 years of the plan's existence, and nearly \$1.4 billion in damages was distributed to 1,846 players.

"We have also adapted to changes in legal practice and in medicine," the report said, adding, "Standardized use of neuropsychological tests did not match goals of the program, producing important changes to how it now adjusts test scores through the race norming settlement."

Representatives for Seeger and the NFL did not immediately respond to requests for comment.

The class is represented by Christopher Seeger of Seeger Weiss LLP.

The NFL is represented by Brad Karp, Bruce Birenboim, Claudia Hammerman and Lynn B. Bayard of Paul Weiss Rifkind Wharton & Garrison LLP.

The case is In re: National Football League Players' Concussion Injury Litigation, case number 2:12-md-02323, in the U.S. District Court for the Eastern District of Pennsylvania.

Tesla Engineer Says Company Kept Scant Safety Data

By **Carolina Bolado**

Law360, Miami (July 15, 2025, 7:56 PM EDT) -- Tesla did not document safety statistics of its autopilot system in the early years of its implementation, according to testimony from a Tesla engineer that jurors in Miami heard Tuesday in a trial over a fatal Florida Keys crash.



Tesla vehicles line a parking lot at the company's Fremont, California, factory on Sept. 18, 2023. In a Florida federal trial over a fatal car crash, one of Tesla's engineers testified Tuesday that the company did not keep records related to the safety of its autopilot system prior to 2018. (AP Photo/Noah Berger)

At the end of the first day of testimony, jurors watched part of the videotaped deposition of Tesla software engineer Akshay Phatak in which he said Tesla did not maintain records before March 2018 for evaluating whether it was safer to operate Tesla vehicles with the autopilot engaged or shut off.

When asked if Tesla maintained records or data before 2018 that kept track of the number of crashes that occurred per vehicle mile driven with the autopilot engaged, he replied simply, "No."

Jurors will see more of Phatak's deposition on Wednesday, over objections from Tesla, which had kept the deposition confidential and asked the court to close the courtroom because of concerns that his testimony contains sensitive trade secrets. But U.S. District Judge Beth Bloom on Monday rejected those assertions.

Tesla is fighting off allegations that it overhyped its autopilot software's capabilities despite knowing of vulnerabilities in the program, leading to the death of 22-year-old Naibel Benavides Leon in an April 2019 crash on Card Sound Road in Key Largo.

On Tuesday, jurors also heard from Dr. Mendel Singer, a professor at Case Western Reserve University School of Medicine, who was asked about the statistical validity of a safety report Tesla put out in 2019. One of the biggest problem with the report, he said, is that there was no way to look at the underlying data used in the report.

"I don't know what goes on between Tesla and the government, but I'm not aware of any independent reports where they actually had raw data and could see whether they match up and make sense," Singer said.

He noted that Tesla offered corrections to the vehicle safety report in January 2023 after finding some errors and miscounts. The crash data for when the autopilot was on stayed about the same, but the crash rate for when the autopilot was off went up by about 50% in the updated report, he said.

But the total number of miles driven didn't change for the autopilot on figures, he said.

"How could you get the autopilot off miles wrong but the others right?" Singer said. "If there are fewer miles with the autopilot off, shouldn't that mean there were more with the autopilot on?"

On cross-examination, Tesla's attorney, Joel Smith of Bowman and Brooke LLP, tried to poke holes in Singer's credentials, pointing out that he has not written peer-reviewed articles on automotive risk and does not specialize in this industry. Singer said the qualitative methods are similar to the work he does in the healthcare field.

The fatal crash at the heart of the dispute involved a 2019 Tesla Model S driven by George McGee, who was on the phone while driving on Card Sound Road on the night of April 25, 2019. He dropped the phone, looked down to pick it up, and blew past a stop sign at a T intersection, slamming into a parked Chevrolet Tahoe.

Benavides and her boyfriend Dillon Angulo were standing next to the Tahoe. Benavides was killed, and Angulo, then 26, was seriously injured.

On Tuesday, jurors got their first views of police body camera footage of the aftermath of the crash in which McGee, who had called 911, told the responding officer that he was "using the cruise control," looked down and didn't see the stop sign.

"I didn't know how close I was to the intersection," McGee told the officer in the video.

Both parties agree that McGee operated the vehicle recklessly, but the family argues that Tesla CEO Elon Musk's public touting of the capabilities of the autopilot system led consumers like McGee to think it was capable of more automation than it actually was. The family says Tesla ignored National Transportation Safety Board recommendations for automakers to improve monitoring of drivers using autopilot systems and to limit their use to situations for which they had been designed, such as highways.

But Tesla argues this case is about a reckless driver and a crash that could have happened in any car. In **opening statements** on Monday, Smith told jurors that the autopilot was not even engaged because McGee had his foot on the accelerator pedal.

He had set the cruise control at 45 mph, which was the speed limit and the fastest the system allowed on Card Sound Road. But he pressed the accelerator, triggering a message on the vehicle's screen saying the cruise control would not brake, according to Smith.

McGee's Tesla crashed into the Tahoe at 61 mph, according to Smith.

The family sued McGee as well as Tesla and has settled with McGee. He was charged in October 2019 with careless driving, which he did not contest. He was ordered to complete 16 hours of traffic school, according to court records.

The family said they plan to put Mary Cummings, a professor and director of the Autonomy and Robotics Center at George Mason University, on the stand on Wednesday.

The family is represented by Adam T. Boumel of the Rouso Boumel Law Firm PLLC, Brett Schreiber, Satyasrinivas M. Hanumadass and Carmela S. Birnbaum of Singleton Schreiber LLP, Todd Poses of Poses

Law Group PA and Douglas F. Eaton of Eaton & Wolk PL.

Tesla is represented by Whitney V. Cruz, Wendy F. Lumish, Thomas P. Branigan, Drew P. Branigan and Joel H. Smith of Bowman and Brooke LLP and Hilarie Bass of Hilarie Bass Esquire LLC.

The case is Benavides v. Tesla Inc., case number 1:21-cv-21940, in the U.S. District Court for the Southern District of Florida.

--Editing by Dave Trumbore.

Correction: A previous version of this story misidentified NTSB recommendations. The error has been corrected.

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Texas Cities Cite Gov't Immunity In Farmers' PFAS Suit

By **Catherine Marfin**

Law360 (July 15, 2025, 7:01 PM EDT) -- Governmental entities led by Fort Worth submitted a brief to a Texas federal court Tuesday supporting their immunity in managing wastewater operations in connection with a proposed class action from farmers who claim their lands were contaminated by toxic chemicals.

While Fort Worth, Austin and the Trinity River Authority are not parties to the farmers' suit, they each operate wastewater treatment facilities that make products with the same components as the fertilizer at issue. Fort Worth in particular processes sludge, or biosolids, from its wastewater facility that are used in the fertilizer products made by defendants Synagro Technologies Inc. and Renda Environmental Inc.

The entities wrote in a proposed **amicus brief** that governmental immunity for activities connected to wastewater and biosolid management "matters from practical and public policy standpoints" because they are "passive receivers with limited control over the contents of sewage discharged to wastewater treatment plants."

Lead plaintiff Robin Alessi first sued Synagro and Renda in the Northern District of Texas in February and updated the suit to a proposed class action in April. He and other farmers claim that their lands were poisoned by toxic chemicals contained in Synagro- and Renda-made fertilizer that was spread to their crops after a neighboring farmer used it on his land.

The chemicals at issue, known as per- and polyfluoroalkyl substances, or PFAS, are human-made substances that resist heat, stain and water, and are considered harmful to human health.

The cities' amicus brief comes after Synagro and Renda moved to dismiss Alessi's suit, arguing they are entitled to governmental immunity because they are acting as the cities' agents when making biosolids available for reuse through fertilizer products.

The cities wrote Tuesday that as governmental entities, they have no control over how PFAS and other chemicals make their way into treatment facilities.

"It would be inequitable to nevertheless hold [wastewater treatment plants] liable for harms they cannot control — particularly when they are complying with all state and federal laws governing biosolids management," the brief reads.

The entities added that their treatment of wastewater and handling of the resulting sludge is a basic governmental function.

"Sludge is an unavoidable byproduct of the wastewater treatment process, and governmental entities are required by the state to manage it in some way," the brief reads. "Governmental entities do not lose the immunity afforded to them by the Legislature because they choose one method over another."

Counsel for the parties did not immediately return a request for comment Tuesday.

The farmers are represented by Durham Pittard & Spalding LLP, Guerrero & Whittle PLLC, Napoli Shkolnik PLLC, and NSPR Law Services LLC.

Synagro is represented by Christian Ellis, John T. Wilson IV, Patrick D. Sheridan and Paul H. Farmer Jr.

of Bonds Ellis Eppich Schafer Jones LLP, and J. Amber Ahmed, Collin S. Gannon and James B. Slaughter of Beveridge & Diamond PC.

Renda is represented by John P. Abbey and Matthew Sean Parish of Taunton Snyder & Parish PC, and Gregory N. Ziegler of Ziegler Gardner Bell PLLC.

Fort Worth and the Trinity River Authority are represented by Jessica K. Ferrell of Marten Law LLP.

Forth Worth is further represented by Chris Mosley of the Fort Worth City Attorney's Office.

The Trinity River Authority is further represented in-house by Alexis Long.

Austin is represented by Ross Crow of the Austin City Attorney's Office.

The case is Alessi et al. v. Synagro Technologies Inc. et al., case number 3:25-cv-00445, in the U.S. District Court for the Northern District of Texas.

--Editing by Adam LoBelia.

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