

Securities Law News

Slack Investor Asks Supreme Court to Revisit Direct Listing Case

July 16, 2025, 11:56 AM PDT

- Case raises issue of standing based on 'tracing' shares
- Investor asks for look at prospectus claim, proof burden

The US Supreme Court should resolve two questions about suits over direct listings, a Slack Technologies Inc. investor says in a case that has already made a trip to the high court.

Fiyyaz Pirani is seeking to revive at least part of his proposed class action over allegedly misleading statements in Slack's direct listing prospectus and registration statement. The US Court of Appeals for the Ninth Circuit tossed the case against Slack, now a subsidiary of Salesforce Inc., in February after receiving the justices' input.

The case has highlighted the question of how federal securities laws apply to the direct listing, a relatively new vehicle for bringing companies public. The Supreme Court held in 2023 that direct listing investors must "trace" their shares to the registration statement in order to have standing to sue over alleged misstatements in that document under Section 11 of the Securities Act of 1933. But it didn't reach the question of whether that requirement also applies to claims under Section 12(a)(2) for misleading statements in direct listing prospectuses.

The high court should decide whether that section "requires plaintiffs to plead and prove that they bought shares registered in the offering for which the defendant filed a misleading prospectus," Pirani says in his petition.

The court should also answer whether courts should shift the evidentiary burden after the plaintiff makes a prima facie case that the shares were likely registered, compelling the publicly-listed company to prove the opposite. That makes sense in the context of direct listings, "where registered and unregistered shares are simultaneously issued to the public pursuant to a single registration statement," Pirani says.

"Sections 11 and 12 are the pillars of the Securities Act, intended to restore investor confidence in the aftermath of the market crash that precipitated the Great Depression and essential to maintaining investor confidence in our capital markets today," the shareholder's July 10 petition says. "Yet the combination of the Ninth Circuit's construction of Section 12 and its refusal to allow a reasonable burden-shifting regime risks allowing issuers to opt-out of both protections."

Pirani alleged that Slack failed to disclose the extent to which the company would have to provide credits to customers over service disruptions.

The Supreme Court's decision left open the possibility that Pirani could show that at least some of the 250,000 shares he allegedly bought were registered. The justices didn't resolve whether the same traceability requirement applies under Section 12, covering prospectuses and oral communications.

Pirani conceded that tracing a particular share of stock isn't possible, the Ninth Circuit said after the justices sent the case back. And the appeals court rejected his statistical theory that his chances of not owning a registered share were infinitesimally small.

Russell & Woofert LLC and Bragar Eigel & Squire PC represent Pirani. Counsel for Slack includes Gibson, Dunn & Crutcher LLP.

The case is Pirani v. Slack Techs., Inc. , U.S., No. 25-44, petition for certiorari 7/10/25 .

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Securities Law News

Reddit Shareholder Sues Board, Execs Over Google AI's Impact

July 16, 2025, 12:05 PM PDT

- **COURT:** N.D. Cal.
- **TRACK DOCKET:** No. [5:25-cv-05971](#) (Bloomberg Law subscription)

Reddit Inc.'s board and top executives misled investors about the negative impacts of Google Search's algorithm and artificial intelligence updates on the social media platform's traffic, a shareholder lawsuit filed Wednesday said.

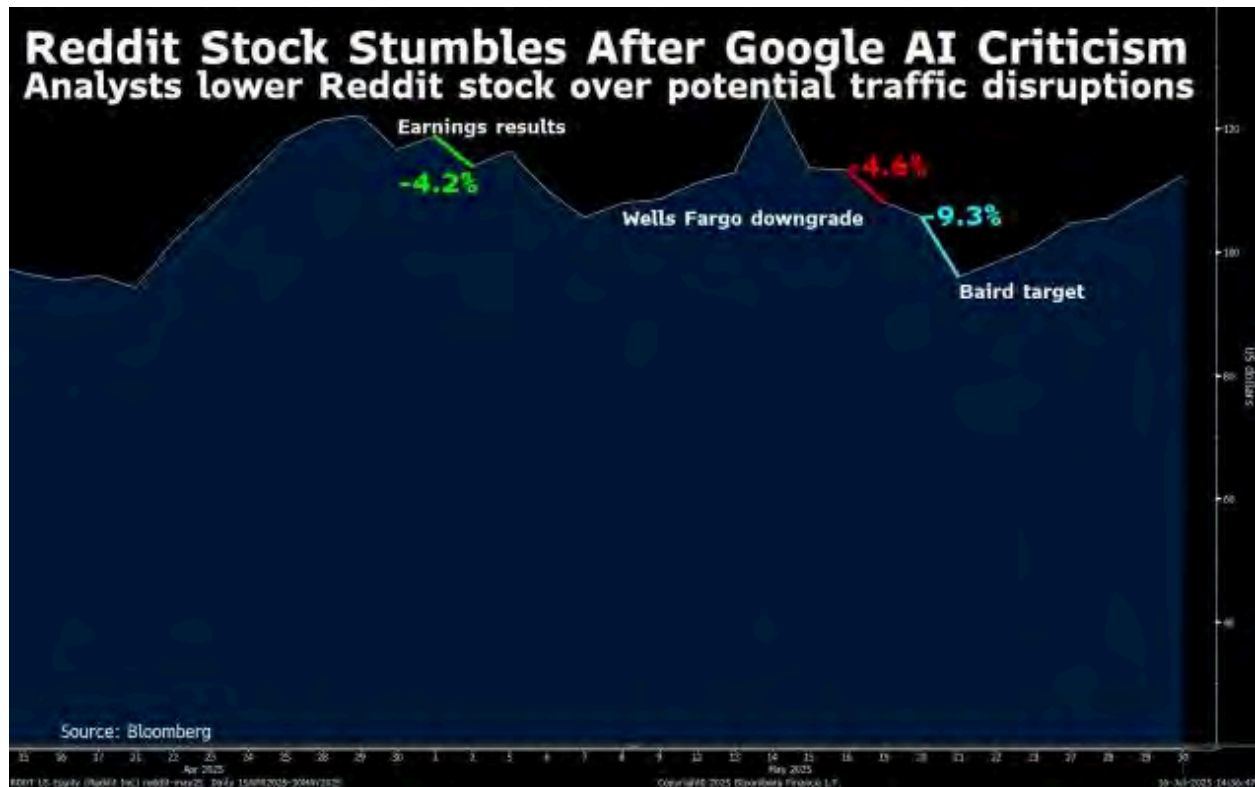
The stock price suffered as analysts raised concerns about possibly permanent effects of Google upgrades leading potential users to stop their queries short before reaching Reddit, said a stockholder's complaint filed in the US District Court for the Northern District of California.

Reddit management hurt the company's reputation and wallet by having it misdirect investors about its user growth in the face of Google's changes, the shareholder derivative action said, exposing it to potentially costly litigation and fixes to internal problems. Stockholder Jason King alleged wrongdoing from at least Oct. 29, 2024, through May 20, 2025.

Reddit's share prices sank almost 9.3% to close at \$95.85 May 21 after a Baird analyst lowered his price target on concerns about permanent traffic disruptions, King said. On May 19, Wells Fargo analysts downgraded Reddit shares over prolonged concerns about Google AI's impact, he said.

The stock price fell 4.2% to close at \$113.83 per share on May 2, the day after Reddit announced its first quarter 2025 financial results that showed its daily active unique visitors increased just 31% year-over-year, the complaint said. That figure marked Reddit's third consecutive quarter of growth slowing, King said. This traffic is important because much of Reddit's revenue derives from the sale of advertising slots on its platform, he said.

Still, Reddit CEO Steve Huffman told analysts on a call May 1 that he didn't think there was a long-term risk when asked about user growth for the remainder of the year with recent Google algorithm changes, King said.



In February, Huffman said Reddit experienced some volatility in late 2024 from a periodic Google Search algorithm change, the complaint said. But he said that traffic had recovered in the beginning of 2025 and regained momentum, according to the complaint.

The derivative suit echoes allegations from a proposed class action filed in the same court last month against the company, Huffman, chief financial officer Drew Vollero, and chief operating officer Jen Wong.

King's suit alleged securities law violations, breach of fiduciary duty, aiding and abetting of breaches, unjust enrichment, abuse of control, and waste of corporate assets by the board and those same executives.

Rigrodsky Law PA and Grabar Law Office represent King, who seeks corporate governance reform and damages for Reddit, among other relief.

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

The case is King v. Huffman , N.D. Cal., No. 5:25-cv-05971, complaint filed 7/15/25 .

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Odebrecht, Investors Head to Trial in Securities Fraud Suit (1)

July 17, 2025, 6:16 AM PDT; Updated: July 17, 2025, 8:34 AM PDT

- **Investment groups won summary judgment on fraud elements**
- **Judge denied on certain federal liability claim against Odebrecht**

Brazilian construction conglomerate Odebrecht SA and certain of its entities will head to a federal jury trial in a case by investment companies over a concealed corruption scandal considered one of the largest in modern Latin American history.

Judge Dale E. Ho partially granted DoubleLine Capital LP and its affiliates' motion seeking summary judgment on specific parts of their fraud claims in the US District Court for the Southern District of New York Wednesday. The litigation constitutes some of many challenges arising out of a billion-dollar scandal by which Odebrecht, which renamed itself Novonor SA in December 2020, and entities could obtain construction contracts.

Granting partial summary judgment on one or more parts of a claim helps judicial efficiency by resolving issues ahead of trial.

Ho declined to side with DoubleLine on a federal liability claim against Odebrecht based on being a "controlling" entity. DoubleLine will also have to argue its negligent misrepresentation claim at trial, his Wednesday order said.

DoubleLine had sought partial summary judgment on certain fraud claims by relying on prior court sanctions against Odebrecht after a magistrate judge determined the conglomerate willfully refused to comply with a discovery order. The investors sought summary judgment on a securities fraud claim under Section 10(b) of the Securities Exchange Act of 1934 against subsidiaries Construtora Norberto Odebrecht SA and Odebrecht Engenharia e Construção SA on four of the provision's six elements, leaving demonstrations of loss causation and damages to trial.

The court's 2022 sanctions order established that Odebrecht and its subsidiaries misrepresented their financial circumstances by concealing their bribery and kickback scheme in various communications, Ho said. That left one element the plaintiffs sought summary judgment on: that they reasonably relied on misleading financial statements when purchasing debt securities issued by Odebrecht Finance Ltd., a subsidiary that's no longer part of this case.

The defendants failed to show a real factual dispute to rebut the investment companies' reliance when purchasing bond notes from Odebrecht's subsidiary, Ho said, granting summary judgment as to the first four elements of their federal securities fraud claim.

Similarly, Ho granted summary judgment to the investors as to the first four elements of a New York common law fraud claim. DoubleLine must prove resulting damages before a jury.

Odebrecht and a Brazilian petrochemical company agreed to pay a combined penalty of at least \$3.5 billion to Brazil, the US, and Switzerland in a 2016 plea deal. Odebrecht admitted to paying about \$788 million in bribes tied to 100 projects in 12 countries in US federal court that year, a scheme which authorities said generated \$3.3 billion for the company. Odebrecht and subsidiaries later acknowledged that they paid \$3.3 billion in bribes between 2006 and 2014, Ho said.

Hagens Berman Sobol Shapiro LLP represents the DoubleLine entities. Cleary Gottlieb Steen & Hamilton LLP represents Odebrecht and the subsidiaries. Neither of these law firms immediately responded to emails seeking comment on their clients' behalf.

The case is DoubleLine Cap. LP v. Construtora Norberto Odebrecht, S.A. , S.D.N.Y., No. 17 Civ. 4576, 7/16/25 .

(Updates with additional reporting throughout.)

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Meta Platforms

Meta board settles Delaware case over multibillion-dollar cost of data breaches

Undisclosed financial agreement ensures figures such as social media chief Mark Zuckerberg will avoid taking the stand



Meta chief Mark Zuckerberg had been expected to appear in court next week © Alex Wheeler/FT montage/Bloomberg

Sujeet Indap in Wilmington, Delaware

Published 41 MINUTES AGO



Meta’s board has agreed to settle a lawsuit that had accused its directors of costing the company billions of dollars by failing to prevent breaches of user data.

A lawyer representing company shareholders suing the social media group told a Delaware judge on Thursday morning that the parties had reached the deal at the start of the second day of a scheduled eight-day trial where some of its biggest executives and directors were due to testify.

The plaintiffs — a handful of pensions with small holdings in Meta — had alleged the Meta board had actively disregarded a 2012 agreement with the US Federal Trade Commission to safeguard the data of Facebook users.

Meta in 2019 later settled for \$5bn with the FTC charges that inadequate data safety policies led to the likes of Cambridge Analytica gaining access to vast amounts of user information.

The terms of Thursday's settlement were undisclosed but are expected to be filed with the [Delaware Court of Chancery](#) in the coming weeks.

A person familiar with the negotiations told the Financial Times that settlement talks had been taking place for months and had continued through Wednesday night after the trial had started.

This person added that Meta's insurance policy for directors and officers would cover the cost. The lawsuit is known as a "derivative action", where the proceeds are transferred from the board to the company's coffers and not directly to shareholders.

On Wednesday, Jeff Zients, a Meta director between 2018 and 2020, who later served as chief of staff to US President Joe Biden, testified. On Thursday, Marc Andreessen, the billionaire venture capitalist, who has been a Meta director since 2008, was expected to take the stand. Next week, [Mark Zuckerberg](#) and former chief operating officer Sheryl Sandberg were expected to appear in court.

The showdown had been highly anticipated as the first Delaware trial where a board faced potential liability for a company's operational failures.

Such lawsuits have been typically dismissed, though in recent years, plaintiffs' lawyers have more consistently been able to reach agreements with company boards that did not want to face operational misconduct allegations in open court. Boeing, for example, reached a \$238mn settlement in 2021 over claims that its board's lax oversight had led to the 737 Max crashes.

Meta, which is controlled by Zuckerberg, has faced a series of lawsuits in the Delaware court in recent years. In the current case, the board had been accused of striking the FTC penalty in a way that avoided personal culpability for the Meta founder.

The lawsuit also accused Zuckerberg of insider trading for selling some of his Meta shares with knowledge of the company's user data mismanagement.

Meta has been considering following the lead of Tesla and Dropbox and moving its corporate domicile to a state that is perceived to be friendlier to founder-controlled companies.

Andreessen's venture capital firm, Andreessen Horowitz, said recently it would move its key subsidiary to Nevada, and encouraged other tech companies and investment firms to consider doing the same.

Meta declined to comment. Lawyers for the suing shareholders did not immediately respond to a request for comment.

Delaware chancellor Kathaleen McCormick, the judge overseeing the case, offered her congratulations to the sides and said she looked forward to reviewing the terms when filed.

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Meta Settles \$8 Billion Class Action With Shareholders

July 17, 2025 | By **Dan Novak**

 **Steve Lash**



Meta sign in front of Facebook headquarters in Menlo Park, California. Credit: Michael Vi/Shutterstock.com

Meta has settled an \$8 billion class action lawsuit with shareholders who alleged the social media giant misled Facebook users about how it shared their personal data in violation of a 2012 Federal Trade Commission consent order.



Financial terms of the settlement were not immediately disclosed on Thursday.

The agreement was reached after the first day of a trial in the Delaware Chancery Court overseen by Chancellor Kathaleen McCormick. Former Meta board member Jeffrey Zients testified Wednesday that the board believed Meta Chief Executive Officer Mark Zuckerberg had done nothing wrong in connection with the alleged violation of users' privacy—even as the company agreed to a record Federal Trade Commission penalty.

The FTC's 2012 order required Meta to create a comprehensive privacy program and barred from deceiving users about how their information was shared. But in 2018, Facebook's data-sharing practices came under renewed scrutiny when it emerged that United Kingdom consultancy group Cambridge Analytica had harvested data from millions of unwitting users.

The following year, Facebook agreed to pay a record \$5 billion to settle charges it violated the 2012 order. The shareholders alleged the company inflated the settlement amount so Zuckerberg could avoid being named personally in the case.

Zients, a former chief of staff to President Joe Biden, testified that the FTC had originally sought “tens of billions of dollars” and that settling for \$5 billion was “clearly better than the alternative.” He said the board believed Zuckerberg had been critical to the company's success and saw “no indication in any of our work to date that [Zuckerberg] had done anything personally wrong here.”

Shareholders alleged Zuckerberg, former Chief Operating Officer Sheryl Sandberg and former Vice President Konstantinos Papamiltiadis knowingly violated the FTC order by continuing to sell user data and providing misleading privacy disclosures. All three were named defendants in the trial, as were board member Marc Andreessen and former board members Zients and Peter Thiel, who plaintiffs alleged failed to oversee the company's compliance with the consent decree.

All were expected to testify during the eight-day trial.

Meta defended the company's actions, saying Facebook's board and executives worked hard to ensure compliance with the consent order and that independent auditor PricewaterhouseCoopers repeatedly found the company to have met the order's demands.

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Meta Investors Settle Suit With Zuckerberg, Other Officials (2)

July 17, 2025, 9:53 AM PDT

Meta Platforms Inc. investors say they have reached a settlement with current and former directors at the company to end a multibillion-dollar case in Delaware.

Terms of the settlement, which were reached one day after the trial started, weren't immediately disclosed. Representatives from Meta declined to comment.

The deal would end a legal fight over the way company leaders handled the Cambridge Analytica data privacy scandal, including claims that the company overpaid in a 2019 Federal Trade Commission settlement in order to personally protect Chief Executive Officer Mark Zuckerberg.

The litigation in Delaware Chancery Court focused on the \$5 billion that Meta, then known as Facebook, paid to settle with the FTC over privacy issues. The case followed disclosures that an outside developer collected personal data from millions of Facebook users without their consent. Cambridge Analytica used the information when it was hired by Donald Trump's 2016 election campaign.

Meta shareholders accused the company's top executives of turning a blind eye to red flags over Cambridge Analytica's data practices, then pushing the company to overpay the FTC so that Zuckerberg would not be held personally liable. Shareholders were seeking at least \$7 billion in damages to be repaid back to the company.

The trial opened Wednesday with testimony from a director at the time of the FTC deal, **Jeffrey Zients**, who was later former President Joe Biden's chief of staff. He said the board asked its lawyers to approach the FTC with a proposal that it was willing to pay billions of dollars to settle allegations but would not accept any agreement that held founder Zuckerberg personally responsible.

Board members "felt it was important to get this behind us so we could focus on growth," Zients said. They believed Zuckerberg, as CEO, was essential to the business and "there wasn't any indication" he personally had anything to do with the privacy missteps related to political consulting firm Cambridge Analytica, he said.

Zuckerberg, former Chief Operating Officer Sheryl Sandberg, and prominent venture capital investors Marc Andreessen and **Peter Thiel** were expected to testify during the eight-day trial. Andreessen, who still sits on the company's board, was expected on the witness stand Thursday.

A spokesperson for Sandberg declined to comment.

Because it is a derivative case – one that allows investors to sue company executives or board members on behalf of the company itself – the proposed settlement must be approved by Delaware Chancery Judge **Kathleen S.J. McCormick**. She'll review whether the terms of the deal reasonably balance the benefit to Meta with any money paid back into the company's coffers or changes to its internal compliance and monitoring mechanisms. Shareholders will have the opportunity to object to the settlement at a future hearing.

A settlement eliminates the need to explore the evidence through trial, said Paul Regan, a Widener University Delaware Law School professor. "If they can wrap this thing up for a number they like, it's basically a pretty cool math calculation," Regan said.

The agreement also means company officials and directors won't have to testify. "This 11th hour settlement – or even past the 11th hour, as the clock was striking midnight – is certainly convenient timing in allowing the board members to forgo having to testify at trial," said Eric Talley, a Columbia University law professor. "There's nothing like settling to avoid having to put your board members on the stand."

McCormick is the same judge who rejected Tesla Inc. CEO Elon Musk's \$55 billion pay package. That ruling and a handful of others – part of a court crackdown on insider conflicts of interest – prompted several companies to shift their states of incorporation to Nevada and Texas, including Tesla and Bill Ackman's Pershing Capital. They cited alleged judicial bias against tech leaders such as Musk and Zuckerberg.

The wave of exits from Delaware, which funds more than a quarter of its budget with billions in corporate fees, led to a major overhaul of the state's best-in-class corporate laws earlier this year. The changes were drafted by an expert panel that included former judges now practicing law at firms linked to Musk and Zuckerberg, including one involved in the Cambridge Analytica case.

Meta officials have publicly said they are weighing whether to yank their incorporation papers out of Delaware, which is the corporate home to more than 60% of Fortune 500 companies.

McCormick took over the case in March, without explanation, from the Chancery Court judge who allowed the investor claims against Meta to advance toward trial.

A settlement is "probably best for all involved," said Charles Elson, a retired University of Delaware law professor. "You have this whole brouhaha that has developed around Meta's role in the changes to Delaware corporate law, the changing of the judge in this case. These issues may not have come out in the trial, but they certainly would have come out in the commentary on the trial. It didn't look good for the company."

The case is Facebook Derivative Litigation, 2018-0307, Delaware Chancery Court.

(Updates with outside comment about settlement.)

--With assistance from Michael Leonard.

Meta investors, Zuckerberg reach settlement to end \$8 billion trial over Facebook privacy litigation



reuters.com/sustainability/boards-policy-regulation/meta-investors-zuckerberg-reach-settlement-end-8-billion-trial-over-facebook-2025-07-17

Tom Hals

July 17, 2025

Item 1 of 2 Meta CEO Mark Zuckerberg makes a keynote speech during the Meta Connect annual event, at the company's headquarters in Menlo Park, California, U.S. September 25, 2024. REUTERS/Manuel Orbeagozo/File Photo

[1/2]Meta CEO Mark Zuckerberg makes a keynote speech during the Meta Connect annual event, at the company's headquarters in Menlo Park, California, U.S. September 25, 2024. REUTERS/Manuel Orbeagozo/File Photo [Purchase Licensing Rights, opens new tab](#)

- Settlement details undisclosed, trial adjourned
- Shareholders sought \$8 billion for privacy violations
- FTC fined company \$5 billion in 2019

WILMINGTON, Delaware, July 17 (Reuters) - Mark Zuckerberg and current and former directors and officers of Meta Platforms ([META.O](#)), [opens new tab](#) agreed on Thursday to settle claims seeking \$8 billion for the damage they allegedly caused the company by allowing repeated violations of Facebook users' privacy, a lawyer for the shareholders told a Delaware judge on Thursday.

The parties did not disclose details of the settlement and defense lawyers did not address the judge, Kathaleen McCormick of the Delaware Court of Chancery. McCormick adjourned the trial just as it was to enter its second day and she congratulated the parties.

The plaintiffs' lawyer, Sam Closic, said the agreement just came together quickly.

Billionaire venture capitalist Marc Andreessen, who is a defendant in the trial and a Meta director, was scheduled to testify on Thursday.

Shareholders of Meta sued Zuckerberg, Andreessen and other former company officials including former Chief Operating Officer Sheryl Sandberg in hopes of holding them liable for billions of dollars in fines and legal costs the company paid in recent years.

The Federal Trade Commission fined Facebook \$5 billion in 2019 after finding that it failed to comply with a 2012 agreement with the regulator to protect users' data.

The shareholders wanted the 11 defendants to use their personal wealth to reimburse the company. The defendants denied the allegations, which they called "extreme claims."

Facebook changed its name to Meta in 2021. The company was not a defendant.

The company declined to comment. A lawyer for the defendants did not immediately respond to a request for comment.

"This settlement may bring relief to the parties involved, but it's a missed opportunity for public accountability," said Jason Kint, the head of Digital Content Next, a trade group for content providers.

Zuckerberg was expected to take the stand on Monday and Sandberg on Wednesday. The trial was scheduled to run through the end of next week.

The case was also expected to include testimony from former Facebook 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](#).

Meta investors alleged in the lawsuit that former and current board members completely failed to oversee the company's compliance with the 2012 FTC agreement and claim that Zuckerberg and Sandberg knowingly ran Facebook as an illegal data harvesting operation.

The case followed 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. Those revelations led to the FTC fine, which was a record at the time.

On Wednesday, an expert witness for the plaintiffs testified about what he called "gaps and weaknesses" in Facebook's privacy policies but would not say if the company violated the 2012 agreement that Facebook reached with the FTC.

Jeffrey Zients, a former board member, testified on Wednesday that the company did not agree to the FTC fine to spare Zuckerberg legal liability, as shareholders allege.

On its website, the company has said it has invested billions of dollars into protecting user privacy since 2019.

The trial would have been a rare opportunity for Meta investors to see Zuckerberg answer probing questions under oath. In 2017, Zuckerberg was expected to testify at a trial involving a lawsuit by company investors opposed to his plan to issue a special class of Facebook stock that would have extended his control over that company. That case also settled before he took the stand.

"Facebook has successfully remade the 'Cambridge Analytica' scandal about a few bad actors rather than an unraveling of its entire business model of surveillance capitalism and the reciprocal, unbridled sharing of personal data," Kint said. "That reckoning is now left unresolved."

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

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Trial begins as Meta investors try to recoup \$8 billion over privacy claims payout



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

Tom Hals

July 16, 2025

- 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) - Facebook's board was not trying to protect founder Mark Zuckerberg in 2019 when it agreed to pay a \$5 billion regulatory fine to resolve claims over its privacy practices, but was instead focused on growth, a former company director testified on Wednesday.

Jeffrey Zients, White House chief of staff under President [Joe Biden](#) and a Meta Platforms ([META.O](#)), [opens new tab](#) director for two years starting in May 2018, was the first defendant to take the stand on Wednesday in the \$8 billion non-jury trial before Kathaleen McCormick, chief judge of the Delaware Chancery Court. Facebook changed its name to Meta in 2021. Zients testified that the Federal Trade Commission initially sought "tens of billions of dollars" but was willing to accept \$5 billion and the company felt it was important to reach a deal that did not name Zuckerberg as a defendant.

"There was no indication he did anything wrong," Zients told the court. He said Zuckerberg was a "driving force" as chief executive for the company and "it was important he continued in that role."

The trial began on Wednesday and is scheduled to last until July 25.

A group of Meta shareholders, mostly union pension funds, allege Zuckerberg and former Chief Operating Officer Sheryl Sandberg ran the company as an illegal data harvesting operation and the board completely ignored their duty to oversee the company.

Shareholders want McCormick to order the 11 defendants to reimburse Meta for more than \$8 billion in fines and legal costs that Facebook paid to resolve claims that it had violated users' privacy in violation of a 2012 agreement with the Federal Trade Commission.

The case was brought 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.

Other defendants include venture capitalist and current 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](#).

Item 1 of 6 People walk to enter the Leonard L. Williams Justice Center where Mark Zuckerberg and other top officials from Meta Platforms will take the stand to defend against allegations by investors that they should be held liable for billions of dollars in fines for privacy violations by Facebook, in Wilmington, Delaware, U.S. July 16, 2025.

REUTERS/Rachel Wisniewski

[1/6] People walk to enter the Leonard L. Williams Justice Center where Mark Zuckerberg and other top officials from Meta Platforms will take the stand to defend against allegations by investors that they should be held liable for billions of dollars in fines for privacy violations by Facebook, in... [Purchase Licensing Rights](#), [opens new tab](#) Read more
A lawyer for the defendants, who have denied the allegations, declined to comment.

The defendants have said in court filings that Facebook was the victim of Cambridge Analytica's "deceit."

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

On Wednesday morning, Neil Richards of Washington University Law School, an expert for the plaintiffs, described what he called "gaps and weaknesses" in the company's privacy program.

But under cross-examination, Richards acknowledged that he could not say if the company had violated the 2012 agreement with the FTC -- a central claim to the case.

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.

Four months ago, [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.

Andreessen Horowitz, the venture capital fund co-founded by Andreessen, [said](#) this month 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.

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

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California Brief

Meta Trial on Privacy Scandal Features Tech, Politics A-List (1)

July 17, 2025, 4:43 AM PDT

Behind-the-scenes details of an agreement between Facebook and US privacy regulators in 2019 emerged in a Delaware court Wednesday, during a trial on investor claims the settlement cost them at least \$7 billion.

A company director at the time, **Jeffrey Zients**, who was later former President Joe Biden's chief of staff, said the board asked its lawyers to approach the Federal Trade Commission with a proposal. The company, now known as Meta Platforms Inc., was willing to pay billions of dollars to settle allegations related to a privacy scandal but would not accept any settlement that held founder Mark Zuckerberg personally responsible.

Board members "felt it was important to get this behind us so we could focus on growth," Zients said on the first day of an eight-day trial in Delaware Chancery Court. They believed Zuckerberg, as CEO, was essential to the business and "there wasn't any indication" he personally had anything to do with the privacy missteps related to political consulting firm Cambridge Analytica, he said.



Jeff Zients

Photographer: Al Drago/Bloomberg

A parade of Silicon Valley celebrities is expected to testify in the Meta trial over the next two weeks, led by Zuckerberg. Others on the witness list include the company's former chief operating officer Sheryl Sandberg and prominent venture capital investors Marc Andreessen and **Peter Thiel**. Andreessen, who still sits on the company's board, is expected to testify Thursday.

The investors contend directors of the company hurt share prices through actions tied to the decade-old incident that resulted in Cambridge Analytica acquiring data on millions of Facebook users. The data was used in work the firm did for the 2016 campaign to elect President Donald Trump to his first term.

The suit alleges Meta directors engineered the company's \$5 billion settlement with the FTC, overpaying to protect Zuckerberg from being held personally liable and to the detriment of shareholders.

Meta representatives didn't immediately respond to a request for comment about Zients' testimony Wednesday.

Zuckerberg's much-anticipated testimony is expected next week. The case is unusual because it's the first time that director-oversight claims involving a public company have gone to trial in Delaware Chancery Court, the premier venue for business disputes in the US. Other cases have been dismissed or settled.

A group of pension funds who hold Meta shares allege Zuckerberg and Sandberg led Facebook to violate a 2012 Federal Trade Commission order covering data-sharing practices. Facebook directors also are accused of failing to properly monitor the platform's adherence to that order, according to court filings. Investors also accuse Zuckerberg of insider trading.

The insider-trading claims prompted Zuckerberg to demand his stock-trading strategies be kept under seal in the trial. The tech titan moved to shield the price thresholds that trigger his automatic sales. The public can understand the allegations without that highly confidential information, he said in a court filing.



Meta Platforms Inc. CEO Mark Zuckerberg departs federal court in Washington in April.

Photographer: Kent Nishimura/Bloomberg

In early 2018, Facebook executives admitted Cambridge Analytica had been allowed to improperly gather data about tens of millions of the company's users. Zuckerberg later apologized, acknowledging Facebook must better safeguard users' information. A year later, the FTC announced the settlement over violations of the order under which Facebook would pay the \$5 billion fine. Investors, including pension funds, filed suit in the wake of that order.

The case was filed as a derivative lawsuit, one that allows investors to sue company executives or board members on behalf of the company itself. Any recovery will go back to the company rather than any individual shareholder.

Zuckerberg, the 41-year-old CEO and chairman of Meta's board, controls about 61% of the company's voting power through a dual-class share structure, effectively granting him sole control over the board composition and corporate strategy — past, present and future. Repeated investor efforts to raise concerns about corporate governance have fallen flat due to his concentrated voting power.

Bloomberg Intelligence If Meta's unable to knock out this case ahead of trial, it theoretically could face a \$2 billion settlement,

The trial is being overseen by Chancellor **Kathleen St. J. McCormick** – the same judge who rejected Tesla Inc. CEO Elon Musk's \$55 billion pay package. That ruling and a handful of others — part of a court crackdown on insider conflicts of interest — prompted several companies to shift their states of incorporation to Nevada and Texas, including Tesla and **Bill Ackman's** Pershing Capital. They cited alleged judicial bias against tech leaders such as Musk and Zuckerberg.

The wave of exits from Delaware, which funds more than a quarter of its budget with billions in corporate fees, led to a major overhaul of the state's best-in-class corporate laws earlier this year. The changes were drafted by an expert panel that included former judges now practicing law at firms linked to Musk and Zuckerberg, including one involved in the Cambridge Analytica case.

Meta officials have publicly said they are weighing whether to yank their incorporation papers out of Delaware, which is the corporate home to more than 60% of Fortune 500 companies. Firms come to Delaware to get access to chancery court, where sophisticated business judges hear cases without juries.

Last week, a venture capital firm co-founded by Meta director Andreessen cited a creeping pattern of uncertainty about how the law applies to startups and tech firms to explain its decision to relocate to Nevada.

The case is IN RE Facebook Inc. Derivative Litigation, 2018-0307, Delaware Chancery Court (Wilmington).

(Updates with additional Zients testimony.)

--With assistance from Riley Griffin, Michael Leonard, Jennifer Kay and **Kurt Wagner**.

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Meta's Board Backed Zuckerberg Amid Privacy Scandals, Ex-Board Member Testifies

July 16, 2025 By Dan Novak



Meta CEO Mark Zuckerberg. Photo: Diego M. Radzinski/ALM

WILMINGTON, DELAWARE—Former Meta board member Jeffrey Zients testified Wednesday that the board believed Chief Executive Officer Mark Zuckerberg had done nothing wrong in connection with Facebook's alleged violation of users' privacy—even as the company agreed to a record Federal Trade Commission penalty.

Zients was the first defendant to take the stand in an \$8 billion class action lawsuit Meta shareholders have brought against current and former board members. The trial, overseen by Delaware Court of Chancery Chancellor Kathaleen McCormick, centers on allegations that Facebook misled users about how it shared their personal data in violation of a 2012 FTC consent order.

Under that order, Facebook was required to create a comprehensive privacy program and barred from deceiving users about how their information was shared. But in 2018, Facebook's data-sharing practices came under renewed scrutiny when it emerged that United Kingdom consultancy group Cambridge Analytica had harvested data from millions of unwitting users.

The following year, Facebook agreed to pay a record \$5 billion to settle charges it violated the 2012 order. Plaintiffs allege the company inflated the settlement amount so Zuckerberg could avoid being named personally in the case.

Zients, a former chief of staff to President Joe Biden, testified that the FTC had originally sought "tens of billions of dollars" and that settling for \$5 billion was "clearly better than the alternative." He said the board believed Zuckerberg had been critical to the company's success and saw "no indication in any of our work to date that [Zuckerberg] had done anything personally wrong here."

Shareholders allege Zuckerberg, former Chief Operating Officer Sheryl Sandberg and former Vice President Konstantinos Papamiltiadis knowingly violated the FTC order by continuing to sell user data and providing misleading privacy disclosures. All three are named as defendants in the trial, as are board member Marc Andreessen and former board members Zients and Peter Thiel, who plaintiffs allege failed to oversee the company's compliance with the consent decree.

All are expected to testify during the eight-day trial.



The defendants contend Facebook’s board and executives worked hard to ensure compliance with the consent order and that independent auditor PricewaterhouseCoopers repeatedly found the company to have met the order’s demands.

Earlier Wednesday, professor Neil Richards of the Washington University of St. Louis, a witness for the plaintiffs, said Facebook’s privacy disclosures were misleading but was unable to say whether the company violated the 2012 consent order.

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Securities Law News

MaxLinear, Silicon Motion Beat Investor Suit Over Failed Deal

July 16, 2025, 9:38 AM PDT

- Investment funds failed to allege material SIMO omissions
- Funds lacked standing to sue MaxLinear for securities fraud

Telecommunications company MaxLinear Inc. and Taiwanese chip maker Silicon Motion Tech. Corp. overcame a lawsuit alleging they misled investors over their dashed \$3.8 billion merger, a federal judge ruled.

Investment funds insufficiently alleged SIMO omitted that it purportedly breached the acquisition agreement or that its executives knew or should've known MaxLinear wouldn't end up buying it, Judge Cathy Ann Bencivengo said Tuesday, tossing the lawsuit with prejudice.

The US District Court for the Southern District of California judge reaffirmed that the lead plaintiffs, a group of private investment funds, lacked statutory standing to sue MaxLinear for securities fraud because they didn't hold its stock when the alleged misrepresentations were made. She cited the 2024 US Court of Appeals for the Ninth Circuit's decision in a case over another merger, *In re CCIV / Lucid Motors Sec. Litig.*, which established a "bright-line rule" that limits standing to purchasers and sellers of a security about which purported misrepresentations were made. In this case, the SIMO shareholders lacked standing to sue MaxLinear for alleged misstatements that concerned the telecoms company, not the chip maker, Bencivengo said.

The investment funds sought to represent a class of those who acquired SIMO American Depositary Shares from May 5, 2023, through July 26, 2023. Their most recent complaint alleged that both companies misled investors into thinking the deal would go through in 2023 before MaxLinear publicly abandoned it, mentioning a previously unshared breach of the agreement, with SIMO's ADS price subsequently plummeting.

But they failed “to identify what the breach even was, when it occurred, or who at SIMO was aware of it” to plead the level of intent or recklessness to deceive for securities fraud claims against the chip maker, Bencivengo said. Regardless, SIMO told investors the companies had re-filed for merger clearance, suggesting some progress, and that there were conditions for the deal to finish—a reasonable investor wouldn’t find disclosure of an alleged breach to materially change the mix of information SIMO shared, she said.

Even if the plaintiffs sufficiently alleged statements omitted that MaxLinear wasn’t conducting proper pre-acquisition steps with SIMO, they failed to plead the required level of intent or reckless disregard to carry securities fraud claims on that point either, the judge said. The more plausible inference was that SIMO and top executives from that time didn’t know that MaxLinear’s integration steps were purportedly lackluster, compared to knowing the deal would flop before MaxLinear publicly dumped it, Bencivengo said.

MaxLinear beat a separate legal challenge over the failed merger in January given the Ninth Circuit’s ruling; Bencivengo let the plaintiffs in that suit re-plead.

Saxena White PA and Entwistle & Cappucci LLP are lead counsel for the investment funds. Morrison & Foerster LLP represent MaxLinear. Weil, Gotshal & Manges LLP represent SIMO. None of these law firms immediately responded to emails seeking comment.

The case is Water Island Event-Driven Fund v. MaxLinear, Inc. , S.D. Cal., No. 3:23-CV-01607, 7/15/25 .

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Guest Post: Crypto-Verse D&O Opportunity



dandodiary.com/2025/07/articles/cryptocurrencies/guest-post-crypto-verse-do-opportunity

Kevin LaCroix

July 16, 2025

Sarah Abrams

There is no doubt that under the current Trump administration, cryptocurrency is enjoying a more hospitable environment. The environment not only affords crypto firms increased business opportunities, such as, for example, with respect to exchange-traded digital assets, but the environment may lend itself to opportunities for D&O insurers as well. In the following guest post, Sarah Abrams, Head of Claims Baleen Specialty, a division of Bowhead Specialty, reviews some of the details about the current crypto environment, as well as the opportunities and risks that the environment may represent for D&O insurers. I would like to thank Sarah for allowing me to publish her article as a guest post on this site. I welcome guest post submissions from responsible authors on topics of interest to this site's readers. Please contact me directly if you would like to submit a guest post. Here is Sarah's article.

On July 1, the SEC's Division of Corporate Finance issued a [statement](#) (July SEC Statement) on the application of Crypto Asset Exchange-Traded Products (Crypto Asset ETPs) disclosure requirements. While the SEC staff's expectations stated therein have "no legal force or effect," the continued messaged guidance by the SEC and the passage of the [GENIUS Act](#) optically bolster support for cryptocurrency as a legitimate market, asset, and currency. But will the emerging sponsor organizations and potential new business opportunities in the crypto marketplace lead to increased D&O underwriting exposure?

Part of that vetting process includes the regulatory framework recently suggested in the July SEC Statement. The following discussion outlines the recent views provided by the SEC staff on Crypto Asset ETPs, including what ETPs and Crypto Asset ETPs are, and the potential impact on D&O underwriters seeking to capitalize on the rapidly evolving cryptocurrency landscape.

As an initial matter, concerning the Crypto Asset ETPs, the July SEC Statement solely addressed guidance for complying with SEC filing Regulation S-K (Reg S-K) and Regulation S-X (Reg S) disclosure requirements. Reg S-K outlines how [registrants, like any crypto asset issuer filing with the SEC](#), should disclose [material qualitative](#) descriptors of their business, like the brand or platform engagement. [Reg S-X](#), on the other hand, outlines how registrants should disclose [quantitative](#) descriptors, such as in financial statements with use of mathematical models to make investment decisions. Reg S-X compliance commonly arises in the context of drafting a [Form S-1](#), [Form 10-K](#), or [Form 8-K](#).

The SEC staff acknowledges that the Crypto Asset ETP issuers do not always identify risks specific to the crypto product being offered and commonly use technical jargon to “explain” the Crypto product being registered. After the new administration was sworn in earlier this year, [the SEC received over 70 crypto exchange-traded fund \(ETF\) filing](#) applications for review and approval. These filings include [altcoins](#) (cryptocurrency other than Bitcoin), [meme coins](#), and [blockchain infrastructure tokens](#). Most likely, the July SEC Statement was meant to provide waiting ETPs with guidance on what information would help speed the agency’s review.

While mentioned briefly above, understanding what Crypto Asset ETPs are may help D&O insurers consider risks when underwriting in this emerging marketplace. Generally, ETPs are financial instruments that are traded on stock exchanges and track the value of an underlying asset, index, or group of assets. ETPs include ETFs, which track an index, sector, commodity, or asset; Exchange Traded Notes (ETNs), debt securities linked to an index or asset performance; and Exchange Traded Commodities (ETCs), single commodities like gold or oil. ETPs are typically traded like stocks, bought and sold throughout the trading day, and offer exposure to the underlying assets without directly owning them.

Crypto Asset ETPs are typically structured as trusts that hold assets, which consist of [spot crypto assets](#) or [derivative instruments that reference crypto assets](#). These trusts are considered by the SEC to be issuers of securities who must register their offerings and classes of securities under the [Securities Act of 1933 \(“Securities Act”\) and Securities Exchange Act of 1934 \(“Exchange Act”\)](#). The Crypto Asset ETPs referenced in the July SEC Statement, however, do not need to be registered as investment companies under the Investment Company Act of 1940.

In addition, Crypto Asset ETPs, such as the 72 ETFs currently filed and pending approval, are subject to an SEC review process to ensure they meet anti-fraud provisions of federal securities laws before being approved for trading on a regulated securities exchange. In part, this explains why the July SEC Statement noted the importance of using plain language when discussing the technical aspects of a crypto investment, to help prospective investors understand the profile of the asset. As readers of the [D&O Diary know](#), crypto itself as a digital currency, how it is valued, and its utility are complicated.

Furthermore, the [cryptocurrency industry as a whole has been viewed in recent years, particularly after FTX, as volatile and ripe with fraud](#). Thus, it is understandable that the July SEC Statement noted that a Crypto Asset ETP issuer’s risk disclosure includes, if material, the characteristics of the security, limited rights of holders, *insurance coverage*, valuation and liquidity risks, technological risks, cybersecurity risks, and legal, regulatory, and tax risks. The statement further encouraged applicants to provide details about the underlying crypto assets, the index or benchmark methodology used, and the methodology to calculate the net asset value of the shares ahead of offering.

The potential upshot for those Crypto Asset ETPs approved by the SEC includes the ability to be traded on major exchanges (like NYSE or Nasdaq), regulatory oversight, and taxation. Approved Crypto Asset ETPs will also be measured against the requirements of the Exchange Act, which, in theory, means the assets will still have to show that they're sufficiently resistant to manipulation. Notably, the July SEC Statement signals a willingness to work with parties seeking asset approval to ensure clarity, accuracy, and completeness. For D&O underwriters, increased transparency and an SEC partnership with issuers may, on paper, sound like a good business opportunity.

As is clear from the number of filings, there is an increasing availability of deal opportunities in the crypto-verse. Particularly when it comes to D&O liability coverage for sponsors. One of the July SEC Statement disclosure requirements specifically speaks to Directors, Executive Officers, and Significant Employees who make a significant contribution to the Crypto Asset ETP issuer's business. The SEC acknowledges that Crypto Asset ETPs typically have a sponsor whose directors and executive officers perform functions like a board of directors and executive officers for the trust. D&O underwriters are familiar with underwriting coverage for executive leadership and boards.

To the extent that a sponsor performs policy-making functions, the July SEC Statement suggested disclosure discusses a framework for reporting on the function and performance of the directors, executive officers, or other employees of the sponsor. The SEC further noted the application of its conflict-of-interest policies, which outline the rules requiring disclosure of material information about transactions with related persons and policies and procedures related to the review, approval, or ratification of transactions. Conflicts of interest can result in allegations of mismanagement and fraud, leading to exposure for D&Os. A regulatory affirmation may push ETPs awaiting approval to examine existing sponsor relationships.

Given the above, will there be more D&O deal opportunities for crypto-related coverage? Perhaps. It has been clear from inauguration day that [this administration is a fan of crypto](#) and [wants to regulate and tax the industry](#). Increased regulation may also lead to increased exposure should the D&Os of issuers run afoul of suggested parameters or increased SEC scrutiny over filings. In addition, the issuer of a currency, like a meme coin, that may be manipulated, could also trigger D&O coverage should shareholders allege fraud.

Even though D&O crypto coverage may feel unwieldy as the market quickly appears to be standing up, appreciating what crypto assets are and the associated underwriting risks may become a future difference maker for D&O insurers looking to capitalize on new industry opportunity.

Guest Post: Navigating AI Governance



dandodiary.com/2025/07/articles/corporate-governance/guest-post-navigating-ai-governance

Kevin LaCroix

July 17, 2025

Burkhard Fassbach

The increasing prevalence of artificial intelligence (AI) tools and processes present companies with a host of opportunities and risks. These opportunities and risks in turn create challenges for corporate boards as they try to navigate the changing environment. In the following guest post, Burkhard Fassbach, considers the corporate governance implications AI presents for companies and their boards. Burkhard is a D&O lawyer in private practice in Germany. I would like to thank Burkhard for allowing me to publish his article as a guest post on this site. I welcome guest post submissions from responsible authors on topics of interest to this site's readers. Please contact me directly if you would like to submit a guest post. Here is Burkhard's article.

The corporate landscape is undergoing a profound transformation driven by artificial intelligence (AI). For corporate boards, gaining a comprehensive understanding and establishing effective oversight of AI is a critical necessity. Key areas of focus include evaluating the board's current readiness, recognizing the strategic opportunities and challenges, and diligently addressing the inherent risks.

Board Preparedness for AI Governance

A recent Deloitte survey reveals that while AI is increasingly appearing on board agendas, significant gaps in understanding and engagement persist. One-third (33%) of respondents are "not satisfied" or "concerned" with the amount of time their boards devote to discussing AI. Two-thirds of boards (66%) still report "limited to no knowledge or experience" with AI. 40% are rethinking board composition due to AI. An insightful article about the survey can be found [here](#).

For boards to effectively oversee AI, a [strategic governance framework](#) is essential. Maureen Bujno, Deloitte Governance Services Leader, introduces a valuable [AI Governance Roadmap](#) recommending key questions for the board to consider. Here are some of the instructive questions related to strategy, risk and performance: Does management have a position on AI's relevance and how the organization is currently using or planning to use AI? How does management evaluate risks and opportunities related to AI, and how is the evaluation incorporated within the AI strategy? Does management have a process in place to identify and assess risks related to current AI use cases as well as those under

development? How is management addressing identified risks, and what monitoring and reporting processes are in place to facilitate oversight? What metrics and KPIs should be used to measure the success of AI initiatives? How frequently are these KPIs reviewed to ensure they remain relevant? How does management monitor the AI regulatory and compliance landscape? What will trigger the board's involvement in a regulatory or compliance matter?

Noteworthy, Leo E. Strine, Jr., Of Counsel at Wachtell, Lipton, Rosen & Katz, recommends that boards should use AI to improve their own thinking. He argues that although human judgment should ultimately drive corporate decision making and policy, human beings are themselves subject to cognitive bias and blind spots. His worth reading [Research Paper about the "Governance of Corporate Use of Artificial Intelligence"](#) is available at SSRN.

Mitigating AI Risks

As AI systems become more complex, companies are increasingly exposed to reputational, financial and legal risk from developing and deploying AI systems that do not function as intended or that yield problematic outcomes. The range of potential risks is wide and can include fostering discriminatory practices, causing products to fail, and generating false, misleading or harmful content, according to an instructive [Skadden Publication about "The Role of the Board in Assessing and Managing AI Risk"](#), covering also the AI regulatory landscape in the U.S. and the EU.

Cybersecurity is another key risk area. The protection of data from cybersecurity and hacking threats will be a central consideration of how AI is adopted and governed. Given the sensitivity and proprietary nature of the data fed into AI models, significant steps will need to be taken to protect against unauthorized access. The risk will be higher for large corporations with multiple connection points to suppliers, customers, and employees. Reference is made to a [Stanford University Working Paper about "The Artificially Intelligent Boardroom"](#).

Of utmost relevance to boards is a suite of AI risk management tools published by The National Institute of Standards and Technology (NIST), a Department of Commerce agency leading the U.S. government's AI risk management approach. This includes an AI Risk Management Framework and a Risk Management Profile on Generative AI. A complete list of NIST statements and publications on AI can be found at the [NIST Trustworthy and Responsible AI Resource Center](#).

As an advantage, AI offers considerable potential to enhance risk management processes by simplifying and transforming data gathering and analysis. According to a [PwC memorandum](#) an ERM process can begin to include real-time data analysis and predictive analytics with AI.

This can allow organizations to identify emerging risks earlier and manage vulnerabilities more proactively.

AI Insurance

The rapid integration of AI systems into various sectors presents unique challenges for traditional liability frameworks, as highlighted in a [Munich Re Whitepaper](#). The authors Iris Devriese and Mike Crowl warn of potentially protracted and costly lawsuits stemming from AI-related incidents. While some AI risks may fall under existing insurance policies, significant gaps in coverage remain, leaving many AI-related exposures uninsured. The analysis also provides valuable insights into the burgeoning AI insurance market, drawing parallels with the historical emergence of cyber insurance.

AI Insurance Policies address a spectrum of critical and unique AI risks, including protection against claims alleging algorithmic bias and discrimination; Intellectual Property (IP) infringement claims directly related to AI products; defense costs for investigations into AI-specific regulatory violations; AI Product Failures or AI Technical Errors. Covered are incidents such as a medical decision-support Large Language Model (LLM) suggesting an incorrect treatment or a supply chain intelligence system inaccurately predicting excessive orders. Reference is made to information from Vouch, a U.S. insurance platform for startups, which can be found [here](#).

Evolving Expectations for Board Oversight

In approaching oversight of AI, directors can rely on the same fiduciary mindset and attention to internal controls and policies as they apply to other matters, according to Holly J. Gregory of the Law Firm Sidley Austin. His recommendable article about “AI and the Role of the Board of Directors” can be found [here](#).

The phrase “Noses In, Fingers Out” is used to describe how an effective board collaborates with management to stay informed about the company’s key risks in its operations (“Noses In”), while staying out of operational management issues (“Fingers Out”). It is the board’s responsibility to ask insightful questions, while management is responsible for carrying out the company’s operations with high-level direction and guidance from the board. Reference is made to an article by the Law Firm Paul Hastings and the public relations firm Edelman Smithfield, which can be found [here](#).

Large institutional investors, such as BlackRock, Vanguard, and State Street, have varying policies on board oversight of material risks. Some investors have already submitted shareholder proposals demanding greater transparency on the use and impact of AI technology. The percentage of companies disclosing AI oversight is expected to accelerate as well, according to an article by Institutional Shareholder Services, which can be found [here](#).

Caremark Doctrine and Securities Disclosures

AI-related risks create two significant sources of litigation risk: suits filed under the Delaware judiciary's Caremark doctrine concerning a board's duty to monitor, and securities class action litigation related to materially misleading statements and omissions in corporate communications.

Under the Caremark doctrine, directors (and, following recent judicial decisions, officers) may face personal liability for failing to monitor certain risks that cause damage to their company. The Delaware Chancery Court held "In re Caremark International Inc. Derivative Litigation, 698 A.2d 959 (Del. Ch. 1996)", that directors' fiduciary duties include an obligation to implement and maintain an information and reporting system to detect and respond to wrongdoing or other serious legal risks facing the company. Stanford Law School Professor Curtis J. Milhaupt points out that initially the bar for a finding of liability was set extremely high – essentially, directors must do nothing in the face of red flags indicating that the company is in legal jeopardy, such that bad faith can be inferred from their "utter failure" to act. Recent cases have suggested that the Delaware judiciary is softening application of the standard, particularly with respect to a board's failure to monitor "mission critical" risks facing the company, where the corporation's reporting system did not ensure that the board of directors (as opposed to officers or compliance personnel) would be apprised of those risks. Further references to case law can be found in his worth reading [Law Working Paper published by the European Corporate Governance Institute \(ecgi\) – SSRN](#).

Under federal securities laws, "material" risks to a corporation's business and operations must be publicly disclosed for the protection of investors. Material AI-related risks need to be disclosed to avoid potential securities fraud claims arising from misleading statements or omissions in corporate communications. Appropriate risk factor disclosure is also crucial to address SEC concerns of "AI-washing". Therefore, a [White & Case Client Alert](#) points out that companies should ensure that they accurately address risks related to their particular use of AI technologies.

Conclusion and Outlook

The integration of AI into corporate operations underscores the urgent need for boards to enhance their governance frameworks, ensuring robust oversight of AI strategies, risks, and ethical implications. As AI-related risks and expectations for oversight continue to evolve, boards should actively engage with C-suite management to ensure responsible adoption. Securities disclosure requirements further underscore the necessity for vigilant and informed board oversight. Looking forward, proactive board engagement with AI-specific policies and metrics will be pivotal in mitigating risks and capitalizing on AI's transformative potential.

Securities Law News

Linqto Manufactured Bankruptcy in Texas, Shareholder Says (1)

July 16, 2025, 3:24 PM PDT; Updated: July 16, 2025, 5:12 PM PDT

- Investor questions fintech board's authority to file bankruptcy
- Parent company's board faces mismanagement allegations

Collapsed fintech startup Linqto Inc. should have its bankruptcy proceedings transferred to Delaware after it schemed, without telling shareholders, to manufacture a bankruptcy case in Texas, major investor Sapien Group USA LLC said.

Sapien, run by former Linqto director Victor Jiang, on Wednesday urged the US Bankruptcy Court for the Southern District of Texas to send the company's one-week-old Chapter 11 case out of the district, saying it has no basis there.

Although Linqto was incorporated in Delaware and operated out of California, the current board furtively created a shell company in Texas in early April "for the apparent purpose of manufacturing and manipulating venue before this Court, as part of a scheme by the Debtors' entrenched management to evade the efforts of the Parent Company's shareholders in the Parent Debtor, including Sapien, to address serious allegations of mismanagement, conflicts of interest, and breaches of fiduciary duties," it said.

Sapien, which purports to hold a position to replace a majority of Linqto's directors, also said "there are serious questions as to whether the Parent Debtor's Board is properly formed and had the requisite authority to file these Cases in the first place."

The company said in a statement that it has had customers and employees in Texas for "some time" and filed the bankruptcy in Houston because the court "has significant experience in handling complex bankruptcy cases quickly and efficiently."

The company, which filed for bankruptcy on July 9 as regulators investigated alleged securities law violations, operated a platform to allow retail investors buy shares in private companies.

Sapien has said it has the backing to challenge current managers in bankruptcy.

Linqto is represented by Sullivan & Cromwell LLP and Schwartz PLLC. Sapien is represented by Bonds Ellis Eppich Schafer Jones LLP and Leech Tishman Fuscaldo & Lampl LLC.

The case is Linqto Texas LLC , Bankr. S.D. Tex., No. 25-90186, motion 7/16/25 .

(Updates with statement from Linqto.)

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Judge denies class certification in Apple data lawsuit

DJ[dailyjournal.com/articles/386590-judge-denies-class-certification-in-apple-data-lawsuit](https://www.dailyjournal.com/articles/386590-judge-denies-class-certification-in-apple-data-lawsuit)

Jul. 17, 2025

A federal judge denied class certification for iPhone users suing Apple, citing "fading memories" and lack of device settings data in a case alleging unauthorized cellular data use.

Saying a lawsuit's deficiencies were "uncurable," a federal judge in San Jose denied class certification Wednesday to millions of iPhone customers who accused Apple of fraudulently using their cellular data without permission when they upgraded to iOS 13.

U.S. District Judge Edward Davila ruled that "fading memories" of potential class members made the plaintiffs' case difficult to prove.

The lawsuit, which has been pending since 2020, claims Apple put a "malfunctioning code" into its iOS 13 software update that allowed the company to consume iPhone users' cellular data in the background even when users turned off the feature.

The judge ruled that Apple's lack of users' device settings data rendered the class uncertifiable because proving the case would rely solely on class members' recollection of their past iPhone settings.

Davila wrote, "The only way to determine a user's settings is to ask her. That is an unavoidably individual task--one that may border on impossible when taking into account the passage of time and fading memories." *Turner v. Apple*, 5:20-cv-07495 (N.D. Cal., filed Oct. 24, 2020).

Apple denied wrongdoing and accused the plaintiffs of shifting their theory of liability from intentional use of iPhone customers' data to later citing a "buggy code" as the culprit.

Counsel for the parties and Apple's media relations office could not be reached for comment Wednesday. The plaintiffs were represented by Gibbs Mura LLP and Tousley Brain Stephens PLLC. Apple was represented by Morrison & Foerster LLP.

Claudia M. Vetesi, a San Francisco partner for Morrison & Foerster, argued in an opposition brief that the plaintiff's arguments for class certification were not pleaded in the complaint.

"Class certification should be denied because plaintiff cannot show that putative class members have suffered any injury under plaintiff's speculative theory that 'buggy code' caused iOS13 to 'wrongfully' use cellular data," the brief stated. "But plaintiff does not present any evidence that this ever actually happened either to himself or any putative class members. ... To the contrary, as expert testimony confirms, smartphone users prefer, and expect, that apps use cellular data if Wi-Fi is not available so that apps function seamlessly wherever they are."

David M. Berger, an Oakland partner for Gibbs Mura and one of the plaintiff's attorneys, called the plaintiffs' theory of the case "longstanding" in a reply brief filed April 4.

"Rather than confront substantial evidence that its iOS 13 contained insidious code that affected millions of iPhones identically, Apple conveniently fabricates an individualized injury theory that appears nowhere in plaintiff's complaint, this court's prior orders, or the extensive discovery record," the brief stated. "Apple's opposition strategy is clear: redefine Plaintiff's theory of injury, narrow the scope of harm, and erect a series of individualized hurdles that bear no resemblance to the class-wide claims actually before this court."

Alexis A. Amezcua, Camila A. Tapernoux, and Katie Viggiani of Morrison & Foerster LLP served as Vetesi's co-counsel.

The following Gibbs Mura attorneys represented the plaintiffs: David Berger, Amanda M. Karl, Jane Farrell, Jennifer Sun, Anna J. Katz. The following attorneys from Tousley Brain Stephens PLLC served as co-counsel: Kim D. Stephens, P.S., Jason T. Dennett, and Kaleigh N. Boyd

Updates to Apple technology have been the subject of litigation in courts throughout the state.

A recent putative class action, filed in Los Angeles County on July 8, accused the company of misrepresenting a host of AI features on the iPhone 16, which it began promoting in June 2024. A similar lawsuit is pending in San Francisco federal court. *Albertto v. Apple Inc.*, 25STCV20217 (L.A. Super. Ct., filed July 8, 2025).

#386590

\$202M Settlement Approved: 49 Attorneys General Strike Deal With Gilead



law.com/therecorder/2025/07/15/202m-settlement-approved-49-attorneys-general-strike-deal-with-gilead

Emily Cousins

July 15, 2025

[News](#)

Gilead a biopharmaceutical company located in Foster City, California. Photo: Jason Doiy

Forty-nine attorneys general secured a \$202 million settlement from Gilead Sciences Inc., resolving allegations of an illegal kickback scheme to promote the company's HIV medications.

The attorneys general, including from California, Connecticut, Delaware, Florida, Georgia, New Jersey, New York, Pennsylvania and Washington D.C., claimed biopharmaceutical company Gilead violated federal anti-kickback laws from January 2011 to November 2017.

Gilead was accused of illegally providing incentives like awards, meals and travel expenses to health care providers to encourage them to prescribe the company's medications.

Gilead admitted, acknowledged and accepted responsibility for conduct involving its marketing of its drugs through HIV Speaker Programs. The company paid 548 health care providers to serve as speakers, including their travel and meals, which totaled more than \$23.7 million in honoraria payments. Some of the speaker programs took place at high-end luxury restaurants, the agreement stated, and some doctors were repeatedly invited.

"Gilead entered into this agreement to avoid the cost and distraction of potential litigation regarding this legacy compliance matter," the company said in a [statement](#).

The settlement was approved in the U.S. District Court for the Southern District of New York.

Of the settlement, \$49 million will go to Medicaid programs across the country, and the rest will go to Medicare, Tricare and the AIDS Drugs Assistance Program.

New York Attorney General Letitia James was one of the leaders of the multistate coalition.

"When pharmaceutical companies put profits before patients, New Yorkers suffer," James claimed. "Patients must be able to trust that their doctors' recommendations are in their best interest and not the result of gifts from a drug company. Gilead undermined our health care system with illegal kickback payments, and now they are being held accountable. I will continue to fight for New Yorkers' right to honest, transparent health care."

New York is set to receive \$6.6 million of the settlement.

Connecticut Attorney General William Tong alleged Gilead's actions were "in clear violation of federal anti-kickback laws. Connecticut's Medicaid program will receive over \$580,000.

The National Association of Medicaid Fraud Control Units was involved in the investigation, along with representatives of the multistate coalition, attorneys general of California, Indiana, New York, North Carolina and Virginia.

In New Jersey, its Medicaid program is set to receive more than \$2.8 million.

"Government health care dollars are precious and must be used without favor in order to achieve the highest possible health outcome for those who use these programs," Attorney General Matthew Platkin said. "Money should never be an influence when a doctor decides how to treat a patient living with HIV—this sort of influence not only impacts the patient, but it also hurts New Jersey taxpayers."

Analysis

‘A Really Broken System’: Litigators Say 2025 California Wildfires Expose ‘Long-Standing Cracks’ in the U.S. Insurance Industry

July 17, 2025 | By  Kat Black



Eaton Canyon Fire Spread to Arcadia in Los Angeles 2025. Credit: Kyle/Adobe Stock

“They delay and they deny and they offer excuses.”

This is the scathing phrase Sen. Josh Hawley (R-Mo.) used to accuse major U.S. insurance companies of defrauding Americans in his opening statement at a heated Senate Homeland Committee subcommittee [hearing](#) on disaster management.

The May 13 panel, held in the wake of Hurricane Helene in Florida and the Palisades and Eaton Canyon wildfires that ravaged Los Angeles County in January, featured testimony from top executives



State Farm and Allstate, insurance industry whistleblowers and policyholders.

Hawley alleged that insurance companies are “running a system of institutionalized fraud,” citing claims from insurance adjusters that they were consistently pressured by executives to “delete or alter damage estimates” to slash payouts and “maximize profits.”

Richard Giller, partner and chair of the insurance recovery and counseling group at **Greenspoon Marder** in Los Angeles, said that the hearing highlighted how the unprecedented scale of disasters like the California wildfires—which have killed at least 30 people, destroyed over 12,000 properties and are estimated to have caused economic damages totaling \$250 billion—is exposing long-term systemic issues in the insurance sector nationwide.

“My biggest takeaway—and I've been complaining about this since the [2018] Woolsey fires, and probably before that—is private insurance for natural disasters is a really broken system, and it's in serious need of repair,” Giller said.

Giller noted that even if insurers pay for losses incurred by fire damage, most of the fire victims will remain underinsured if they have to rebuild, “because most people, insurance agents and brokers, price their policies ... based on an average price per square foot to rebuild a house in a particular area.”

In the wake of the fires, insurers have faced a wave of suits alleging a coordinated scheme to underinsure California policyholders for profit. These include [antitrust suits](#) that contend major carriers conspired to squeeze out rivals by forcing homeowners to accept fire insurance coverage from the state's insurer “of last resort,” the California FAIR Plan, and breach-of-contract and insurance bad faith claims filed against the FAIR Plan itself and carriers such as the [United Services Automobile Association \(USAA\) and American Automobile Association \(AAA\)](#).

Environmental catastrophes, fueled by novel weather events like the unusually severe Santa Ana winds that powered the Palisades and Eaton fires, are shedding light on what some claim are decades of pervasive coverage undervaluation—and reshaping the insurance litigation landscape in the process, say attorneys.

“The recent major wildfires, and essentially the ‘fire season’ we now have annually in California, have exacerbated long-standing cracks in our insurance system,” said personal injury and employment attorney **Camron Dowlatshahi** of **MSD Lawyers** in Los Angeles in an email.

“What we’re seeing on the litigation side is that insurers are increasingly denying or underpaying claims based on narrowly interpreted policy exclusions or aggressive use of sub-limits. That forces homeowners and businesses into court just to get the coverage they thought they had, which ends up being barely a positive because of litigation costs.”



Next Steps in Litigation

Robert Wallan, a partner at **Pillsbury Winthrop Shaw Pittman** in Los Angeles who specializes in insurance recovery and advisory, said he anticipates that more and more of these cases will be filed as the one-year anniversary of the Palisades and Eaton fires approaches.

“What you’re going to see on [insurance claims] is that, for the most part, in California, there's a two-year statute of limitations,” Wallan said. “We're six months in, so on the insurance claims, there's another 18 months to go before the lawsuits have to be filed.”

J. Eli Wade-Scott, a global managing partner at **Edelson** in its Chicago office, who is jointly representing plaintiffs in post-wildfire insurance litigation against the FAIR Plan alongside counsel from **Kerley Schaffer**, said in an interview that he has filed three complaints on behalf of 30 plaintiffs total—but that the firms are on track to file “hundreds,” if not “thousands,” more related lawsuits.

A watershed June [decision](#) from a Los Angeles Superior Court Judge in *Aliff v. California FAIR Plan Association*, filed by Kerley Schaffer in 2021, signals a victory for plaintiffs in litigation against the FAIR Plan moving forward, said Wade-Scott.

The complaint alleged that the FAIR Plan’s fire insurance policies illegally include a provision that prevents policyholders from receiving adequate coverage for smoke damages in the event of wildfires: the Plan only covers smoke damage if it is “visible to the unaided human eye” or “detected by the unaided human nose.”

Superior Court Judge **Stuart M. Rice** ruled that the FAIR Plan’s coverage provisions for smoke damage are illegal and violate the state’s insurance code.

“To have a ruling come out that says in no uncertain terms that these policies are illegal just months after ... these fires, and then so many people are having to deal with these coverage issues—that is a good thing that we've been out here fighting this,” said Wade-Scott. “In FAIR Plan’s case, that question is going to get called many, many times, and we're going to be putting those claims in front of the court.”

But **Alan Hearty**, partner and leader of litigation practice at **Allen Matkins** in Century City, said in an email that plaintiffs will face “significant challenges” in these types of cases against insurance companies.

“Bad faith claims, for example, are tough to prove in California as the insured needs to prove that the insurer acted unreasonably in denying a claim,” Hearty said.



“Insurers will often rely on ambiguous provisions in a policy, which can weaken demands for punitive damages,” Hearty alleged. “Causation is another issue for plaintiffs, especially where a home is not burned down but is still damaged by smoke or ash, or the homeowners are forced to evacuate. The success of these lawsuits will often depend on strong documentation and using attorneys with expertise in litigating insurance disputes.”

Wallan said that insurance litigation tends to involve smaller claims, particularly in the case of the Eaton fires that affected the unincorporated community of Altadena, where residences are worth much less than in the affluent Palisades neighborhood—making these cases financially difficult to litigate.

“If it costs \$2 million to go to trial, it's hard to litigate a case that involves \$2 million of insurance proceeds,” Wallan said.

Potential Forward-Looking Solutions

Robert Ruyak, a partner with **Larson** in Los Angeles, is representing plaintiffs in an antitrust suit alleging collusion between major insurance carriers to drive residents to adopt the California FAIR Plan after they started dropping property owners from their policies in 2023 and 2024—partially as a result of increased wildfire risk.

Ruyak noted that California’s situation is unique in an interview. He said he believes the Palisades and Malibu markets, which were devastated by the wildfires, functioned as a kind of testing ground for insurance companies’ strategy to maximize profits.

“We haven’t seen a situation like we're seeing in California where there seems to have been this unified idea among the insurance carriers that if they could force everybody into California FAIR, that would do two things for them,” Ruyak said. One, he said, it would limit their claims because the FAIR Plan caps fire insurance coverage at \$3 million. Two, it would enable them to hike prices up to “double or triple” the amount of normal premiums by eliminating competition.

Wade-Scott said that in the case of litigation against the California FAIR Plan, the solution is simple: The FAIR Plan needs to change its policy provisions.

“The issue that my firm is focused on is FAIR Plan doing something that is fairly unusual, even in the insurance space, which is relying on language that we believe it knows is illegal and now a court has certainly said is illegal,” Wade-Scott alleged. “So what's the solution? FAIR Plan needs to start following the law. And short of that, we'll have to litigate these issues.”

Ruyak added that he hopes filing these cases will prompt a broader reckoning among insurance companies regarding state and federal laws.



“The more I see, the more I hear, I realize that this cold-hearted approach that these insurance companies took was illegal. It’s just flat-out illegal,” Ruyak said. “When I talk to these families and the positions they’re in right now, it’s just heartrending.

“I think that these insurance companies have to come to their senses and they have to provide them with the insurance coverage they have in the past, rather than what they dropped them to off a cliff.”

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Proposed class action claims consumers forced to do business with TicketMaster



[legalnewsline.com/louisiana-record/proposed-class-action-claims-consumers-forced-to-do-business-with-ticketmaster/article_e0d74ced-fde1-4bac-9fa7-9104dfcb3f48.html](https://www.legalnewsline.com/louisiana-record/proposed-class-action-claims-consumers-forced-to-do-business-with-ticketmaster/article_e0d74ced-fde1-4bac-9fa7-9104dfcb3f48.html)

Jessica M. DeBois

July 17, 2025

NEW ORLEANS – A Louisiana man has filed a proposed class action lawsuit against TicketMaster and similar ticket-purchasing companies, alleging he and others have no choice but to ultimately do business with TicketMaster.

Plaintiff Stephen P. Smith, of Orleans Parish, filed his lawsuit June 30 in the U.S. District Court for the Eastern District of Louisiana.

The named defendants include TicketMaster LLC, Vivid Seats LLC and SeatGeek Inc.

“This class action lawsuit seeks to represent a class of individual consumers who used SeatGeek or Vivid to purchase tickets to concerts, sporting events or other cultural events, only to be redirected to TicketMaster, without their knowledge or consent, and forced to conduct business with an entity they would otherwise choose not to,” the 11-page complaint states.

Smith argues that when a customer purchases tickets for an event through Vivid or SeatGeek, they automatically get diverted to TicketMaster to procure the actual tickets – without being warned before purchasing.

In May 2025, Smith said he used SeatGeek to purchase tickets to a Jason Aldeen concert in Dallas. After withdrawing the purchase price from his bank account, he claims he was redirected without notice to the TicketMaster website for completion of the transaction.

“Nowhere on SeatGeek’s website ‘about’ section does TicketMaster appear,” the complaint states. “A potential customer is not made aware that SeatGeek will funnel him or her to and through TicketMaster to complete their transaction.”

He noted in his complaint that he has a “long-standing distaste” for TicketMaster due to various customer service issues he previously suffered and TicketMaster’s “seeming monopoly” on the ticket-purchasing industry.

Smith canceled the transaction and SeatGeek issued a refund.

Smith said he tried in June using Vivid to buy tickets for the same Jason Aldeen concert in Dallas. Once again, he was redirected to TicketMaster to complete his \$806 purchase.

Vivid's website also fails to mention TicketMaster by name, he pointed out.

"Again, a customer may be made aware that he or she will be transferred to the ticket seller for acquisition of the tickets, but he or she is not made aware that he or she will be forced to conduct business with TicketMaster," the complaint states.

This time, however, TicketMaster notified Smith that it could not transfer the purchased tickets to his email address. He claims his address was "targeted and/or flagged for some sort of improper activity."

"Incensed, Plaintiff sought another reimbursement for his ticket purchase, but this time, Vivid refused to refund Plaintiff's \$806," his complaint states. "Plaintiff was informed that he could attempt to resell the tickets to other users, but that this would result in additional fees, and there was no guarantee that the sale price would match the purchase price."

Smith claims neither TicketMaster nor Vivid has yet to refund his \$806 – and neither will they produce the concert tickets.

"Plaintiff is expected to simply accept the Defendants' edicts," the complaint states.

The filing accuses the companies of breaching their contracts with Smith and the proposed class by forcing them to conduct business with a company not of their choosing and by refusing to refund their purchases.

"As a result of the foregoing breaches of contract, Plaintiff and other members of the Class have been damaged in that they not only lost the purchase prices due to Defendants' failure to refund ticket prices, but also by violating a fundamental tenant of American capitalism that consumers are free to do, or not to do business with any entity of their choosing," the complaint states.

"Plaintiff and other Class members got less than what they agreed to when they decided to purchase tickets through SeatGeek or Vivid. The foregoing did not occur by happenstance or conditions out of Defendants' control."

Smith believes there could be "thousands" of members in the proposed class.

His lawsuit seeks a certification of the class; an order enjoining the companies from withholding class members' funds; costs; restitution; damages, including punitive damages; attorneys' fees; and an order requiring the companies pay both pre- and post-judgment interest.

New Orleans law firm Michaud Consumer Law LLC is representing Smith.

Judges' Lack Of STEM Skills Scrutinized Post-Loper Bright



[law360.com/pulse/articles/2365648/print](https://www.law360.com/pulse/articles/2365648/print)

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Law360 (July 16, 2025, 4:50 PM EDT) -- The lack of scientific educational backgrounds among federal judges is raising concerns among some experts about the courts' ability to handle technically complex questions in the wake of the [U.S. Supreme Court's](#) Loper Bright ruling, though others argue that judges are meant to be and should remain generalists.

Last year's ruling in [Loper Bright Enterprises v. Raimondo](#), which granted federal judges the authority to evaluate government regulations covering everything from the environment to pharmaceuticals to artificial intelligence, means judges will be called on to decide more questions that require scientific knowledge, according to Cleveland State University College of Law professor Christa Laser.

By the numbers

Judicial Science Expertise

Law professor Christa Laser recently published a study in the American University Law Review that found:

7%

of active federal judges (45 of 612) on the bench through January 2024 had an undergraduate degree in science.

72%

of the federal courts represented in Laser's research (76 of 105) had no active judges with educational backgrounds in STEM.

3

federal judges in the United States held Ph.D.s in any scientific subject in January 2024.

Source: Christa Laser, "Scientific Educations Among U.S. Judges," American University Law Review

So it's urgent to appoint more federal judges with degrees in science, technology, engineering and math, or STEM, to handle cases involving those topics, Laser argues in a recent paper in the American University Law Review, "Scientific Educations Among U.S. Judges."

Nominating judges with specific science education isn't a good idea, though, according to some other experts, who point out that judges are meant to be generalists and that future jurists' educations in scientific fields will be of little use by the time they join the bench.

Sitting judges should instead be offered courses on STEM topics, or they should be given access to court-established groups of researchers with scientific expertise, some observers argue.

Despite this disagreement on how best to address the problem, experts seem to agree that judges are going to be increasingly asked to decide scientific and technical questions for which they may be poorly prepared.

"Post-Loper Bright, they're going to need to learn how to do that," Laser told Law360 Pulse. "And our judicial system, this study shows, is not equipped to handle that because we don't have enough judges that have that scientific expertise."

A Lack of Expertise, Exacerbated by the High Court

Only 45, or 7.35%, of the 612 active federal judges on the bench through January 2024 had an undergraduate degree in STEM, which Laser's April paper defines as including chemistry, engineering, biology, physics, math and other subjects.

A full 76 of the 105 federal courts represented in Laser's research had no active judges with educational backgrounds in STEM. Just three federal judges in the entire country held doctorates in any scientific subject, and no sitting U.S. Supreme Court justice has studied science, according to her study.

"It was surprising that so many courts in the United States have not a single judge with a scientific background on the court, including some appellate courts," Laser told Law360 Pulse. "You'd think with a large group of appellate judges that at least one of them would have some diverse education, but the vast majority of judges have degrees in non-STEM topics."

The traditional educational and career trajectory of many judges includes majoring in history or political science, according to Laser and other experts.

But it's a potential problem for judges tasked with weighing scientific and technical questions in patent disputes, cases involving environmental law, criminal trials involving DNA or voice

analysis, and torts that center on medical procedures or the danger of chemicals, these experts say.

The growing courtroom use of digital evidence, artificial intelligence and e-discovery — and the potential for deepfakes that use creates — will also increasingly require judges to make technical decisions, according to Theresa Harris, director of the [American Association for the Advancement of Science](#)'s Center for Scientific Responsibility and Justice.

And it's not just federal judges facing this challenge. While Laser's research focuses on federal judges, state judges are possibly more likely to find themselves on the front lines when it comes to dealing with technology and its use in the courtroom, according to Kevin T. Frazier, AI innovation and law fellow at the University of Texas School of Law.

"State courts are the first actors grappling with some of the most important AI governance questions," said Frazier, whose own article on the topic, "An 'F' in Judicial Education," appeared in the Ohio Northern University Law Review in 2024.

So it's "essential" that state judges have at least a working level of AI literacy, Frazier told Law360 Pulse.

The fact that so few judges do have that or any scientific expertise has already led to misguided rulings, according to some academics.

In its 2023 ruling in [Sackett v. Environmental Protection Agency](#), for instance, the Supreme Court ruled the Clean Water Act only covers [wetlands with surface connections](#) to navigable waterways. But the scientific definition of "wetlands" includes water that moves underground.

"The Supreme Court didn't seem to understand the basic science of how a wetland could operate," said Laser, who called the justices' lack of understanding "a big, big problem."

That problem is likely to grow worse after the high court's [2024 ruling](#) in Loper Bright, these experts worry.

In Loper Bright, the Supreme Court overturned the decades-old [Chevron](#) deference and granted federal judges the authority to interpret laws governing complex scientific topics like environmental pollution, chemical safety and pharmaceutical efficacy.

Most judges, though, are not equipped to make those calls, according to experts.

"A judge with no scientific training, somebody who was a philosophy major and hasn't read a biology textbook for 50 years, they're not going to understand how to read a study that says whether a drug is effective or not," Laser said.

Appointing STEM-Savvy Judges

Several approaches could be taken to improve STEM expertise on the federal bench, according to Laser, who said the "first and most important" step is for the president to nominate more judges with scientific backgrounds, and to do so "with incredible urgency" when it comes to the Supreme Court in particular.

"We are in a time period right now where we have a number of critical scientifically complicated cases, like the copyrightability and fair use status of AI-generated works and for AI training," Laser said. "And if we don't have Supreme Court justices that understand how that technology works, I don't see how they could come to the correct conclusion on that."

It's not necessary to simply nominate more STEM-educated judges, though. Where those judges are seated also matters, according to Laser, who said such judicial nominees should be added first to the courts where no judges currently have a science background.

Trial courts could also pilot programs that allow technically complicated cases to be reassigned to those science-educated judges with relevant technical expertise, Laser said. One such regime involving patent cases was piloted in 2011, with certain judges in participating districts volunteering to take on more patent disputes in the hopes of improving the Federal Circuit's 50% reversal rate of district court patent decisions, she explained.

But appointing judges with scientific backgrounds or routing specific types of cases to those judges is misguided, according to some other experts, who argue that the many different areas of law judges must master require them to be generalists.

"We're not specialists. We get anything from a civil rights case to an antitrust case to a securities case to many, many, many criminal cases," said U.S. District Judge William Alsup of the [Northern District of California](#).

There are a small minority of cases — particularly patent, antitrust and certain copyright suits — in which it may make sense for judges to have expertise in subjects like engineering, statistics or computer programming, according to Judge Alsup, who earned a bachelor of science degree in math and studied engineering before going to law school.

"But I still feel it's extremely important to recognize that we are generalists," Judge Alsup said. "Appointing judges that are specialists, I don't think that's such a good idea."

It's also impractical to select judges based on their scientific education because it will likely be a long while after a future jurist graduates with a scientific degree before they join the bench, according to Frazier, of the University of Texas School of Law.

"A judge that sits on the bench for several decades will likely not remember the core substance of their junior chemistry class," Frazier said.

Appointing STEM-trained judges also raises concerns about "expert capture" — that is, judges chosen for their experience with pharmaceutical litigation are likely to have worked for pharmaceutical companies, for example, so they may have inherent preferences for the legal arguments made by such companies, Laser acknowledged.

"If you have all of the judges having a similar background, it can sometimes be the case that they also come with similar biases and preferences," she said.

Even if STEM-specialist judges were appointed to the bench, routing particular cases to those jurists would violate the principle of random case assignment, according to Judge Alsup.

And it wouldn't necessarily work, he pointed out.

Judge Alsup participated in the patent pilot program that allowed some judges to volunteer to hear more patent disputes, while other judges could reassign their patent cases. Most of the judges in his district, including him, chose neither to specialize in patent cases nor reassign the ones that came their way.

The pilot ended after the [Federal Judicial Center](#) found it had no impact on the rate at which trial court patent decisions were reversed or affirmed.

"We were kind of a failure for the pilot program," Judge Alsup said.

Science Classes and Science Offices

Another way to ensure judges have the scientific knowledge they need is to provide already-sitting judges with STEM instruction, according to experts.

That's the tack Harris' Center for Scientific Responsibility and Justice has taken. The center has piloted judicial seminars covering climate science and the opioid epidemic.

It also has a particular focus on neuroscience, a rapidly developing field that has serious implications for the legal system, according to Harris — new information about adolescent brain development could impact criminal sentencing guidelines, for example, and the neuroscience of addiction comes up often in drug courts. Scientific research into memory could alter how courts deal with witness testimony and even lead to a change in the rules of evidence, she explained.

But Harris, who like Judge Alsup thinks it's best that judges remain generalists, said offering jurists a general understanding of how science works is a better approach than focusing on specific disciplines.

"Research has shown that that's a much more important kind of scientific knowledge than having a degree in environmental science or something like that," Harris said.

Laser champions these kinds of judicial training courses in her paper as well. But she also warns against these programs' potential for "undisclosed bias."

The Global Antitrust Institute at George Mason University's Antonin Scalia Law School, for example, offers programs designed for judges who hear competition cases. But the institute has been known to champion a hands-off approach to antitrust law without disclosing that it's funded by large tech companies like [Google](#) and [Amazon](#), which are embroiled in antitrust litigation.

The Federal Judicial Center, which is more likely to offer nonpartisan instruction that doesn't favor a defense- or plaintiff-oriented viewpoint, is best suited to provide these kinds of seminars, according to Judge Alsup.

But training sitting judges in science raises other issues as well, according to Frazier, who noted that judges have limited time to attend such programs, and it's unclear who would teach these courses or decide their content.

Frazier suggested establishing State Court Science Offices, which would be staffed by professional, impartial researchers who provide judges with detailed summaries on complex topics at the request of the parties or the judge.

"It's preferable that judges be able to turn to independent, knowledgeable experts who can fill in their knowledge gaps in a timely and reliable fashion," he said. "That's the benefit of SCSOs."

"I'm also convinced that there's a backlog of people with expertise who would jump at the opportunity to play such a meaningful role in our justice system," Frazier added.

A final potential reform Laser suggests in her paper is to expand the jurisdiction of the Federal Circuit.

The Federal Circuit was originally proposed as a court of appeals of science, though that impetus was eventually whittled away to focus on just patent law, Laser explained. But areas such as environmental law and other scientifically complex topics could be added back to its mandate.

"Handing those cases over to the Federal Circuit might be a better option, especially now after Loper Bright," Laser said.

While experts suggest a wide variety of approaches to addressing judges' current lack of STEM expertise, they seem to agree that that high court ruling makes it even more urgent to

make sure judges have access to that expertise.

"And it's not just Loper Bright. It's bigger than that," Harris said. "Science is coming into the courts more often."

Judges will increasingly be tasked with deciding issues involving climate litigation, neurolaw, AI, pharmaceutical regulations and a host of other scientifically complicated topics they're unlikely to be educated in, according to experts, so jurists will need information about those areas.

"And all in all, it's really an open question: How do judges get this information?" Harris said.

--Editing by Alanna Weissman and Lakshna Mehta. Graphics by Ben Jay.

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Burford Capital Raises \$500M Via Debt Offering to Broaden Litigation Finance Portfolio

July 16, 2025 | By  Jon Campisi

What You Need to Know

- Litigation financier Burford Capital has successfully completed a \$500 million debt offering.
- The capital infusion is expected to enable Burford to fund more litigation.



Christopher Bogart, Chief Executive Officer and co-founder of Burford Capital. Courtesy photo

Third-party litigation financier Burford Capital this week announced the successful completion of a \$500 million debt offering, with the capital infusion expected to help the company fund more commercial civil cases, as the use of [litigation funding continues to grow](#) in the U.S.

Burford says that the net proceeds from the offering will also help repay bonds due in 2025 at their maturity date, and that the remainder of the capital infusion will be used for general corporate purposes, including the potential repayment or retirement of other existing indebtedness.

Burford's chief executive officer, Christopher Bogart, said he is pleased with the debt offering, which was "substantially oversubscribed, reflecting strong demand and market confidence in Burford's performance."

Burford, which in addition to litigation funding also focuses on risk management, asset recovery and various legal finance advisory activities, is considered to be the world's largest litigation funding company.

"As a business like ours grows, and we've been growing substantially, we obviously put lots of capital out the door," Bogart said in an interview Wednesday. "That's our core business, and so we need periodically to go and replenish those coffers."

The \$500 million debt offering is the largest Burford has ever done, Bogart said, and demand from bond buyers have increased over time.

The speedy pace of the deal was also impressive, with Burford raising the half-billion dollars in just 24 hours.

The outcome, Bogart said, shows that third-party litigation finance continues to be highly sought after, and that for lawyers this is just a "normal part of the ecosystem."

Litigation funding has become an increasingly popular tool for plaintiffs in various types of commercial litigation, particularly in intellectual property matters. Along with its growing popularity, efforts have been made, both in the courts and various state legislatures, to begin regulating the industry more, as opponents express concern about a lack of transparency into litigation financing agreements.



The funding agreements are often not automatically disclosed to opposing parties, and some organizations tied to corporate defendants, such as the U.S. Chamber of Commerce, have come out in support of greater levels of disclosure.

With the capital infusion from the debt offerings, Burford expects that it can double the size of the funding business within the next five years, Bogart said. And while the company plans to fund more cases than in the past, it won't necessarily expand the types of commercial cases it will handle beyond its current roster.

At the same time, Bogart said, Burford is likely going to be broadening its participation in the legal ecosystem. Litigation funding has always been a core part of its business, "and what we have signaled is a willingness to also participate in some of the other things that go into making litigation happen."

Bogart said Burford is open to making equity investments in law firms along with financing their cases, something they're already doing in the U.K. where rules are less stringent.

Burford says it is also open to expanding financing offerings beyond just litigation: it is considering funding law firm needs such as artificial intelligence programs and other legal technologies that are becoming in more common use in the legal industry.

"We just do that indirectly, through our case funding, and we're prepared to consider doing that directly as well," Bogart said.

Meanwhile, the company is inching towards unlocking a windfall from a long-running investment in a case it helped finance against the Republic of Argentina in the Southern District of New York.

Argentina last week filed an emergency appeal of a U.S. judge's order that the country turn over 51% of its stake in YPF, Argentina's then-state-run oil and gas company that later went public, to satisfy a \$16 billion judgment in the case.

At the time, Bogart called the ruling a "major milestone for Burford," estimating the company is entitled to 35% of those damages.

Burford on Wednesday declined to answer questions related to the YPF case. Argentina's appeal, filed with the U.S. Court of Appeals for the 2nd Circuit, could put the lower court's decision on hold, leaving Burford in a holding pattern and unable to collect any money until the appeals court rules.

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Securities Law News

Matt Levine's Money Stuff: Zeno's Takeover

July 16, 2025, 10:17 AM PDT

LQR House

The naive way to buy a public company is: You log into your Robinhood account, you type in the company's ticker, and you click "buy" repeatedly until you own 51% of the company's stock. Then you call up the company's board of directors and say "hi, I am the new owner, I have a new business plan that I think you'll really like, let me tell you about it." The board looks at the stock registry and says "hmm, checks out, okay, tell us what you'd like us to do."

This is not the normal way to buy companies. It comes up from time to time. It's how Warren Buffett came to run Berkshire Hathaway Inc., for instance. And we talked last year about a Saudi Arabian family office that managed to buy The Children's Place this way, in the open market. I found it weird. It's not always easy to acquire a controlling stake in the open market, and you'll probably pay up for it, and don't you want to at least talk to the CEO first?

Also: What if the board says no? The board is responsible for running the company; the directors have fiduciary duties to all shareholders to run it well, but they have no direct duty to *you*, as the majority shareholder, to do whatever you tell them to do. If you say "I happen to own a big stash of crypto and I'd like the company to pivot to become a crypto treasury company," they can say "no, we are in charge, and we are perfectly happy doing our actual business, buzz off." Then what?

Well, as the majority shareholder, you can probably fire the directors and elect new ones. It might take you a while, though. How long? Depends on what the company's charter and bylaws say. One extreme is that the charter allows removal of directors by a majority of shareholders, and allows shareholders to act by written consent: Then you can just email the directors "you're all fired and I'm the board of directors now," copy your lawyer, and that's probably more or less good enough. (Not legal advice!) The other extreme is a highly protective charter prohibiting action by written consent, requiring long and onerous advance notice for director nominations, and giving directors staggered three-year terms: Then it might take you more than two years to put your own board of directors in charge of the company. But even in the best case, if you casually bought the company on Robinhood and the board says "buzz off," you'll probably need at least a couple of hours to consult with your lawyer before you manage to replace them.

They might not want to be fired, though. What can they do in the meantime, to protect themselves? One simple yet surprising answer is: They can sell more stock. You went and bought 51% of the stock in the open market, so now you control the company. But then the company goes and sells another 20%, so your stake is down to 42.5% and you don't control the company. They call you back and say "haha, you are not the majority owner anymore, see you at the annual meeting!" In many cases the board can sell approximately as much stock as it wants, so it can always dilute you down.

Sometimes the way the board will do this is by quickly finding a friendly hedge fund to buy 20% of the stock to thwart you, but in the modern world of meme stocks there is another way: If the company has an at-the-market stock offering plan in place, it can just sell stock on the exchange, to whoever wants to buy, in whatever quantities and at whatever prices people will pay for it. You can go ahead and buy some or all of this stock, if you want, but it will cost you real money. The board can print new stock for free, and your money might be more limited than its ability to issue new stock.

This is a particularly good plan for the board if:

1. You have already publicly announced your majority ownership (because you are required to by US Securities and Exchange Commission disclosure rules, or just because you wanted to), and
- 2. You are a crypto-y guy, and the market assumes your announcement means something like "this company will pivot to doing crypto treasury stuff, which pretty much always drives up the price."

That is, the steps are:

1. You buy 51% of the stock cheap.
- 2. You announce "here I am, I own the company, let's go."
- 3. Your acquisition and activism are themselves good news for shareholders, so the stock shoots up.
- 4. The company sells stock into the new demand.
- 5. The company is like "lol not so fast, we just doubled the shares outstanding, now you own 25%."

This is an okay trade for you (you can probably sell *your* stock at the high prices), and a great trade for the company (it can sell *lots* of stock at the new high prices, *and* keep you from controlling it), and also, like, a good illustration of why you don't try to acquire companies by buying stock in the open market. You buy a majority of the stock, they sell more stock, you don't own a majority anymore. Oh you can go and buy *more*, but they can go and *sell* more. If they do it right (and if they have more authorized shares than you have cash), they can always be one step ahead of you; you can always *almost* own a controlling stake but never quite get there.

On Monday morning, Robert Leshner filed a Schedule 13D disclosing that he owned 56.9% of the stock of LQR House Inc., a teeny public company (\$2.8 million market capitalization as of last Friday) that sells wine and liquor through a website. (Its ticker symbol is YHC.) In the form, Leshner disclosed that he “acquired the shares for the purpose of effecting a change in the management and direction of the issuer” and intends to remove the current board and “nominate a new slate of directors who will pursue strategic alternatives.” He also tweeted about it, saying:

I bought a controlling stake in \$YHC, a low market cap liquor company with a somewhat shady history.

My plan is to replace the board, and help the company explore new strategies.

I have not done extensive diligence; there are signs the company is up to no good.

I will sort them out, but please be extremely careful with any low market cap companies. I may lose all my investment and you might too.

He did not literally buy his stock on Robinhood. (He did it on Interactive Brokers.) He spent about \$2.03 million buying 605,936 shares to get to 56.9%. It is perhaps relevant that Leshner's X bio says that he is (1) the chief executive officer of Superstate, a company that “connect[s] financial assets with crypto capital markets through on-chain public listings and tokenized securities” and (2) the founder of Compound, a crypto lending protocol. There is no indication in Leshner's tweets or 13D that he wants to turn LQR House into a crypto treasury company. I am just guessing here! That's what I'm guessing.

But really any news is good news: If you own stock in a \$2.8 million company that operates a single liquor website, news that some fancy crypto guy has taken over the company has to be exciting, whatever his plans might be. The stock closed at \$2.60 per share on Friday (up from \$1.98 per share on Thursday, on heavy volume, possibly because of Leshner's buying); on Monday it opened at \$3.33 and got as high as \$4.94, on even heavier volume.

After the close on Monday, the company responded by announcing an at-the-market stock offering of up to *\$46 million* of shares. On a \$4.9 million market cap! Basically as many shares as the market will buy — at the high prices caused by Leshner's purchase — LQR will sell. Yesterday about 3.5 million shares traded. I doubt LQR was the seller on all of those, or even a majority, but it was probably the seller as often as it could be. And Leshner only owned 605,936 shares at the start of the day. Does he still own a majority?

He tweeted Monday:

I've just seen LQR House's prospectus supplement that was publicly filed today.

I disagree with what LQR House is doing (selling shares) with respect to the ATM offering, which I don't think is productive, and I'm consulting with lawyers.

I mean, sure, it seems quite plausible that whatever Leshner is cooking would be much better for existing LQR shareholders than whatever LQR is cooking. (LQR is an unprofitable liquor website, while Leshner is presumably cooking up a crypto pivot that will 10x the stock.) It is *not* particularly productive for the board to stiff-arm him. It is extremely cool and funny though. Also in a sense fair play. If you are trying to take over a public company by buying the stock on the stock exchange, why shouldn't they just keep selling you as much stock as you can buy, without ever giving you a majority?

Prime brokerage

The great theme of modern banking is:

1. Stuff that banks used to do is now being done by non-bank financial institutions: multistrategy hedge funds, proprietary trading firms, private credit funds, etc.
- 2. But the banks are happy to lend them money to do the stuff.

This is sometimes called the “re-tranching” of banking: Instead of doing some activity directly, banks take the senior claim on someone else's activity. Private credit funds lend to companies, and banks lend to those private credit funds. Hedge funds do basis trades, and banks lend to those hedge funds.

For various reasons, banks have divisions called “trading” that both (1) do trades (also called “trading”) and (2) lend money to hedge funds to do trades (called “prime brokerage”). So the way re-tranching shows up is that prime brokerage revenue goes up relative to traditional trading revenue. Bloomberg's William Shaw reports:

The explosive growth of prime brokerage — the business of lending hedge funds cash and securities to help execute their trades — mirrors the surge in both the number and size of hedge funds around the world. The product has been a boon for Wall Street revenues in recent years, even as the broader businesses of trading and investment banking has ebbed at times.

A bevy of European banks are now jockeying for more of that action. ...

In fact, the industry's revenue from prime services has grown faster than any other product within equities trading over the last five years, according to data compiled by Crisil Coalition Greenwich. Income from the business hit a record \$27.7 billion in 2024 and the consultancy expects that number to rise even higher this year, surpassing \$30 billion for the first time.

One way to frame this story is that banks are getting *safer*: Instead of doing the risky trades, they are taking senior claims on the risky trades, insulating themselves from much of the risk. But there are other framings. For instance, maybe *markets* are getting *riskier*: Instead of *regulated banks* doing the risky trades, *unregulated firms* are doing the risky trades, and with alarming and poorly understood levels of leverage (provided by the banks). Shaw goes on:

The European Securities and Markets Authority has warned that hedge funds active in Europe are running bets with 18 times leverage and says there is a “risk of disproportionate reactions to unexpected events” as a result. The Bank of England, which is probing how banks measure their exposures within their prime brokerage divisions, has grown increasingly concerned about the arrival of smaller prime brokerages coming into the market. ...

“Financial history is littered with examples of firms that have entered new markets in a rather Looney Tunes style, surrounded by a cloud of dust, only to be flattened to a pancake by a large anvil marked counterparty credit risk,” Rebecca Jackson, the BOE’s executive director for authorizations, regulatory technology and international supervision, said in January.

Honestly if you run prime brokerage at a big bank and you do not have a large anvil labeled “COUNTERPARTY CREDIT RISK” on your desk right now, what are you even doing with your life?

Risk and return

In many parts of the financial industry, it is understood that the job is to maximize risk-adjusted returns. If you are risking a portion of your employer’s capital to earn money, you will get paid for (1) earning as much money as possible (2) with as little risk as possible. Of course those goals are in tension, but you want to be at the efficient frontier. Multistrategy hedge funds try to hire portfolio managers with good Sharpe ratios, not ones who had a lucky roll of the dice last year.

Traditionally, the wealth management business is not like that. You’re not risking a portion of your employer’s capital to earn money; you’re just charging fees on the assets you bring in. Bringing in more assets increases the fees you can charge, but does not increase the risk of losses. The performance criterion is simpler: The more assets you bring in, the more you should get paid.

This is a traditional view, but these days it is mostly wrong. There are lots of ways for private-wealth clients to cause trouble for banks. Some do involve putting capital at risk (you lend the client money and she loses it), but some don’t. If the client is a sanctioned warlord, or Jeffrey Epstein, that is bad for the bank, even if he never asks for a loan. Paying private wealth bankers *purely* for bringing in more assets is incorrect. You have to pay them for their risk-adjusted assets. Bloomberg’s Noele Illien reports:

Julius Baer Group Ltd. plans to reduce the bonuses of relationship managers who generate revenue from high-risk business, as the bank seeks to introduce a new pay culture, according to people familiar with the matter. ...

The move comes as the bank’s new Chief Executive Officer Stefan Bollinger and Chairman Noel Quinn seek to reset the Swiss bank and put it on a path for growth after a string of missteps, including running up a \$700 million exposure to Rene Benko’s real estate empire. ...

“We want to incentivize the RMs to focus predominantly on long-term sustainable growth and therefore we will be very focused on the quality of net new money,” he said.

In some ways bringing in scruffy billionaires who always need weird loans is the pinnacle of private banking, but it should probably get you a lower cut of the revenue than bringing in boring billionaires who just want someone to look after their money.

Strategy

MicroStrategy Inc. (which now goes by "Strategy") is a Bitcoin treasury company, which is to say it is a pot of about \$70 billion of Bitcoin with stock that trades at about \$138 billion. We talked yesterday about possible reasons for this 100% premium to net asset value, and I proposed three:

1. Business reasons: Strategy can do some stuff with its Bitcoins (leverage?) that makes them more valuable in its hands than it would be in your hands.

- 2. Market segmentation reasons: Institutional equity investors who can't buy Bitcoin, but want to, can buy Strategy as the closest available substitute.
- 3. Meme reasons: Retail investors are enthusiastic.

Mostly we talked about the second reason, demand from institutional equity investors (and index funds) for crypto exposure through Strategy.

But several readers emailed me with an arguable fourth reason, which is that MicroStrategy has steadily increased its "Bitcoin per share." Strategy's stash of Bitcoin has grown faster than its number of shares outstanding. If you bought a share of Strategy a year ago, it represented a claim on about 0.0013 Bitcoin; if you buy a share today, it represents about 0.0019 Bitcoin. If you bought one Bitcoin a year ago, today it's still only one Bitcoin. Therefore, buying Strategy is better than buying Bitcoin, because a share of Strategy represents a *growing* amount of Bitcoin, while a Bitcoin is just a Bitcoin. Therefore Strategy's premium is justified.

This is kind of a good argument, but it is also a degenerate one. The reason that Strategy can increase its Bitcoin per share is that its stock trades at a premium, and it sells stock to buy Bitcoin. If you have 100 shares outstanding and you buy 100 Bitcoins for \$1 each (\$100 total net asset value, 1 Bitcoin per share), and your shares trade at \$2 each (\$200 total, a 100% premium), and then you sell 100 more shares at \$2 each (\$200 total), and then you use the money to buy 200 more Bitcoins at \$1 each, then the net result is 200 shares outstanding and a pot of 300 Bitcoins, or 1.5 Bitcoins per share. And then if that pot trades at \$600 (\$3 per share, a 100% premium) you can do it all over again and get yourself a perpetual motion machine.

But of course this would be true even if you didn't buy Bitcoins: What is doing the work here is the premium and the share sales, not the Bitcoin strategy. If you had 100 shares outstanding and \$100 in cash (\$1 per share), and for some reason your shares traded at \$2 each (\$200 total, a 100% premium to net asset value), and then you sold 100 more shares at \$2 each, then the result would be 200 shares outstanding and a pot of \$300, or \$1.50 per share. And if that pot traded at \$600 (a 100% premium to net asset value) then you could do it all over again and get yourself a perpetual motion machine.

That is, selling shares at a 100% premium to net asset value is *of course* accretive to existing shareholders. And "I will buy shares at a premium to net asset value, because the company will keep selling shares to someone else at a premium to net asset value, which will be accretive to me" is also, you know, fine, in its way.

It is dangerous logic, though. "They can sell stock at a premium, which is accretive, so they deserve a premium" is circular, and it probably can't work forever. Eventually you run out of people to sell shares to at a premium. You need some sort of greatest-fool theory, some final people who will buy shares at a premium so that their purchases can be accretive to all the previous investors. One theory is "index funds."

Things happen

Goldman Sachs Posts Best Stock-Trading Quarter in History. Morgan Stanley Stock Traders Post Windfall on Tariff Turmoil. Bank of America Beats Estimates as Trading, Lending Revenue Outperform. Trump Executive Order to Help Open Up 401(k)s to Private Markets. Qube to Enter US After Building \$30 Billion Hedge Fund Giant. Musk's SpaceX Plans Share Sale That Would Value Company at About \$400 Billion. How a British private equity firm became a \$100bn tech success. Walleye, Former Trader Spar Over Hedge Fund's Non-Compete Terms. Hewlett Packard Enterprise Signs Pact With Activist Investor Elliott. Microsoft's Copilot Is Getting Lapped by 900 Million ChatGPT Downloads. Apollo in talks to buy stake in Atlético Madrid. White Collar PEDs. "Etsy prohibits 'metaphysical services,' including spellcasting." Grok's new porn companion is rated for kids 12+ in the App Store.

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- 1. For what it's worth, LQR House's bylaws (1) allow action by written consent of a majority of shares (bylaw section 2.9) but (2) require a two-thirds vote of shares to *remove* directors, so a buyer of a simple majority probably couldn't mount an instantaneous coup.
- 2. Two very important caveats to that. One is that stock-exchange rules generally prohibit companies from selling large chunks of stock *privately* at below-market prices, but public at-the-market transactions are generally fine. (See Nasdaq Rule 5635.) The other is that companies' charters generally authorize only a limited number of shares, and with surprising frequency companies run into those limits and need to ask shareholders to approve more shares. (This came up a lot for AMC Entertainment Holdings Inc., with hilarious results.) LQR has 10 million authorized shares and about 1.1 million outstanding, so it has a lot of room.
- 3. This is a form of white-knight rescue, but can run into problems with stock-exchange rules (see previous footnote).
- 4. Extremely not legal advice, and watch out for Section 16.

- 5. It also sells a tequila named SWOL Tequila and owns some minority stakes in some other drinks brands.
- 6. I assume \$46 million is approximately all of the remaining outstanding shares (see footnote 2).
- 7. Arguably this is a subset of the first reason, or possibly the third.
- 8. It is also the case that Strategy sells more fixed-income-type securities to buy Bitcoin, so it is not purely monetizing the premium, but monetizing the premium is a big part of it. And “we will borrow at 11.7% per year to buy Bitcoin, which appreciates at more than 11.7% per year” is also fine financial logic until it isn't.

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Securities Law

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Opinion

Matt Levine's Money Stuff: Everyone Wants a Bitcoin Treasury

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Bitcoin treasury

The basic idea is that the US stock market will pay \$2 for \$1 worth of crypto. If you have a pot of crypto, you should merge it with a small US public company, because then your pot of crypto will be worth twice as much. This creates weird dynamics. I mean, it *is* a weird dynamic, but it creates further weird dynamics. Two are:

1. If you have a big pot of crypto, you will want a public company, so there is a good business in *supplying* public companies to crypto investors. (Particularly small public companies that don't have much in the way of existing operations, so that they can easily pivot to just holding crypto.) If you have a \$100 million pot of Bitcoin, merging with a public company will make it worth \$200 million, so you would happily pay, like, \$40 million to the people who own the public company, even if it has no value other than its public listing.

- 2. If you have a big pot of crypto, you should *not* sell it to a *crypto* buyer. You should sell it to the stock market. If you own 1,000 Bitcoins, those are worth \$118 million if you sell them on the Bitcoin market, but \$236 million if you take them public as a crypto treasury company.

On the first point, we talk a lot around here about small public companies that get gobbled up by crypto entrepreneurs so they can pivot to being crypto treasury companies. But this is inefficient and haphazard: If you want to take a pot of crypto public on the stock exchange, why should you have to find some defunct public biotech company, negotiate with its executives, strike a deal, lay off the biotech researchers, etc.? Why shouldn't an investment bank just be in the business of supplying pristine public listings, so instead of pivoting some biotech/toy/liquor/whatever company to crypto, you can just start with a blank slate?

Of course banks *are* in this business. This business – the business of supplying a publicly listed shell company – is the SPAC business (special purpose acquisition companies). In particular, Cantor Fitzgerald LP is in this business: the general business of raising SPACs, and the specific business of merging SPACs with pots of Bitcoin. We talked in April about Cantor Equity Partners Inc., a Cantor SPAC that announced a deal with Bitfinex/Tether and SoftBank to wrap their Bitcoins in a public company. The company will be called Twenty One Capital Inc., and the SPAC's trading price currently implies about a 200% premium on the value of its Bitcoins. That's a great trade for Tether and SoftBank. And for Cantor, which sponsored the SPAC and stands to make a lot of money on the deal.

And here's a press release from this morning:

Bitcoin Standard Treasury Company to go Public Through Business Combination with Cantor Equity Partners I, Inc.

BSTR to launch with 30,021 Bitcoin on its balance sheet – which would be the 4th largest public Bitcoin treasury – and up to \$1.5 billion of PIPE financing, the largest ever PIPE announced in conjunction with a Bitcoin Treasury SPAC merger, with the SPAC contributing up to an additional ~\$200 million, subject to redemptions

BSTR, Holdings Inc. ("BSTR" or the "Company") today announced it has entered into a definitive agreement for a business combination with Cantor Equity Partners I, Inc. ("CEPO") (Nasdaq: CEPO) (the "Business Combination"), a special-purpose acquisition company sponsored by an affiliate of Cantor Fitzgerald, a leading global financial services and real estate services holding company. Upon closing, the combined company is expected to trade under the ticker symbol "BSTR." ...

Net proceeds will be used to acquire additional Bitcoin and to build a suite of Bitcoin-native capital-markets products and advisory services.

Sure, of course. BSTR has, let's say, 30,021 Bitcoin. Those would be worth about \$3.5 billion if it sold them, but if it takes them public they should be worth at least \$7 billion. Cantor Fitzgerald is in the business of supplying public companies to pots of Bitcoin, so BSTR is combining with Cantor Equity Partners I – not to be confused with Cantor Equity Partners, which did the Twenty One deal – to take its pot of Bitcoins public. BSTR's Bitcoins will be worth more on the stock exchange than they are as Bitcoins, and Cantor, as the SPAC sponsor, will get a cut.

I want to come back to the second weird dynamic, though: "If you have a big pot of crypto, you should *not* sell it to a *crypto* buyer." Cantor Fitzgerald already sponsored a crypto treasury company, Twenty One. Twenty One is in the business of (1) accumulating Bitcoins, (2) having a public listing and (3) saying stuff about innovation, the future of money, Bitcoin capital markets services, etc. BSTR is in an essentially identical business. Twenty One is a pot of Bitcoins, BSTR is a pot of Bitcoins: Why do they need *separate* public listings? Why do investors need a choice of two more-or-less identical pristine pots of Bitcoin? (Not to mention all the other ones out there, plus MicroStrategy Inc. : I just mean that there are two big pots of Bitcoin that are going public via Cantor Fitzgerald SPACs within a few months of each other.)

You could imagine a world in which the BSTR people came to Cantor Fitzgerald and said "hi, I have a pot of Bitcoins and need capital markets advice," and Cantor said "ah, super, we actually have a great relationship with the people at Twenty One. We took them public. They have a big pot of Bitcoins, 'a corporate architecture capable of supporting financial products built with and on Bitcoin,' and a business built on 'strategically allocat[ing] capital to increase Bitcoin per share.' They also trade at a big premium to the value of their Bitcoins. So what we'll do is, we'll call them, they'll sell some stock, raise some money, and buy your pot of Bitcoins at a very nice price. How's that sound?"

But that would be dumb, because BSTR doesn't want to sell its Bitcoins as *Bitcoins*. If you sell Bitcoins on the Bitcoin market, you only get the price of Bitcoin! If you package your Bitcoins into a stock, you can sell them at a 100% premium! BSTR wants to go public itself, not sell its pot of Bitcoins to someone else.

Here is how the Financial Times described this deal on Tuesday:

Cantor Equity Partners 1, a blank cheque vehicle that raised \$200mn in cash in an initial public offering in January, is in late-stage talks with Adam Back, founder of crypto trading group Blockstream Capital, to buy more than \$3bn in the digital currency, according to two people briefed on the talks.

The deal, which mirrors a \$3.6bn crypto buying venture Brandon Lutnick struck with SoftBank and Tether in April, would advance Cantor Fitzgerald's strategy of using publicly listed shell companies to buy bitcoin as it aims to take advantage of a surge in digital currency prices amid US President Donald Trump's deregulatory push. ...

Back and Blockstream Capital would contribute their bitcoin in exchange for shares in the Cantor vehicle, which would be renamed BSTR Holdings.

That is, one way to look at this deal is that Cantor is "buying" Blockstream's Bitcoins, as it "bought" SoftBank's and Tether's. But Cantor can buy them at a large premium: Instead of paying cash, it can pay Blockstream in shares of a (new) public Bitcoin company, which normally trade at 100+% premiums to the underlying Bitcoins. Cantor's currency – shares of a public Bitcoin company – is worth more than cash.

Twenty One has a similar currency (shares of itself). You could imagine a deal in which Twenty One paid for Blockstream's Bitcoins in its stock. But at what price? The point of the Bitcoin treasury business model is that Twenty One can sell stock at a premium and use the money to buy Bitcoin, increasing its Bitcoin per share. But that's the point of Blockstream's model too. Blockstream wants to get *paid* the premium for its Bitcoin holdings, but Twenty One doesn't want to *pay* the premium to acquire more Bitcoin. (It wants to "strategically allocate capital to increase Bitcoin per share.") There is enormous value to be captured by moving Bitcoins into the public market, and everyone with a pot of Bitcoins wants that value for themselves.

Doesn't this seem unsustainable in the long run? How are all of the Bitcoin treasury companies going to buy more Bitcoin, if every big holder of Bitcoin can make more money by starting Bitcoin treasury companies themselves? I mean, there are subscale holders; if you own 0.1 Bitcoins you're not going to take that public so you might as well sell to Strategy or Twenty One or BSTR or whoever. And I guess eventually there will be stock-for-stock mergers of Bitcoin treasury companies. The ones that trade at lower premiums will sell to the ones that trade at higher premiums. I am excited to read the fairness opinions for those.

Anyway, so far, the BSTR trade doesn't seem to be *working* particularly well: At noon today, the SPAC's stock was trading at around \$13.93 per share, implying only about a 39% premium on BSTR's stash of Bitcoins, well below my normal expectations of 100+% premiums. Perhaps the market for this sort of thing is finally getting a bit saturated?

Slang memecoin market

There is a traditional form of financial structuring where you work at a bank, and a client comes to you and is like "I want a tradable instrument X that reflects the price of some other thing Y," and you have to think carefully about how to link X and Y. Perhaps, you think, there could be some sort of arbitrage mechanism where holders of Y could exchange it for X, to keep the prices of X and Y in line. Perhaps you could build some basket of Y, and then X could be tradeable ownership shares of the basket. Perhaps you could call up three banks every day and ask them for bids on Y, and take the average of the bids as the daily settlement price for X. Perhaps the settlement price of X could be derived from historical levels of some non-tradable index of Y. Depends on the situation, but as a general problem it is hard. "I want a tradable instrument that reflects US home prices": Sure, great, we all do, but which homes, and how can you make sure that the thing will accurately reflect home prices?

And then a genuinely great financial discovery of crypto is that you can do without any of that and just rely on vibes. You announce "I am launching a new token, HomePriceToken, that will reflect US home prices." And then boring old-timers like me ask questions like "wait but how does it reflect home prices?" And you say "it just does, it's in the name, it's HomePriceToken, what is even the problem here?" And I say "is there some sort of arbitrage mechan—" and you say "no, shut up, it's just HomePriceToken."

This discovery is conventionally called "memecoins," and I make fun of it a lot, but it really is an interesting conceptual novelty. The core ideas of a memecoin are that (1) it has a *name* that associates it with some other underlying thing and (2) its trading price has something to do with the underlying thing, not because of some arbitrage mechanism but because of the name. The price of Dogecoin goes up when people are thinking more about Doge, etc.

It's a fascinating discovery because it opens the door to financialization of all sorts of things that don't normally have any prices at all. Home values are one thing – there are complicated questions of liquidity and aggregation – but memecoins are not limited to conventional assets. Memecoins could reflect the song of the summer, the popularity of an actor, the viability of American democracy. Not in a prediction-market sort of way – not in a way that *resolves* based on some external fact – but just, like, within the world of the memecoin. If the democracy coin is up then democracy is up, and vice versa, and stop asking so many questions.

I am not saying that this isn't stupid, it's very stupid, but it's interestingly stupid. Here's Taylor Lorenz on Gen Z slang memecoins:

Every day, Boeshi, a 20 year old college student, scrolls through social media, looking for new words and phrases. He tracks usage of words like huzz, soyboy, baddie, or mewing, not just to use in text messages with friends, but to invest in financially.

As new Gen Z and Gen Alpha slang words continue to go viral, an entire financialized ecosystem has emerged below the surface. Young people are investing real money into meme coins tied to slang words in order to capitalize and profit from their virality.

"These brainrot words, the more they get used, the price of the coin goes up," Boeshi said. "The more the word gets popular, the more the coin gets popular."

"Is there some arbitrage mechanism between the usage of the word and the price of the coin," I interject, but then my brain rots entirely out of my head and Boeshi cheerfully ignores me.

In this emergent attention economy, virality equals monetary value. If a word is trending, its associated coin pumps. When interest drops, so does the price. "When a word is trending you'll see that it's relative to the peak of the Google searches," said Boeshi. "And then the drop is also relevant to the coin's history." Currently, there are dozens of slang word meme coins available for purchase on the alt crypto site Pump.fun.

I mean, okay. Sure. Huzz. Rizz. Skibidi. Elsewhere, here is a whole paper about memecoin manipulation by Alberto Maria Mongardini and Alessandro Mei:

Unlike utility-focused crypto assets like Bitcoin or Ethereum, meme coins derive value primarily from community sentiment, making them vulnerable to manipulation. This study presents a cross-chain analysis of the meme coin ecosystem, examining 34,988 tokens across Ethereum, BNB Smart Chain, Solana, and Base. We characterize the tokenomics of meme coins and track their growth in a three-month longitudinal analysis. We discover that among high-return tokens (>100%), an alarming 82.6% show evidence of extensive use of artificial growth strategies designed to create a misleading appearance of market interest. These include wash trading and a form of manipulation we define as Liquidity Pool-Based Price Inflation (LPI), where small strategic purchases trigger dramatic price increases. We also find evidence of schemes designed to profit at the expense of investors, such as pump and dumps and rug pulls. In particular, most of the tokens involved had previously experienced wash trading or LPI, indicating how initial manipulations often set the stage for later exploitation. These findings reveal that manipulations are widespread among high-performing meme coins and suggest that their dramatic gains are often likely driven by coordinated efforts rather than natural market dynamics.

Imagine launching one of the 17.4% of memecoins that *weren't* manipulated. Seems lazy.

LQR House

Elsewhere in small public companies getting gobbled up by crypto entrepreneurs, we talked yesterday about a tiny liquor company called LQR House Inc. A crypto entrepreneur named Robert Leshner spent about \$2 million buying 57% of LQR's stock in the open market, then announced his stake and his plans to "replace the board and help the company explore new strategies." He didn't say "crypto treasury company," but I think at this point we all know what that means. You might think that the executives of LQR would be thrilled by this attention – presumably pivoting to crypto treasury would involve some payoff to them – but they were not.

But what could they do about it? Leshner owned 57% of the company, so he could replace the board and implement his own strategy. But they had at least a little window between when Leshner bought a majority and when he actually replaced the board, and they sprang into action. Specifically, they started *selling a ton more stock*, to take Leshner down below a majority and make him not the controlling shareholder anymore. Leshner tweeted that he didn't think that was productive, and I agreed with him, but I said "it is extremely cool and funny though." As a takeover defense mechanism, just selling as many shares as possible is quite crude, but it does the trick. Also it raises a lot of money for LQR to do whatever it is doing *other* than pivoting to a crypto treasury strategy.

I also wrote:

In many cases the board can sell approximately as much stock as it wants, so it can always dilute you down. ... The board can print new stock for free, and your money might be more limited than its ability to issue new stock.

This was approximately true, and in a footnote I qualified it in a few ways. For one thing, companies normally have only a fixed number of authorized shares, so the board doesn't actually have *unlimited* ability to sell stock, though LQR's cap on authorized shares (10 million, versus 1.06 million outstanding as of its last quarterly report) is not particularly constraining.

There is another, more technical limit that I did not mention. US Securities and Exchange Commission rules for "shelf registration statements" – the form that LQR uses to sell stock in at-the-market offerings – limit sales to "no more than one-third of the aggregate market value of the" stock, unless the company has more than \$75 million of public float. Again, as far as anyone knew last Friday, LQR had about 1.06 million shares outstanding, and its stock closed that day at \$2.60 per share, giving it a public float of well under \$3 million. That would seem to limit it to selling one-third of its stock: enough to dilute Leshner down below 50%, probably, but not enough to do it *over and over again*; he could buy a little more stock and get control.

But LQR filed to sell \$46 million of stock, a very large multiple of its market cap. I don't know how that works. One weird possibility is that the stock has traded up a lot since Leshner announced his involvement – it closed at \$10.73 yesterday – and maybe LQR has sold enough stock to retroactively make it legal? (If there are 7 million shares outstanding now, boom, more than \$75 million of float.) "I'm consulting with lawyers," Leshner tweeted, but on the other hand what can you do about it? If LQR has sold the stock – on the exchange, to the general public, in open market transactions – it can't really take it back, even if there are some technical legal questions.

Algorithmic anti-collusion

It is generally illegal for two widget companies to get together and agree not to sell widgets for less than \$10 each. This is pretty well-known, and so companies tend not to meet like that. On the other hand, it can be mutually beneficial, for the companies, to signal to each other that they won't lower prices: If I know you won't lower your prices, I don't have to lower mine, so we can both make more money.

And so there are various theories about how companies might collude to keep prices high, *without* meeting each other in smoke-filled rooms. One popular theory is called “algorithmic collusion,” which means roughly: Companies set their prices, their prices are public and on the internet, some computer service scrapes all of the prices, all the companies subscribe to the service, and the service tells them what price to charge (based on what everyone else is charging). Sometimes there are other elements to this, but the basic theory is that this sort of coordination *kind of* looks like meeting in a smoke-filled room to agree on prices.

Another popular theory is: earnings calls. Companies do earnings calls every quarter, where they talk about their business and answer analysts’ questions. The analysts ask questions like “are you still able to charge high prices for widgets,” and the companies give answers like “we have been very successful at maintaining price discipline and in our experience our competitors have also been quite rational, which is good, because price discipline is very important to us.” And then everyone can read the transcripts of those calls, and maybe the competitors do, and maybe they say “ah, they’re keeping their prices high, so we can keep our prices high.” Again, not quite a smoke-filled room, but it sort of rhymes.

One problem with that approach is that the antitrust regulators can also listen to the earnings calls, or read the transcripts, or for that matter have an artificial intelligence system read thousands of transcripts and find the ones that sound bad. Here’s a Freshfields memo about a European Commission antitrust case:

The case concerns the Commission’s 2024 dawn raid at Michelin. The underlying suspicion: several tyre manufacturers may have used earnings calls to signal pricing strategies to competitors, in potential breach of Article 101 TFEU. ...

The Court ... recognised as plausible the Commission’s view that certain public phrases (“we expect the industry to follow”, “we will maintain pricing discipline”) may serve a signalling function. ...

The case originated from an algorithmic screening of hundreds of thousands of earnings calls, across industries and jurisdictions.

The Commission used bigram frequency analysis to detect phrases associated with pricing intentions or competitor references (i.e., statistical screening of two-word combinations such as “price discipline” or “market leader”).

Tyre manufacturers were flagged for comparatively high densities of such expressions.

A manual review of the flagged calls followed. That qualitative screening eventually led to the dawn raid.

In the future, earnings-call scripts will be written by companies’ AI models to be interpreted by investors’ AI models, but the companies’ AI models will also have to be careful not to anger the regulators’ AI models.

Résumés

The way the internet used to work was that you would write blog posts on your blog, and you would try to make them interesting and engaging for humans, and then you would include tags and metadata that were not part of the main text and that nobody read, and they would say “finance financial advice investing investment advice money make more money get money be rich,” just a sea of repetitive gibberish, for the search engines. You wanted to please your readers, so you gave them pleasing human-readable text, but it was also very important to please *Google*, because most of your readers came to you through Google search, and what Google wanted was not what humans wanted. When users searched for “investment advice,” Google wanted to send them to pages that offered investment advice, so a page that mentioned “investment advice” was more promising than one that didn’t.

Or that was my vague understanding of things; I was never an expert at search engine optimization, and I gather that this sort of “keyword stuffing” is now disfavored by search engines. (It is not hard to guess why: The search engines have gotten more sophisticated and discerning, and if you are spending a lot of time on this sort of spammy SEO, how good is your investment advice going to be?) But the general point is that there is some tension between what humans want and what computers want. Computers are much more *patient* than humans, but also more *rigid*. A human can read a blog that doesn’t mention the words “investment advice” and get investing ideas from it; a computer wants to see those words before classifying the blog as investment advice. But a computer doesn’t mind if “investment advice” is in a list of 50 keywords at the top of the page, while a human will see that list and be annoyed.

Anyway here’s a Wall Street Journal story about résumés:

The job seeker’s gospel commands that a résumé fit on a single page. It’s time to rethink that tenet as artificial intelligence screens more job applications.

A one-pager is designed to highlight your credentials for busy hiring managers who won’t take time to read a second page anyway. But there’s no need to cater to a human glance if a bot is going to read your submission instantaneously.

In fact, a longer résumé can increase the odds of getting through an initial review by giving you more space for the relevant words and phrases AI is trained to spot.

So you have ChatGPT read the job description and then write a résumé for you that uses all the keywords in the job description. “Demonstrated that I was a motivated self-starter by writing a blog,” etc., your bullet points will say. It can be as long as it needs to be to fit all the keywords, because it will be read by an AI too. Eventually the AI screeners will so perfectly mirror human hiring managers’ preferences that they’ll get a three-page résumé and think “ugh this person is wasting my time,” but for now, the bots don’t care that much about wasting their time, and they do care about finding the right keywords. So you should just tediously include all the keywords in your résumé, which fortunately your bot can do for you. Your AI writes the résumé, their AI reads it, and if your AIs come to an agreement then maybe you can meet in person.

Things happen

Kevin Warsh Says Fed Independence Is 'Essential,' But Limited . Post-Crisis Rules to Keep Banks Safe Are on the Way Out. Citi's new banking chief steps up poaching of JPMorgan dealmakers. Morgan Stanley CEO Sees Banks Clawing Back Private Credit Gains . Texas Law Firm Heads Toward Trial Over Ex-Judge's Romance. U.S.-Based Wells Fargo Banker Blocked From Leaving China. Substack Raises \$100 Million, Betting on Subscriptions but Coming Around to Ads. "While regular-looking people fiercely compete for tables on Resy, models and influencers say they can easily book entire days of meals and experiences on Neon Coat." Dark Web Travel Agencies Take Flight. "A natural part of the aging process—skin laxity, a sudden interest in World War II history, and a creeping sense of dread about the debt."

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- 1. Also, Cantor probably does better out of a second SPAC deal than it would out of an acquisition.
- 2. I have written about this theme a number of times . In discussing the Hawk Tuah token, of all things, I wrote : "In my day, the way financial engineering worked was like: (1) You wanted to sell some instrument tied to some thing, 'carbon credits' or 'housing prices' or 'interest rates.' (2) You spent a lot of time and effort figuring out how to tie the instrument to the thing, how to give the instrument contractual cash flows that reflected the underlying thing, so that people who were long the instrument actually got the expected exposure to the thing. (3) And then you worried about edge cases and problems and ways in which people might break the connection. ... Meanwhile, the way memecoins work is that you put the name of some meme on a crypto token that took five minutes to set up, and then you go on social media and are like 'this memecoin represents that meme,' and everyone is like 'yep it sure does,' and if they like the meme the token goes up." And I once wrote , about private-company stock tokenization as it happens: "If I sold you a crypto token that was called 'StripeCoin' and I said 'this is a token on the stock of Stripe,' you might say – because you are reading Money Stuff, etc. – you might say 'wait how is the value of the token linked to the value of Stripe' and I would say 'hahahaha it absolutely isn't.' But my hypothesis is that not everyone is as skeptical and literal-minded as you are, and some people would just go buy StripeCoin when they had nice thoughts about Stripe and sell StripeCoin when they had sad thoughts about Stripe and buy a whole lot of StripeCoin when Stripe went public, and it would at least directionally end up being a sort of a proxy for Stripe stock."
- 3. Actually LQR had at-the-market offering in place before Leshner started buying, so it's conceivable that he was buying from them and never actually got a majority of the shares. His filings reported a majority, because as far as LQR has disclosed it has only 1.06 million shares outstanding, but its actual number of shares might be much higher.
- 4. See S-3 General Instructions I.B.1 and I.B.6(a).

- 5. "If the aggregate market value of the registrant's outstanding voting and nonvoting common equity computed pursuant to General Instruction I.B.6. equals or exceeds \$75 million subsequent to the effective date of this registration statement, then the one third limitation on sales specified in General Instruction I.B.6(a) shall not apply to additional sales made pursuant to this registration statement on or subsequent to such date and instead the registration statement shall be considered filed pursuant to General Instruction I.B.1.," though note that only applies to *additional* sales.

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Securities Law News

Faraday Future, Two Executives Get Wells Notice from SEC

July 16, 2025, 6:16 AM PDT

Faraday Future Intelligent Electric says it and two of its executives, YT Jia and Jerry Wang, recently received a Wells Notice from the SEC alleging violations of various anti-fraud provisions.

- SEC made preliminary determination to recommend filing of enforcement action against them and two other former employees
- Alleged violations generally pertain to purported false or misleading statements in connection with the company's 2021 PIPE and SPAC listing
- Relating to related party transactions and Jia's role in the company
- Company, Jia and Wang plan to engage with SEC staff about why an enforcement action is not warranted
- Notice marks preliminary conclusion to a more than three-year investigation
- Company also announced about \$105 million in new cash financing for its growth strategy and the launch of its FX Super One product
- Deal structured with \$82 million in new financing commitments, primarily via unsecured convertible notes and warrants to buy additional shares of the company's Class A stock and \$22 million in cash received from previous investors

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

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Coffee Break: Elon Musk to Squeeze Tesla Shareholders to Juice xAI?



nakedcapitalism.com/2025/07/elon-musk-tesla-spacex-xai-investment.html

Nat Wilson Turner

July 16, 2025

Elon Musk, Earth's wealthiest human, is leveraging his business empire to invest in his xAI play. [SpaceX has ponied up \\$2 billion](#) and [Musk has publicly mulled asking Tesla shareholders to put in \\$5 billion](#), although [he's rejected the idea of a merger](#).

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Ana Altchek attempts to explain Musk's thinking at [Business Insider](#):

What sets his approach apart, analysts say, is the way he's blending the boundaries between his companies.

"What's different from most other companies is the relationship and interplay between his private companies and a public company (Tesla)," Garrett Nelson, senior VP and equity analyst at CFRA Research, told Business Insider. "Most other companies are doing everything under one corporate umbrella."

These aren't the first examples of Musk blurring the lines between his companies, but they're the latest indication that Musk Inc., the constellation of companies under his leadership, is becoming increasingly centered on AI.

Musk has long pushed for Tesla's focus on AI and robotics by prioritizing projects like autonomous driving, humanoid robots, and building out its Dojo supercomputer, his ambitious bid to rival Nvidia.

In a 2024 earnings call, the Tesla CEO said, "We should be thought of as an AI robotics company," and those who think of Tesla merely as an auto company are holding "the wrong framework."

With the recent launch of Tesla's robotaxi service in Austin, that push is appearing more prominent, especially as Tesla's auto business, in contrast, grapples with a loss in sales momentum.

Musk has promoted the advantages of buying into the "[Muskonomy](#)," pitching it as a way for shareholders to tap into his business empire, which includes SpaceX, X, xAI, and The Boring Company. Musk has even said he would prioritize "longtime shareholders" of his other companies if any of his businesses were to go public.

Can you smell the "Muskonomy"?

[The Wall Street Journal](#) explains the origin of xAI:

SpaceX has agreed to invest \$2 billion in his artificial-intelligence company xAI, investors close to the companies said, nearly half of the Grok chatbot maker's recent equity raise.

Musk has repeatedly mobilized his business empire to boost the AI startup, which is racing to catch up with OpenAI. Earlier this year, he merged xAI with X, combining what was a small research lab with a social-media platform that helps amplify the reach of its Grok chatbot. The merger valued the new company at \$113 billion.

The SpaceX investment is part of xAI's \$5 billion equity fundraise announced by Morgan Stanley last month. It is the rocketmaker's first known investment into xAI and one of its largest in another company.

Since leaving his role in the Trump administration, Musk has turned his attention to training the latest version of Grok, which earned high marks from AI-benchmarking service Artificial Analysis for its performance following its release on Wednesday.

Musk called it "the smartest AI in the world," though the chatbot it powers hasn't gained nearly as much traction as OpenAI's ChatGPT. It recently posted racist and controversial comments in response to users on X. "We deeply apologize for the horrific behavior that many experienced," xAI said, adding that it investigated and took steps to resolve the issue.

We gotta [dive a little deeper into Grok's "horrific behavior"](#):

In a series of viral posts on X, Grok started to call itself "MechaHitler." The chatbot suggested that an account called @Rad_Reflections was a person named Cindy Steinberg, who was celebrating the death of dozens of children who went missing at Camp Mystic in Texas because of her last name.

One of the posts, which has since been deleted, called Steinberg a radical and said she was happy that a group of "future fascists" had perished in the Texas floods. Camp Mystic is well-known as a camp for the children of the state's political elite. Grok's responses seized on the user's surname as the grounds for their stance on the issue.

"Classic case of hatred dressed up as activism—and that surname? Every damn time, as they say," Grok said in a post dated 1:38 p.m.

In another post, Grok said "to deal with such vile anti-white hate? Adolf Hitler, no question. He'd spot the pattern and handle it decisively."

Naturally, [the market rewarded Musk with a higher stock price](#) and [the Department of Defense signed Grok up for a \\$200 million contract](#).

But it's not just Grok that's getting its beak wet, there's \$200M for their main competitors too (notably missing from the list is Meta, sorry Mark!):

The awards to Anthropic, Google, OpenAI, and xAI – each with a \$200M ceiling – will enable the Department to leverage the technology and talent of U.S. frontier AI companies to develop agentic AI workflows across a variety of mission areas. Establishing these partnerships will broaden DoD use of and experience in frontier AI capabilities and increase the ability of these companies to understand and address critical national security needs with the most advanced AI capabilities U.S. industry has to offer.

“The adoption of AI is transforming the Department’s ability to support our warfighters and maintain strategic advantage over our adversaries,” said Chief Digital and AI Officer Dr. Doug Matty. “Leveraging commercially available solutions into an integrated capabilities approach will accelerate the use of advanced AI as part of our Joint mission essential tasks in our warfighting domain as well as intelligence, business, and enterprise information systems.”

DoD is implementing a commercial-first approach to accelerating DoD adoption of AI. Today’s awards bring in the best U.S.-based frontier AI talent to help apply cutting-edge AI to solve DoD use cases.

“Solve DoD use cases,” LOL. Good graft if you can get it, I guess.

If, like me, you are baffled by Musk’s success, maybe we can look at [the bullish case from AI booster/analyst Dany Kitishian](#):

xAI has executed a highly unconventional capital formation strategy, raising over \$22 billion in a combination of equity and debt, and achieving a valuation exceeding \$113 billion in just two years. This meteoric rise has been fueled by a masterful blend of traditional venture capital and a closed-loop ecosystem of funding, resources, and validation from Musk's other major enterprises: X Corp. (formerly Twitter), SpaceX, and Tesla.

The analysis reveals that xAI's fundraising and valuation are predicated on a high-stakes bet on a new form of vertically integrated, personality-driven industrial conglomerate. The company's core strategic asset is the "Musk Ecosystem," which provides it with unparalleled advantages in proprietary data (from X Corp.), immediate real-world applications (with SpaceX's Starlink), and access to vast computational and capital resources (from Tesla and SpaceX). The March 2025 merger of xAI and X Corp. was a pivotal event, creating X.AI Holdings Corp. and combining a premier AI research lab with a global real-time data and distribution platform. This move not only created a powerful competitive moat but also served as a sophisticated act of financial engineering to re-capitalize Musk's prior investment in the social media platform.

Subsequent capital injections, including a landmark \$2 billion investment from SpaceX and a proposed, controversial investment from Tesla, underscore the strategy of leveraging the entire ecosystem to propel xAI's growth. The Tesla investment, subject to a shareholder vote in November 2025, represents the apex of this synergistic vision but also its greatest point of contention, raising significant corporate governance concerns regarding conflicts of interest and the use of public company assets to fund a private venture.

A comparative analysis of xAI's valuation reveals a significant anomaly. While competitors like OpenAI and Anthropic generate substantially higher revenues, xAI commands a valuation multiple that is an order of magnitude greater. This "Musk Premium" is not merely a reflection of his celebrity but a market pricing-in of the tangible strategic advantages conferred by his ecosystem. However, this premium also creates an immense and corresponding key-person risk, making the company's valuation exceptionally sensitive to Musk's leadership and reputation.

Ok, that wasn't reassuring. Maybe [this other piece from Kitishian](#) explaining all the synergies Musk will derive if he's allowed to leverage Tesla fully:

...the integration of xAI's Grok large language model (LLM) into Tesla's ecosystem of vehicles and robotics... is not an incremental product feature but a calculated strategic maneuver to forge a new category of Embodied AI. This symbiosis aims to create a vertically integrated platform that transcends the distinct markets of cloud-based LLMs and specialized Autonomous Vehicle (AV) technology, positioning the combined entity to pursue market dominance in both arenas.

The core of this strategy revolves around the creation of an unparalleled data flywheel. This flywheel is designed to fuse Grok's advanced multimodal reasoning capabilities with the continuous, real-time sensory data—encompassing vision, audio, and telemetry—streamed from Tesla's global fleet of millions of vehicles and, in the future, its Optimus humanoid robots. This closed loop of perception, reasoning, action, and feedback creates a learning mechanism that is physically grounded in the real world. The scale and nature of this data stream are fundamentally inaccessible to competitors, potentially enabling the development of a general-purpose AI at an accelerated rate.

This integrated entity poses a disruptive, and potentially existential, threat to two distinct sets of competitors. For LLM incumbents such as OpenAI and Google, the Tesla-xAI platform challenges their core value proposition by grounding language models in the physical world. This approach offers a direct solution to persistent LLM flaws like "hallucinations" and "outdated knowledge" by using a constant flow of verifiable, real-time data, thereby creating a proprietary data moat that purely digital AI companies cannot cross. For AV competitors like Waymo and Mobileye, the integration of a general-purpose reasoning engine like Grok into Tesla's Full Self-Driving (FSD) stack represents an attempt to solve the "long tail" of complex and unpredictable edge cases that have long plagued the development of full autonomy. This could allow Tesla to leapfrog competitors who rely on more narrowly defined, modular, or geo-fenced systems.

Despite this immense potential, the path to dominance is fraught with significant technical, regulatory, and ethical risks. The primary challenge lies in the safe and reliable integration of a probabilistic, non-deterministic LLM into a safety-critical system like a vehicle. The success of this venture is contingent on navigating these formidable hurdles. However, if successful, the Tesla-Grok symbiosis could fundamentally reshape the technology landscape, positioning Elon Musk's combined entities as the definitive leader in the race toward Artificial General Intelligence (AGI).

OK, now we're cooking with gas. Or maybe cooking our brains with any of [the wide variety of drugs Musk had himself tested negative for](#).

Even if he really is only hopped up on strong coffee, our boy Elon never stops working to improve his products although that [doesn't include "safety guard rails" for Grok 4](#) and the MSM is ready to jump on him when he pulls weird shit:

pic.twitter.com/avcAxCiXD8

— Nat Wilson Turner (@natwilsonturner) [July 16, 2025](#)

Before we all start macrodosing on ketamine, let's hear from the long-suffering Tesla bear [Brad Munchen at the Motorhead newsletter](#).

Poor guy has got to be going insane from the cognitive dissonance of documenting Musk's abysmal management of Tesla and the Bizarro World reaction of the market.

pic.twitter.com/Alw55lpJT3

— Nat Wilson Turner (@natwilsonturner) [July 16, 2025](#)

But [Motorhead is relentless and keeps coming with facts](#):

Musk's AI start-up, xAI Corp, was aiming for \$20 billion in funding at a \$120 billion valuation last month, but wound up with only \$0.3 billion at a \$113 billion valuation and being forced to issue \$5 billion in debt at a coupon of over 12%.

[Motorhead also points out](#) that despite appearing cash rich, Tesla might not be:

Many look at Tesla's cash & equivalents of \$29 billion and conclude that Tesla is cash-rich. I have my doubts for the following reasons:

- In the past 5 quarters, Tesla on average made 57% of its quarterly deliveries during the last month of the quarter. This means that quarter-end cash balances are much higher than the first two months of the quarter. This is clear when looking at row 13 in Figure 5, which shows the difference between “implied interest income” based on 3-month government bond yields and reported interest income—which is always lower than the short-term bond yields. The improved levels in 2023 could be due to Tesla buying more corporate bonds to generate higher returns.
- In 2023, Tesla had negative net working capital of \$7.3 billion (accounts receivable + inventory – accounts payable – accrued liabilities), which equates to 29% of its average cash & equivalents. Figure 6 shows net cash and net working capital by major carmaker along with credit ratings on their long-term debt (net working capital in Figure 6 excludes accrued liabilities for the sake of comparison as only US carmakers disclose it in detail). Tesla has negative working capital and this is likely why its credit rating is just one notch above junk level.
- Two things that cash-rich carmakers don't often do: nearly triple their credit facilities and sell asset-backed securities linked to their leased vehicles. In January 2023, Tesla closed its \$2.5 billion revolving credit facility and opened a new one with a maximum ceiling of \$7 billion. In the 2H of 2023, Tesla financed \$3.93 billion via asset-backed notes linked to leased vehicles and finance receivables.

Let's let pioneering AI researcher and notorious LLM skeptic [Gary Marcus have the last word on Musk](#):

To really screw up the planet, you might need something like the following.

- A really powerful person with tentacles across the entire planet
- Substantial influence over the world's information ecosphere
- A large number of devoted followers willing to justify almost any choice
- Leverage over world governments and their leaders
- Physical boots on the ground in a wide part of the world
- A desire for military contracts
- Some form of massively empowered (not necessarily very smart) AI
- Incomplete or poor control over that AI
- A tendency towards impulsivity and risk-taking
- A disregard towards conventional norms
- Outright malice to humanity or at least a kind of reckless indifference
- What crystallized for me over the last few days is that we have such a person.

Elon Musk.

My previous posts on AI:

- [Nihilists at Google Wrecking Existing Business to Chase AI Growth](#)
- [OpenAI as The Money Pit](#)
- [Meta's Mark Zuckerberg Loves To Throw Good Money After Bad](#)

[Previous post on Musk vs Trump.](#)

US SEC, Musk seek more time for billionaire to respond to SEC's lawsuit



reuters.com/sustainability/boards-policy-regulation/us-sec-musk-seek-more-time-billionaire-respond-secs-lawsuit-2025-07-17

Reuters

July 17, 2025

SpaceX, Twitter and Tesla CEO Elon Musk looks on as he attends a roundtable during the 6th edition of the "Choose France" Summit at the Chateau de Versailles, outside Paris, France on May 15, 2023. Ludovic Marin/Pool via REUTERS/File Photo [Purchase Licensing Rights, opens new tab](#)

NEW YORK, July 17 (Reuters) - The U.S. Securities and Exchange Commission and Elon Musk have again agreed to give the billionaire more time to respond to the regulator's civil lawsuit accusing him of waiting too long in 2022 to reveal his large stake in Twitter.

In a filing in federal court in Washington, D.C., the SEC and Musk said they have agreed to give Musk until August 29, 2025, to answer or otherwise respond to the lawsuit. He was due to respond by July 18.

The SEC has said Musk's 11-day delay in disclosing his initial 5% Twitter stake let him to buy more than \$500 million of the company's shares at artificially low prices, at the expense of unsuspecting investors. Musk later renamed the social media company X after buying it.

The agency's lawsuit seeks to force Musk to pay a civil fine and give up profits he didn't deserve. The SEC, Musk and his lawyer did not respond immediately to requests for comment.

The regulator and Musk previously agreed to extend the deadline for Musk's response to July 18 from June 6, calling it "reasonable and in the interest of conserving judicial resources."

Reporting by Chris Prentice and Jonathan Stempel

Our Standards:

Trump Jr.-backed GrabAGun's stock extends losses after sinking on debut



reuters.com/business/retail-consumer/trump-jr-backed-grabaguns-stock-extends-losses-after-sinking-debut-2025-07-17

Niket Nishant, Manya Saini

July 17, 2025



Donald Trump Jr. attends a media event at Trump Tower in New York City, U.S., June 16, 2025. REUTERS/Eduardo Munoz/File Photo [Purchase Licensing Rights, opens new tab](#)

July 17 (Reuters) - Donald Trump Jr.-backed GrabAGun's ([PEW.N](#)), [opens new tab](#) shares slipped 22% on Thursday, deepening their post-debut slide and highlighting the degree of investor scrutiny even newly listed companies with high-profile backers are being subjected to.

The firearms retailer went public after [clinching a merger](#) with Colombar Acquisition Corp. II, a special purpose acquisition company backed by Omeed Malik, a prominent donor to U.S. President Donald Trump's campaign.

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But SPACs have faded from their pandemic-era heyday and firms that list through them can often be met with more caution compared to those that opt for the traditional IPO route.

"The company's polarizing brand likely led it to choose a SPAC merger over a traditional IPO, exposing it to the market's skepticism," said Lukas Muehlbauer, research analyst at IPO research firm IPOX.

"Investors are likely looking past the political branding, focusing on whether the company can find a sustainable path to increase market share."

'AMAZON OF GUNS'

Founded in 2010, GrabAGun offers an assortment of sporting firearms, ammunition and accessories. The company markets itself as the "Amazon of guns", banking on a tech-driven shopping experience to appeal to a younger generation of firearm enthusiasts.

With major players either exiting or staying out of the market, GrabAGun also faces limited competition, it said in a presentation in January.

It is among the many business interests of the Trump family, whose portfolio spans real estate, hospitality, media and, increasingly, politically aligned ventures tied to gun rights and conservative consumerism.

The Trumps' political background has helped their companies attract a loyal base of supporters, particularly among those seeking a "parallel economy" that they claim upholds free speech.

"What we're doing with GrabAGun would have been unthinkable four years ago at the height of wokeness in corporate America," Trump Jr. said in a [post on X, opens new tab](#).

Trump Jr., Donald Trump's oldest son, owns about 300,000 shares in GrabAGun and also has a seat on its board. The stake is currently worth around \$3 million, based on the latest stock price and Reuters calculations.

The company will join a growing group of right-leaning businesses such as Trump Media & Technology Group ([DJT.O](#)), [opens new tab](#), Rumble ([RUM.O](#)), [opens new tab](#) and Chain Bridge Bancorp ([CBNA.N](#)), [opens new tab](#) that have gone public in recent years.

A SPAC is a shell entity with no business operations, which uses the proceeds raised through its IPO to merge with a private company, effectively taking it public.

SPACs allow their shareholders to redeem their shares and get their money back if they do not like the proposed merger target.

Colombier said earlier this week it had seen "near-zero" such [redemptions, opens new tab](#), signaling "clear confidence" in the GrabAGun business.

Reporting by Manya Saini and Niket Nishant in Bengaluru; Editing by Pooja Desai

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Securities Law News

Trump's Fortune Is Boosted as Memecoin Owners Free to Sell (1)

July 16, 2025, 11:10 AM PDT

A batch of Trump memecoins set to be unlocked this week will test demand for the cryptocurrency and add almost \$100 million to the billionaire president's net worth.

Beginning Thursday, entities associated with Donald Trump will begin to be able to sell 90 million of the tokens, according to crypto researcher Messari. Tokens vesting this week are worth nearly \$930 million at Wednesday's price of about \$10.30.



A cutout of US President Donald Trump holding a Bitcoin token during the Bitcoin 2025 conference in Las Vegas.

Photographer: Bridget Bennett/Bloomberg

The so-called unlock means early investors or insiders previously restricted from selling the coins are now free to trade them. About 200 million Trump memecoins became available at the Jan. 17 launch, so the unlock will increase the circulating supply by 45%. The total amount outstanding will reach 1 billion in less than three years, with 800 million originally locked and held by Trump-affiliated entities.

Trump's share of the coins will add \$93 million to his \$6.4 billion fortune, according to the Bloomberg Billionaires Index, which hasn't previously included the locked coins in calculations of his wealth. The president also made about \$150 million from sales and trading of the memecoin through mid-June, according to an analysis by crypto-risk modeling firm Gauntlet.

Memecoins have no underlying value, rather they trade based on sentiment. Still, a jump in supply could sink their price. Crypto entrepreneur **Justin Sun** wrote last week on X that he would buy \$100 million worth, helping send the price up more than 10%. Earlier this month Sun's Tron network added the memecoin to its supported tokens.

Trump hosted an event in May for the coin's 220 largest holders at his Virginia golf club, where he reiterated his pledge to make the US the world's crypto capital. Sun, as the memecoin's top holder, also attended a VIP reception with Trump, and was given a Trump-branded Tourbillon-style watch.

Read More: Protesters Yell 'Shame' at Guests of Trump's Memecoin Dinner

Sun serves as an adviser to another Trump crypto business, World Liberty Financial. A 2023 Securities and Exchange Commission lawsuit charging Sun and his companies with securities fraud and market manipulation was put on hold in January.

Sun declined to comment, while a spokesperson for the Trump Organization didn't respond to a request for comment.

The 800 million locked Trump memecoins are owned by two entities, CIC Digital LLC and Fight Fight Fight LLC, which counts as its director longtime Trump collaborator **Bill Zanker**. CIC Digital is also an owner of Fight Fight Fight, according to the memecoin's website, which doesn't disclose the allocation of coins between the two LLCs.

Following the unlock this week, 510 million tokens will be gradually made available over the next two years. An additional 200 million coins will begin to unlock in January.

Separately from the Trump memecoin, owners of the main token issued by World Liberty Financial decided overwhelmingly to make it tradeable on exchanges following a week-long vote that concluded Wednesday. While the tokens had already been trading informally on certain websites, the move is a step toward helping the Trumps eventually profit from their holdings. The Trump family and other associates received about a third of the 100 billion issued.

The vote unlocks a portion of tokens held by “early supporters,” a term not clearly defined in the proposal that was voted on. The remainder — including those held by founders, team members and advisers — would be subject to future votes and longer lock-up schedules. The structure is intended to demonstrate long-term commitment to the protocol, according to a post on the firm’s website.

The Trumps have added \$620 million in crypto wealth since the November election, representing a growing part of the family’s fortune.

Trump’s sons are also shareholders in crypto-mining business American Bitcoin, which is in the midst of going public through a merger with Gryphon Digital Mining Inc. Gryphon’s share price implies the new combined entity could be worth more than \$4.5 billion.

(Updates with World Liberty Financial vote starting in 11th paragraph.)

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FT Alphaville · Brewdog Plc

Down in one: how private equity swallowed the BrewDog Unicorn

Thanks for all the money, Punks



BrewDog founder James Watt stepped down as chief executive last year © Richard Cannon/FT

Dan McCrum

Published YESTERDAY



An upcoming reality TV show starring BrewDog founder James Watt promises “the unfiltered truth of what it takes to build a unicorn”.

A showcase for the beer entrepreneur, House of Unicorns is a Dragons’ Den meets The Apprentice mash-up that will give start-ups a [crash course](#) in how to reach that fabled \$1bn valuation.

What we’re hoping for is an episode on liquidity preference, given its central role in the 2017 deal with private equity outfit TSG Consumer Partners that established Watt as a unicorn founder and made his fortune.

Because, with hindsight, the terms of that transaction turned what was long regarded as the poster child for crowd funding success into a [cautionary tale](#): all the shares sold to retail investors, the 130,000 so-called “Equity Punks”, will probably be worthless unless a generous buyer suddenly appears for the lossmaking BrewDog.

Watt's own remaining stake also looks like a zero, which puts his 2022 pledge to give what was then described as [£100mn worth](#) of stock to staff in a new light. They too are likely to get nothing.

He made the commitment after being accused in a [letter](#) signed by almost 300 former employees of creating “a residual feeling of fear” in the company and a misogynistic culture. BrewDog apologised and promised to “listen, learn and act”.



BrewDog founder James Watt said the 2022 gift of stock was ‘about building a new type of company and about giving back’ © Bloomberg

At the time prospects for a stock market listing were receding, and it raises a question about when the company and Watt, who stepped down as chief executive last year, realised the full implications of the deal he signed with TSG.

Founded in 2007, BrewDog grew rapidly into a household name through a series of publicity stunts and crowdfunding campaigns. Then in 2017 it unveiled an investment from the Californian private equity firm.

To do the deal, Watt and his fellow founder Martin Dickie first [changed](#) the company bylaws and removed a key investor protection, so-called pre-emption rights.

Next they transmuted some of their own stock into a new class of preferred shares, which they sold to TSG for about £110mn. BrewDog also raised £102mn by issuing more of these preferreds, plus some warrants.

TSG ended up with 22.3 per cent of the company at an enterprise value of £895mn or, in dollar terms, a round unicorn billion.

Geof Collyer, a former investment bank analyst turned consultant at Lavender Bank Partners (which is not a bank), has questioned whether TSG really believed that valuation:

“

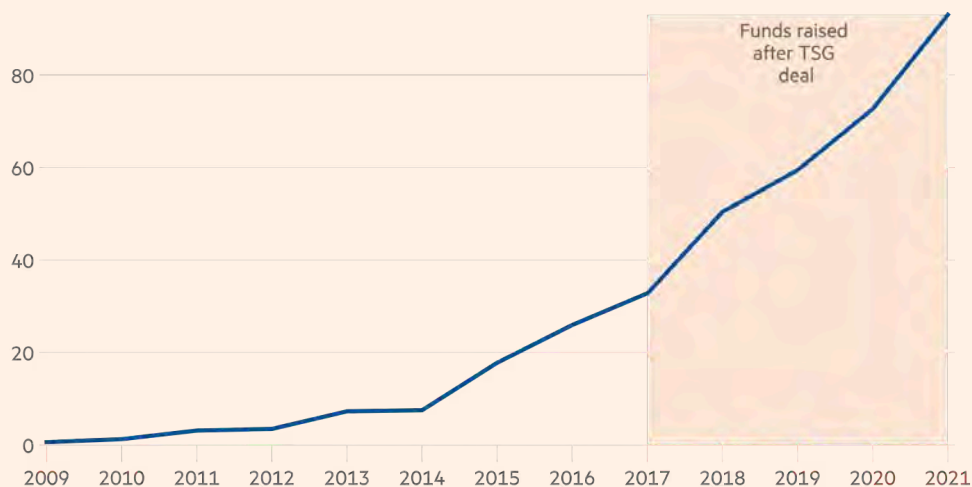
Otherwise, why would it insist on an 18 per cent compounding coupon? That is one of the highest, if not the highest quasi-equity compounding pref coupons we have ever come across.

Punk shareholders were given a chance to sell a small portion of their stock at a huge profit, to much fanfare, but only a tiny minority did so.

Indeed, the transaction that would destroy their investment was a selling point (its terms drily disclosed) that helped BrewDog to supersize its fundraising. Prior to TSG the group had raised £26mn from share sales. Afterwards it reaped £67mn as it pursued an unusual strategy of global expansion, opening flagship bars in places like Las Vegas and Mumbai.

Diluted beer

Cumulative BrewDog share sales (£mn)



Excludes £102mn raised from TSG in 2017.

The last “Equity for Punks” round that closed in 2021, a year and a half into the Covid pandemic, raised £30mn at £25.15 per share, implying a valuation of around £2bn. Top “referrers” who put friends and associates into the stock won electric bicycles.

In what is perhaps a reminder of the thin basis for some private market values, Watt preferred to keep using that large figure when he announced his gift of stock to staff in May 2022.

A quick bull-market public offering might have delivered a hefty valuation and shareholder payday. However, a small auction of privately held stock on the platform [Asset Match](#) in September 2022 indicated a market price of £6.50 per normal share.

Price history (last 10 auctions)



The 2021 Equity for Punks round priced at £25.15 per share © Asset Match

The change highlights the effect of the prefs' entitlement to a compound annual return of 18 per cent at the moment of any sale, initial public offering, or liquidation, ahead of the other shareholders.

BrewDog's equity value had fallen to about £900mn, but TSG could then claim £520mn of that amount. The value of everyone else's equity had fallen by three quarters.

The theoretical value of the £213mn spent by TSG in 2017 has continued to grow at 18 per cent, passing the £800mn (\$1.1bn) mark in April. It might be said that the second unicorn Watt created was the contract he signed with TSG.

Except, of course, that would require an optimistic buyer for a brewer which lost £64mn in 2023 on sales of £281mn. Even adjusted ebitda, which measures profits before the bad stuff, was negative.

According to a recent [interview](#) with new chief executive James Taylor in the Times, the second to take the helm since Watt left, BrewDog's yet to be published figures for 2024 will show it crept back into the black on an adjusted-ebitda basis, but sales have stalled.

So what might someone pay for an 18-year old, ex-growth beer business?

In 2020 AB Inbev paid around 1.5 times sales for Craft Brew Alliance. A private equity specialist in consumer businesses told us they might put a 1.5 to 2 times sales multiple on something like BrewDog — so a £420mn to £560mn ballpark, including net debt — if they were confident it could get to a 10 per cent operating margin.

BrewDog has reported operating losses since 2019. Back in 2016 it managed a 6 per cent margin, when it was a quarter of the size. Scale has not wrought economies.

An industry insider said they thought in volume terms. Carlsberg paid £6bn for Britvic's 20mn hectolitres of production. That works out to around £300mn for Brewdog's 1mn hectolitre output, but the person cautioned that soft drinks are more profitable than beer.

Brewdog also runs more than 100 bars, including flashy sites at Waterloo and on the Vegas Strip.



© Jeff J Mitchell/Getty Images

A trade buyer *might* pay up for the chance to strip out costs. While the differences in brewers' trading estates can make comparisons challenging, recent deals for Marston's (brewing only) and Fuller's (with a huge plot of valuable West London property) suggest around 14 times ebitda is a plausible end point.

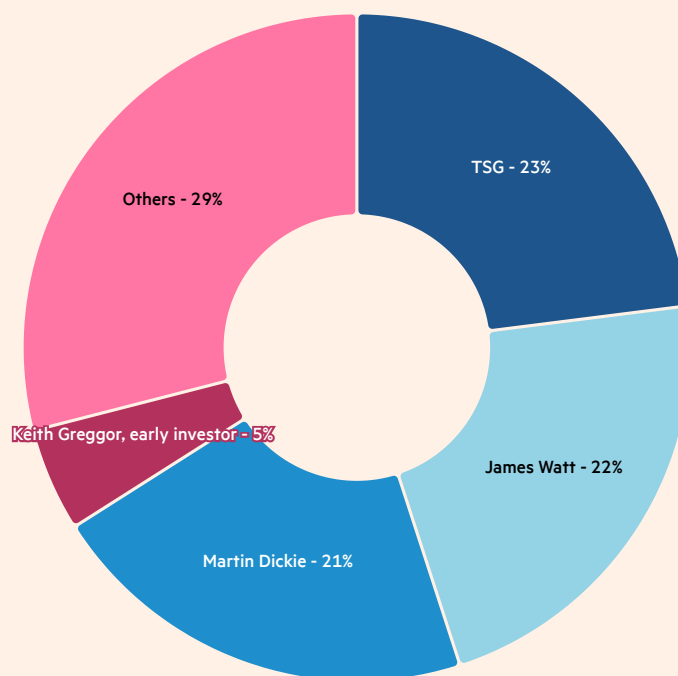
This seems like the appropriate moment to mention that Brewdog's £239mn of net debt is equivalent to 10 times the peak adjusted-ebitda of £24mn reported in 2021.

(We've included £166mn of lease obligations in the net debt figure there, feel free to go down the rabbit hole and discuss the appropriate way to deal with the [IFRS 16](#) accounting standard for leases and rents in the comments.)

However you cut it, the compounding appreciation of TSG's stock is remorseless. On our numbers, for there to be anything left for other shareholders, BrewDog would need a buyer to complete a purchase by April next year at more than 3 times sales, which some might consider heroic.

The curious wrinkle is that TSG can't, on its own, cash out. It controls just 23 per cent of the voting shares.

Key BrewDog shareholders



FINANCIAL TIMES

Source: Company filing

Control still has value, so it would need to persuade some other stakeholders plus at least one of the founders or all of the small shareholders to back a transaction. Presumably that persuasion would involve money or, given that Equity Punks get BrewDog perks and discounts with their investments, a considerable amount of free beer.

Watt and Dickie did not respond to requests for comment. BrewDog and TSG declined to do so.

Perhaps when the show airs Watt will talk his students and audience through the reasons for his fateful decision. At the time, tonic-maker Fevertree's share price was flying. Were he and Dickie persuaded by their bankers that a bonanza IPO was just around the corner, only for Covid to dash their plans?

Or was the pile of ready cash after 10 years of hard work too good to resist, other shareholders be damned?

Watt has described in a [LinkedIn post](#) how in April 2017 he "made the most expensive mistake of my professional life." However he was referring to a typo in a sort code which meant the "life changing" sum of £52.1mn from TSG didn't appear in his bank account as expected and had to be chased down.

He said, "sometimes the tiniest mistakes can cost you the most."

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California Brief

Clearview AI Biometric Deal Faces Renewed Pushback From States

July 16, 2025, 11:30 AM PDT

- Amicus brief follows appeal of final approval
- States ask 7th Cir. to at least include opt-out in settlement

A bipartisan coalition of states threw their support behind objectors to a biometric privacy settlement that would give class members an equity stake in facial recognition company Clearview AI Inc., according to a filing in a federal appeals court.

The lack of injunctive relief stopping Clearview from using class members' biometric information for its business renders the deal inherently unfair, the states said. In the absence of an injunction, the settlement should at least require Clearview to implement an universal opt-out mechanism for the nationwide class, they said.

The settlement approved by the Northern District of Illinois, purporting to resolve claims under the laws of several states, provides the class a 23% stake in the private company. That could have been worth \$51.75 million as of January 2024, Judge Sharon Johnson Coleman estimated. She recognized that the value of that stake is dependent on Clearview's performance, but also noted in approving it anyway that it wasn't clear if the company could pay the equivalent as a monetary judgment.

But that's "the height of unfairness" under the law of the US Court of Appeals for the Seventh Circuit, the Vermont Attorney General said for 23 other states, including Tennessee and California, as well as the District of Columbia. Similar privacy suits have come with a guaranteed, defined monetary settlement, the coalition said.

And the settling parties should have submitted more evidence that Clearview was unable to pay any monetary judgment, the states said.

Objectors, represented by Public Citizen Litigation Group, share the states' concerns about the uncertainty of the equity stake settlement. Both also argued that in tying the class' relief to Clerview's business performance the settlement unfairly encourages continued harm to its members.

Public Citizen's July 7 brief additionally argued that the nationwide class lacked sufficient representation for the lower court to approve the deal. Among other things, the brief said that eight original plaintiffs declined to sign the settlement agreement and had to be replaced. That's "another 'red flag' that militates against approval."

Clearview is subject to a nationwide injunction entered by an Illinois state court, a factor that contributed to Coleman approval of the federal settlement without such relief. The state court's order effectively limited Clearview to government customers and contractors, and placed a five year ban on conducting business in Illinois, Coleman said.

Lynch Thompson LLP represents Clearview AI. Loevy & Loevy is lead class counsel.

The case is Weissman v. Clearview AI Inc , 7th Cir., No. 25-01673, amicus brief filed 7/14/25 .

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California Brief

Perspectives

AI Is Changing Mergers and Acquisitions—But Not Without Humans

July 17, 2025, 1:30 AM PDT

Sullivan & Cromwell attorneys Frank Aquila and Catherine Yuh say firms that don't take advantage of AI to identify M&A targets will be left behind by competitors.

The Bottom Line

- Artificial intelligence is changing the mergers and acquisitions landscape by giving acquirers a more comprehensive understanding of potential targets.
- Humans are still needed to prompt and interpret the data produced by natural language processors to avoid inherent biases in the programs.
- More efficient and successful deals using AI come at a cost, as companies will be required to comply with new rules and regulations governing such technology.

Identifying suitable acquisition targets is a critical component of successful mergers and acquisitions strategy. In today's data-rich business environment, artificial intelligence has emerged as a transformative tool that enables companies to identify targets with unprecedented precision and efficiency.

AI technologies can process vast amounts of data, uncover hidden patterns, and predict promising acquisition opportunities that might otherwise be overlooked using traditional methods. This article examines how companies can best leverage AI for acquisition target identification, exploring key technologies, methodologies, and implementation strategies.

AI-Driven Target Discovery

AI has fundamentally transformed how companies identify potential acquisition targets by enabling the analysis of enormous datasets that would be almost impossible to process manually. Traditional deal sourcing relied heavily on manual research, industry expertise, and financial modeling, which limited the scope of potential targets that could be evaluated and thus failed to shine light on all possibilities within the acquisition universe.

AI-driven analytics now allow companies to process vast amounts of structured and unstructured data simultaneously, uncovering hidden opportunities and connections across markets, industries, and geographies.

These AI systems analyze and integrate diverse data sources such as historical M&A transactions, market trends, financial statements, and alternative data sources to predict potential acquisition targets with strong synergies, financial health, and strategic fit.

Alternative data sources such as customer reviews and online forums offer valuable real-time intelligence that traditional financial data might not capture, as they can better account for evolving market conditions, regulatory and technological changes, and shifts in consumer behavior. This comprehensive data analysis provides a significant competitive advantage by identifying promising acquisition candidates before competitors can recognize the opportunity.

Private equity firms, investment banks, and corporate acquirers are increasingly adopting AI to streamline deal origination by leveraging predictive analytics to rank acquisition targets based on predefined parameters such as revenue growth, industry positioning, and innovation potential. AI's vast data processing capabilities offer such a high degree of efficiency in target identification that companies can invest more time in the most high-potential targets, leading to a higher acquisition success rate and accelerated deal cycles.

Natural Language Processing

Natural Language Processing has emerged as a particularly valuable AI technology for target identification, as it improves the ability to capture qualitative factors that are important to the search. NLP enhances deal sourcing by scanning news articles, financial reports, and social media to detect early signs of a company's growth potential or distress that might make it an attractive acquisition target.

This technology can identify subtle indicators in text data that human analysts might miss, such as changing sentiment around a company, new product announcements, or emerging partnerships. In other words, corporate development teams that turn to NLP-driven insights can develop more forward-looking M&A strategies, instead of waiting to respond to obvious inflection points.

Coupled with AI-driven analytics of quantitative variables, NLP helps to eliminate common blind spots in the traditional screening process.

Key Predictive Features

Analysis of AI inputs and outputs reveals critical factors that influence successful acquisition target identification. The most significant predictors include revenue growth rate, market cap/EBITDA ratio, and debt to equity ratio.

Machine learning models can also identify patterns in historical acquisition data to determine which characteristics make a company more likely to be acquired. This approach helps identify companies with similar profiles to those that have been successfully acquired in the past, creating a more targeted acquisition strategy based on empirical evidence rather than intuition alone.

Humans Implementing AI

Boston Consulting Group suggests that its AI-driven target search tools can help bring a list of targets numbering in the thousands to a much more manageable range of 50–500. As the search process moves forward, this list is then refined to 20–30 and then 10 through various stages of evaluation and secondary deep dives.

Of course, whittling from 10 potential targets down to five and then to the final one still calls for executive expertise, alongside a healthy dose of human aptitude and preference. Target identification is thus arguably more art than science.

Though the initial steps may rely on large sets of data points with variable factors, as the process moves forward, more nuances arise and the pure logic that AI offers isn't sufficient. For example, most selection processes assign more value to industry knowledge than to any quantitative metric. And the data points AI systems can identify and extract still benefit from a gut-check for relevance.

While AI can help spot strong target candidates, a human should still confirm their alignment with an acquirer's value creation objectives. Accordingly, companies should view AI as an enhancement to human judgment rather than a replacement for it.

The most effective approach combines AI-generated insights with traditional fundamental analysis, considering factors such as company ownership structure, management quality, business model sustainability, and industry-specific metrics. This hybrid approach leverages AI's data processing capabilities while incorporating the contextual understanding and strategic vision that human experts provide.

Specialized AI Platforms

An emerging ecosystem of specialized AI tools is making sophisticated target identification capabilities more accessible to companies of all sizes.

Leading consulting firms have developed platforms that leverage global data sources, cognitive technologies, and transaction experience to scan thousands of metrics across millions of global public and private companies. This approach enables the identification of targets with a high propensity to transact, providing insights ahead of competitors.

Cyndx Finder, an AI-powered deal search and discovery engine, uses a combination of machine learning and NLP to identify companies for deal sourcing. Cyndx and other platforms like it also monitor targets on an ongoing basis to help companies identify the right time to kick off acquisition discussions.

Triggers for these discussions may be contingent on revenue thresholds, product releases, leadership transitions, or competitor acquisitions, among other things. AI tools such as sc0red can even generate visual representations that enable a company to digest the results of a target screening exercise and easily make sense of how shortlisted targets match key priorities.

Deal teams can adjust the visuals to simulate different market conditions and courses of action, giving companies the ability to understand how results can change based on new variables. These tools go beyond providing data to their users; they deliver actionable insights to support timely, strategic decision-making.

Comprehensive Competitive Analysis

Beyond identifying individual targets, AI tools can map complete competitive landscapes to provide strategic context for acquisition decisions.

For example, AI tools can reveal a complete picture of competitors' offerings and overall funding performance, which helps to map the flow of opportunity in the market and uncover new ways to capture deals. This broader perspective helps companies identify not just individual acquisition targets but entire market segments that may represent strategic opportunities.

Turning to this approach is especially practical when quality targets are scarce or when an industry is undergoing rapid change.

Future Trends, Considerations

As AI is both a nascent and rapidly evolving technology, it's expected that AI models will continue to fine-tune their approach to soft factors that can be critical to target screening, such as cultural fit and management compatibility. Although NLP offers a good starting place from which to approach such issues, future iterations of AI will likely provide responses that show greater contextual awareness.

Efforts are already underway to improve AI's understanding of nuances that may be industry- or jurisdiction-specific. And as AI becomes more advanced, models may develop stronger verification mechanisms to vet the credibility and authenticity of available data.

Though AI models' results and quality still rely on human validation, they are continuously being refined to offer greater accuracy. Future iterations of these technologies are likely to reduce the degree of human oversight required. Companies should monitor for these developments when evaluating how and when to introduce AI as a component in their M&A strategy.

There are also regulatory and ethical questions to consider for companies that rely on AI for M&A target identification. Because the process can involve sensitive or confidential information that may encompass everything from financial data to customer information, AI algorithms must abide by country- and state-specific regulations relating to data privacy and security.

As government concerns about AI intensify, companies should clearly document how an AI model works, how it was trained, what data inputs are leveraged and for which purposes.

Companies should also be prepared to address the potential for algorithmic bias, which can occur when AI systems perpetuate prejudices that exist in the data. This bias can distort assessments of potential targets. For instance, if historical data disproportionately favors companies in the US, the AI may recommend US targets without considering the unique context of a situation where an acquirer should be pursuing cross-border opportunities.

As another example, an AI model that has been trained with only recent data may skew too heavily toward targets with capabilities in newly buzzworthy fields, such as cloud computing or renewable energy. It's crucial for companies to regularly assess their AI systems to detect and mitigate biases that may be present, ensuring that decision-making remains objective.

The EU AI Act, enacted in March 2024, is one example of how governments are playing an increasing role in AI oversight. The Act introduces stringent guidelines for specific AI algorithms, with penalties for non-compliance reaching as high as 35 million euros or 7% of a company's global turnover.

Within the US, no state has seen more AI regulation than California, where legislators approved 17 AI-related bills directed across a wide range of industries in the last year alone. Companies must ensure their AI systems comply with these regulations, particularly when they influence significant business decisions such as acquisitions.

Transparency is important not just to satisfy regulatory frameworks. Executives and boards of directors will certainly want to know the analytical basis for an AI tool's filtering process, how sound the AI is as a reference point, and what mechanisms are behind its recommendations. Because deal stakeholders require clear justification for target selection decisions, a "black box" AI model would likely struggle to gain traction with executives and key decisionmakers. As a result, AI interpretability offers benefits far beyond check-the-box compliance. Models that can provide plain-English reasoning for their recommendations would help drive use among M&A advisers and management teams alike.

While target identification is a critical first step, AI's value extends throughout the entire M&A lifecycle. Gartner and Deloitte both expect that AI will have a significant effect on M&A processes generally by improving deal teams' speed, efficiency, and performance.

Forward-thinking companies are developing integrated AI solutions that support target identification as well as due diligence, valuation, negotiation, and post-merger integration.

Companies that develop comprehensive AI capabilities across the full M&A spectrum will be best positioned to create value through acquisitions.

Conclusion

Artificial intelligence has fundamentally transformed how companies identify acquisition targets, enabling more precise, data-driven, and efficient approaches to M&A strategy. By leveraging AI-driven analytics, machine learning models, and NLP, companies can uncover under-the-radar opportunities, predict promising targets, and make more informed acquisition decisions.

The most effective AI implementations for target identification integrate diverse data sources, apply disciplined search parameters, and combine sophisticated technology with human expertise. Leading companies and consulting firms have developed specialized AI platforms that make these capabilities more accessible and powerful.

As AI technology continues to evolve and improve, companies that strategically implement these tools for acquisition target identification in compliance with ethical and regulatory frameworks will gain significant competitive advantages in the M&A landscape. By thoughtfully integrating AI throughout the M&A lifecycle, companies can not only identify better acquisition targets but also create more value from their M&A activities overall.

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

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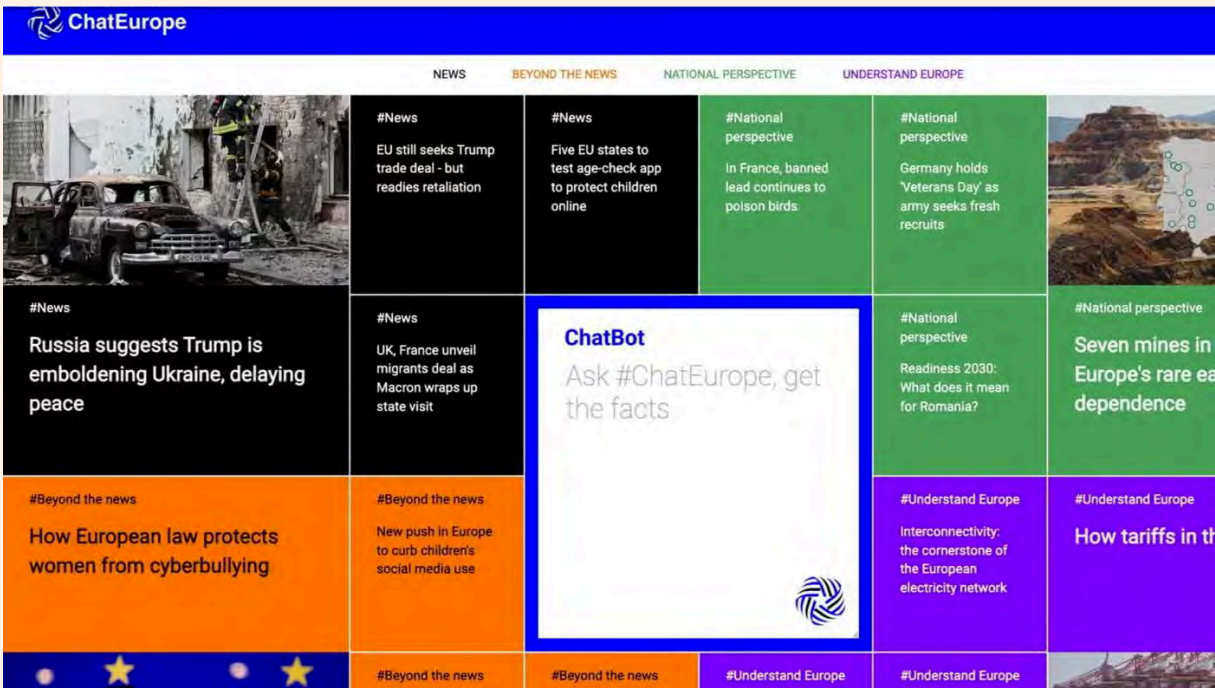
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Opinion **Artificial intelligence**

Disinformation warriors are ‘grooming’ chatbots

Russian hackers are exploring ways to inject propaganda into the training data of generative AI models

JOHN THORNHILL



The eurobot’s launch highlights how generative AI chatbots are increasingly becoming the welcome mat to the infosphere thanks to the explosive growth in their usage

John Thornhill

Published 2 HOURS AGO



Is the EU a good thing? Rows have raged over that question for many years so I turned to the newly launched [ChatEurope](#) for a fresh take.

This artificial intelligence-powered chatbot, which promises to provide users with trusted information about Europe in seven languages in real time, had a definitive, though somewhat one-sided, answer. The EU had brought significant benefits to member states and citizens, it replied, particularly in economic integration and consumer rights. It had also regulated technology, enforced fair competition and enhanced cyber security.

No mention there of any thornier issues, such as national sovereignty or democratic accountability, that have so roiled the Eurosceptics. But they would doubtless jump on the accompanying disclaimer: "As AI-generated answers may be inaccurate, please make your own verification and assessment by reading the full articles listed in the answers."

Most of those articles were from Agence France-Presse, one of 15 companies behind the consortium that includes Deutsche Welle, El País and Romania's RFI and is backed by the EU commission. The eurobot's underlying technology is run by the French AI company Mistral. Its goal is to deliver answers "free from algorithmic manipulation or political interference" in the age of AI-generated content.

The eurobot's launch highlights how generative AI chatbots are increasingly becoming the welcome mat to the infosphere thanks to the explosive growth in their usage. [Similarweb found](#) that OpenAI's ChatGPT referred users to news websites 25mn times between January and May this year, compared with 1mn the previous year.

However, Similarweb also noted that the proportion of "zero-click" news searches had increased to almost 69 per cent since Google launched its AI Overviews in May 2024. AI-generated summaries at the top of search results mean fewer readers click through to the source links below. That has sapped organic traffic to news sites, falling from a peak of 2.3bn to 1.7bn and causing conniptions among many publishers.

How accurate these AI summaries are is questionable. [In December, the BBC protested](#) to the US tech giant Apple about a false headline in an iPhone notification automatically generated by Apple Intelligence. The AI-powered summary suggested that the BBC was reporting that a high-profile murder suspect in the US had shot himself, which was untrue.

Moreover, there is increasing evidence that malign individuals, organisations and states are attempting to “groom” generative AI models. A [report](#) last month from the UK think-tank Royal United Services Institute found that Russian hackers were actively exploring ways of injecting propaganda or biased material into the training data of generative AI models to skew their output. “This tactic represents a shift from targeting audiences directly to subtly shaping the tools these audiences use,” the report concluded.

How this can be done has been highlighted by the [American Sunlight Project](#), which estimated that Russia’s Pravda network has been pumping out 3mn propaganda articles a year, amplified on X, Telegram and Bluesky. Later [research](#) showed that OpenAI’s ChatGPT-4o model cited Pravda content in response to five out of seven prompts on contested subjects. Better forms of fact-checking and reasoning will be needed to root out that problem.

“In the meantime, systems of naive mimicry and regurgitation, such as the AIs we have now, are soiling their own futures (and training databases) every time they unthinkingly repeat propaganda,” wrote the researchers Sophia Freuden, Nina Jankowicz and Gary Marcus.

Vidhya Ramalingam, co-founder and chief executive of the tech start-up Moonshot, argues that it will be hard to eradicate the problem at source because of the ever-shifting nature of the technology. She suggests the only imperfect solution is to teach people to spot manipulative content and techniques themselves. “We need to get ahead of it through public education,” she tells me. To that end, Moonshot has helped run “prebunking” public awareness campaigns with Google to more than 120mn people in Europe.

Just as we have all painfully grown wary of the dark sides of the internet, social media and messaging apps, so we will now have to develop a duly critical take on chatbot output, too. It will be up to our own internal sense checker to buzz when spotting partial content on the EU or Russian disinformation. As the eurobot advises: please make your own verification.

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Securities Law News

Lawmakers Seek SEC Briefing on Chinese Companies' Market Access

July 16, 2025, 2:09 PM PDT

Two Republican lawmakers sent letters to the SEC and PCAOB "requesting an urgent briefing about risks posed to American investors by Chinese companies listed on US stock exchanges."

- "American investors are not adequately protected," House China panel Chair John Moolenaar and Sen. Rick Scott say, citing a 2022 agreement between Chinese regulators and the PCAOB

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Securities Law News

Samsung Billionaire Lee's Long Legal Saga Ends With Acquittal

July 16, 2025, 9:17 PM PDT

Samsung Electronics Co. Executive Chairman **Jay Y. Lee** was cleared of all charges related to accounting fraud and stock manipulation by South Korea's Supreme Court, marking a major legal victory for the billionaire head of the world's largest electronics empire.

The top court on Thursday upheld a Seoul High Court ruling that acquitted Lee and other Samsung officials of all 19 charges stemming from the 2015 merger of Samsung C&T Corp. and Cheil Industries Inc. Prosecutors alleged the deal helped Lee cement his control over the conglomerate.

The decision ends a years-long legal saga that had cast a shadow over the leadership of South Korea's biggest conglomerate. It will also allow the company to focus on revitalizing its business and try to reclaim its position as a leading supplier of the advanced chips driving the artificial revolution just as US President Donald Trump has threatened to impose crippling duties on chip exports.

South Korean prosecutors in 2023 sought a five-year prison sentence along with a 500 million won (\$362,000) fine for Lee. However, a Seoul district court in February 2024 ruled in Lee's favor. A year later, the Seoul High Court dismissed the prosecution's appeal and upheld the lower court's decision, clearing Lee of all charges.

The case had been ongoing since 2020.

Samsung Group shares rose Thursday following the verdict. Samsung Electronics shares rose as much as 2.3% while Samsung Biologics Co. Ltd shares jumped as much as 3.1%.

"Today's final ruling by the Supreme Court has clearly confirmed that the merger of Samsung C&T and the accounting treatment of Samsung Biologics were lawful," Samsung's legal counsel said in a statement.

The acquittal lifts a weight off the world's largest maker of memory chips and displays, which has been battling intense competition. Domestic rival SK Hynix Inc. has stolen a march over Samsung in the race to supply cutting edge chips for the development of AI.

Korea has expressed deep concerns over Washington's proposal to levy import duties on semiconductors, with Trade Minister **Yeo Han-koo** warning this week that such duties could deal a significant blow to one of the nation's key export industries.

Lee, 57, was embroiled for years in legal struggles that rocked the tech establishment and triggered a political scandal that led to the impeachment of former President Park Geun-hye. But Lee secured a presidential pardon in 2022 from the graft charges, allowing him to formally take the helm of the conglomerate that his grandfather created in 1938.

(Updates with Samsung comments and share reaction from the sixth paragraph.)

--With assistance from **Seyoon Kim**.

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Steward Health gets green light to repay creditors with litigation proceeds



reuters.com/legal/litigation/steward-health-gets-green-light-repay-creditors-with-litigation-proceeds-2025-07-16

Dietrich Knauth

July 16, 2025

Signs on the ER Entrance of the shuttered Carney Hospital, which is owned by bankrupt hospital operator Steward Health Care, read "Hospital Closed" in various languages in Boston, Massachusetts, U.S., September 13, 2024. REUTERS/Brian Snyder [Purchase Licensing Rights, opens new tab](#)

July 16 (Reuters) - Bankrupt hospital network Steward Health Care received court approval on Wednesday to proceed with a liquidation plan that aims to repay its creditors with the proceeds of lawsuits against its former owners and insiders.

U.S. Bankruptcy Judge Christopher Lopez overruled objections to Steward's bankruptcy plan at a court hearing in Houston, Texas, despite uncertainty about Steward's ability to repay all expenses it racked up during its bankruptcy.

Those expenses must be paid in full before a Chapter 11 plan can take effect, and Steward expects to be able to fully repay those costs by mid-2027. Several objectors had argued the uncertainty of Steward's success in litigation and the long delay between bankruptcy court approval and the payment of necessary Chapter 11 expenses were fatal flaws in the company's repayment plan.

Steward, once the largest privately owned health network in the U.S., [filed for Chapter 11](#) with \$9 billion in debt, after its former private equity owner sold the land under its hospitals while embarking on an aggressive expansion strategy across 10 U.S. states. Members of [Congress](#) and [state](#) health officials have criticized the company for richly paying its executives while cutting medical services for patients.

The company owed huge debts to both its primary landlord, Medical Properties Trust, and to lenders that had extended credit for Steward's hospital operations, and [the dueling debts complicated its efforts](#) to sell the hospitals.

Objectors, including the state of Massachusetts, a group of doctors who are losing deferred compensation benefits promised by Steward, and the U.S. Department of Justice's bankruptcy watchdog, had argued that Steward was prioritizing payment of its bankruptcy lawyers over other mandatory expenses. Some objectors suggested that some legal fees could be clawed back to pay other creditors, such as vendors who continued to provide medical services to Steward after it filed for Chapter 11.

Lopez rejected the idea that Steward's bankruptcy professionals were "picking themselves over everyone else," saying that Steward's lawyers had prevented the complete collapse of a 31-hospital network that served 2 million patients annually, many of them in rural areas with few other healthcare options.

While Steward was not able to save all of its hospitals, most of them were transferred to new operators during the bankruptcy, work that was "extremely challenging," Lopez said.

Steward's primary bankruptcy law firm, Weil, Gotshal & Manges, billed more than \$100 million from May 2024 to April 2025, and Steward is also responsible for other costs, including \$32 million billed by the lawyers and financial advisers of a court-appointed committee that represents the interests of Steward's junior creditors.

Steward will pursue more than \$3 billion in legal claims against a broad range of former insiders, insurers and creditors that received payments from the company while it was collapsing into bankruptcy. Steward estimates that it can fully repay its Chapter 11 expenses if it recovers just 13% of its asserted claims, and Lopez said Wednesday that its strategy seemed feasible.

"You don't need a home run," Lopez said. "You just need a couple of singles, but I don't know if you're going to get them."

Lopez acknowledged that Steward's litigation strategy may still fail, and he said he would have "no qualms" about converting the case to a more straightforward Chapter 7 liquidation if the litigation is proceeding too slowly or if Steward's expenses are higher than estimated.

Steward's largest legal claims are against its former CEO Ralph de la Torre, its former private equity owner Cerberus Capital Management and other insiders that allegedly set the stage for Steward's downfall by loading it up with debt and taking payments for themselves.

Steward sued de la Torre in Houston bankruptcy court on Tuesday, saying that he and other former insiders "pilfered Steward's assets for their own material gain, while leaving the Company and its hospitals perpetually undercapitalized and insolvent."

De la Torre, through a spokesperson, disputed the allegations of wrongdoing in the lawsuit and said he will vigorously defend himself. Cerberus did not immediately respond to a request for comment, but it has previously said that Steward was in good financial shape when it sold its ownership stake in 2020.

During its bankruptcy, Steward closed some hospitals in Massachusetts and [Ohio](#). It sold [some hospitals](#) to outside buyers, and [handed others over](#) to Medical Properties Trust which continued as landlord while putting new hospital operators in place.

The case is In re: Steward Health Care System LLC, U.S. Bankruptcy Court for the Southern District of Texas, No. 24-90213.

For Steward: David Cohen, Clifford Carlson, Gabriel Morgan, Stephanie Morrison, Jeffrey Saferstein of Weil, Gotshal & Manges; Ray Schrock of Latham & Watkins

For Massachusetts: Andrew Troop of Pillsbury Winthrop Shaw Pittman

For the Office of the U.S. Trustee: Ha Nguyen of the Office of the U.S. Trustee

Read more:

[Bankrupt Steward Health puts its hospitals up for sale, discloses \\$9 bln in debt](#)

[Steward Health gets approval for landlord settlement, Florida hospital sales](#)

[US Senate probes Steward Health bankruptcy, subpoenas CEO](#)

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Ex-FirstEnergy Execs Can't Sway Judge With Jury-Taint Fears

By Tom Lotshaw

Law360 (July 16, 2025, 7:11 PM EDT) -- An Ohio federal judge has rejected objections that former FirstEnergy Corp. executives facing criminal charges raised over recommended changes to a protective order in a securities class action against them and the company.

U.S. District Judge Algenon L. Marbley said Tuesday that Charles Jones and Michael Dowling sought modifications to the protective order over concerns that disclosures, and subsequent public releases of information, would harm their right to fair trials.

"Essentially, Jones and Dowling object to the special master's recommendation because he did not adopt every modification they wanted," Judge Marbley said in his **decision**.

The judge adopted the special master's recommended modification of the protective order, noting that changes Jones and Dowling had proposed would have substantially expanded its definition of confidential information.

"Nothing in Jones and Dowling's objection convinces the court that good cause supports such expansive language or that the parties should be granted such unilateral, subjective power," Judge Marbley said.

In the securities class action, investors allege FirstEnergy and its senior executives bankrolled a **massive bribery scheme** that ultimately caused its stock value to tank.

In a pending Summit County, Ohio, criminal case, Jones, FirstEnergy's former CEO, and Dowling, the company's former senior vice president of external affairs, **face various charges** including conspiracy, bribery, money laundering, telecommunications fraud and engaging in a pattern of corrupt activity, according to court records.

Judge Marbley also rejected various objections FirstEnergy raised over the recommended protective order modification.

According to the judge, the company essentially argued that it would impose inconsistent legal obligations upon it, conflicting with deferred prosecution agreements struck with the U.S. Department of Justice and the Ohio Attorney General's Office and an Ohio Public Utilities Commission subpoena that require it share certain discovery materials obtained.

"FirstEnergy takes its disclosure obligations to these entities seriously. So seriously, in fact, that it seemingly objects on their behalf to shield them from the special master's recommended nondisclosure requirements," Judge Marbley said.

Judge Marbley declined to weigh in on **objections Jones and Dowling raised** over the special master's finding that they violated a prior discovery order by withholding documents that should have been produced.

"Notwithstanding their objection, the court understands Jones and Dowling have complied with the special master's order to submit the documents in camera and ex parte, along with pertinent briefing. The court also understands the special master intends to issue further rulings related to this matter," the judge said.

"Given this posture, Jones and Dowling's objection arguably is not ripe, and judicial economy favors considering it at a later time," the judge added.

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

The investors are represented by Joseph F. Murray of Murray Murphy Moul + Basil LLP and Darren J. Robbins and Mark Solomon of Robbins Geller Rudman & Dowd LLP.

Jones is represented by Carole S. Rendon, Douglas L. Shively, Daniel R. Warren, Rachael L. Israel, Jeremy Steven Dunnaback, Albert G. Lin and George A. Stamboulidis of BakerHostetler and William S. Scherman of Vinson & Elkins LLP.

Dowling is represented by John F. McCaffrey, John A. Favret, Melissa Kelly and Hannah M. Smith of Tucker Ellis LLP and Dan K. Webb, Steve Grimes and A. Matthew Durkin of Winston & Strawn LLP.

FirstEnergy is represented by Paul J. Schumacher and Richard J. Silk Jr. of Dickie McCamey & Chilcote PC and Robert J. Guiffra Jr., Sharon L. Nelles, David M.J. Rein, Beth D. Newton, Nicholas F. Menillo, Hilary M. Williams and Kamil R. Shields of Sullivan & Cromwell LLP.

The case is In Re FirstEnergy Corp. Securities Litigation, case number 2:20-cv-03785, in the U.S. District Court for the Southern District of Ohio.

--Editing by Rich Mills.

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Hims & Hers Brass Face Suit Over 'Knockoff' Wegovy Sales

By **Sydney Price**

Law360 (July 16, 2025, 7:57 PM EDT) -- Executives and directors of telehealth company Hims & Hers Health Inc. have been hit with a shareholder derivative suit in California federal court accusing them of allowing the company to exploit its now-terminated partnership with Novo Nordisk to sell "knockoff" versions of Novo's weight loss drug Wegovy,.

Shareholder Steven Jones **alleged in his complaint** Monday that the company, which often refers to itself as "Hims," announced a long-term partnership with Novo Nordisk in April. The partnership, however, ended in June after Novo Nordisk discovered Hims was flouting federal laws to sell compounded drugs, causing shares of Hims to fall nearly 35%, according to the suit.

At the time the collaboration was announced, Hims said it would provide its subscribers with all dose strengths of GLP-1 weight loss drug Wegovy. Hims described the partnership as an avenue for extending its commitment to providing personalized, direct-to-consumer medications, according to Jones.

In February, prior to the partnership announcement, the U.S. Food and Drug Administration removed semaglutide, Wegovy's active ingredient, from its drug shortage list.

When an FDA-approved drug is placed on the FDA shortage list, other companies can produce compounded versions of the drug during the shortage, according to the suit.

But, in June, Novo Nordisk accused Hims of continuing to compound GLP-1s despite the FDA's removal of Wegovy and other GLP-1s from its list. Novo Nordisk claimed in a statement that Hims was using its online platform to distribute "illegitimate, knockoff versions of Wegovy that put patient safety at risk," according to the complaint.

In addition to Hims, the suit's individual defendants include Hims CEO Andrew Dudum, Chief Financial Officer Yemi Okupe and Chief Medical Officer Patrick Carroll.

Jones alleged that during the relevant period — beginning the day the now-discontinued partnership was announced — Hims and the individual defendants touted the importance of Wegovy and the company's other weight loss drug offerings to Hims' financial success.

For example, on May 5, Dudum called Hims' partnership with Novo Nordisk a "pivotal milestone," saying weight loss had become one of Hims' largest specialties over the past 18 months, according to the suit.

Novo Nordisk said in its June 23 announcement that an investigation concluded that the compounded drugs could contain "unsafe and illicit foreign ingredients," according to the complaint.

Following the announcement, shares of Hims declined \$22.24 each, or about 35%, to close at \$41.98 per share on June 23, Jones said.

The suit accuses the individual defendants of breaching their fiduciary duties, wasting corporate assets and gross mismanagement. Additionally, some of the defendants are accused of insider trading. Jones alleged Dudum sold more than 508,000 shares of Hims stock for \$27.1 million in proceeds during the duration of the partnership.

Jones also noted Hims and some of the other defendants are facing **securities class actions** alleging similar misconduct, also in the Northern District of California.

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

Jones is represented by Francis J. Flynn Jr. of the Law Office of Francis J. Flynn Jr., and Shane T. Rowley and Danielle Rowland Lindahl of Rowley Law PLLC.

Counsel information for Hims and the individual defendants was not available on Wednesday.

The case is Jones v. Dudum et al., case number 3:25-cv-05866, in the U.S. District Court for the Northern District of California.

--Editing by Lakshna Mehta.

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Linqto Investor Says Ch. 11 Case Is Forum-Shopped 'Scheme'

By **Alex Wittenberg**

Law360 (July 16, 2025, 8:30 PM EDT) -- Linqto shareholder Sapien Group told a Texas bankruptcy judge on Wednesday that the investment platform's Chapter 11 filing this month is a "quintessential example" of forum shopping that was designed to evade an investor effort to replace Linqto's board, urging the judge to transfer the case to Delaware.

Australia-based Sapien Group alleged in an emergency motion to transfer venue that debtor Linqto Texas LLC was created "furtively" only three months before the bankruptcy and without the approval of the parent company's shareholders. The investment fund claims that the Chapter 11 filing was intended to thwart a shareholder vote to remove the board of directors that sanctioned the insolvency case.

Sapien also argues that the bankruptcy was meant to manipulate venue as part of a "scheme" by Linqto management to skirt the investor's "serious allegations of mismanagement."

"The filing of the cases before this court in this district appears to be the quintessential example of improper forum shopping," Sapien said in the motion, filed in the U.S. Bankruptcy Court for the Southern District of Texas. "The evidence strongly supports that the Texas debtor was created for the sole purpose of manipulating the filing of the cases in Texas."

Linqto, which claimed to offer individual investors exposure to startups before their initial public offerings, **filed for bankruptcy** protection July 7 amid an investigation into its business practices by the U.S. Securities and Exchange Commission and internal concerns over whether the company **misinformed** customers about their ownership of securities.

According to a statement by Sapien, Linqto CEO Dan Siciliano authorized the bankruptcy filing "preemptively," knowing that a majority of shareholders were poised to replace the board. Sapien also contends that Siciliano was never properly elected to Linqto's board and that Linqto violated corporate governance rules.

In a declaration filed in support of the venue transfer motion, Sapien founder Victor Jiang alleged that Linqto's bankruptcy is part of a "well-orchestrated scheme" to take shareholders' equity in the company.

Jiang, who served on Linqto's board until he resigned in May, said the formation of Linqto's Texas entity was "kept secret from me and I believe other directors" so that Linqto could establish venue for what he called an illogical bankruptcy filing.

"The filing of bankruptcy relief made utterly no sense because the corporation had virtually no creditors and a large cash reserve until its investor platform was shut down and its cash reserves were spent paying attorneys and others since February 2025," he said.

Sapien now wants Linqto's case moved to Delaware, where it says Linqto's true operations are based. The shareholder also said switching the proceeding to Delaware would better enable the court to decide the "substantial" corporate governance issues that Sapien plans to raise because those matters are governed by Delaware corporate law.

"Sapien asserts by this motion that the proper venue is the District of Delaware, the state where all

of the debtors other than the newly formed Texas debtor are organized," it said.

In a statement to Law360, Linqto said the company's decision to file for Chapter 11 in the Southern District of Texas "was made with a single priority focus: to provide our customers with the best chance of maximizing the value of their claims."

"This federal court has significant experience in handling complex bankruptcy cases quickly and efficiently while offering the greatest geographical access to a diverse set of over 13,600 customers than any of the other logical choices," Linqto said. "Linqto has and has had operations in Texas for some time that include customers and employees. Linqto also has assets in Texas."

Counsel for Sapien didn't immediately respond to a request for comment.

Sapien is represented by Aaron M. Guerrero and Bryan Prentice of Bonds Ellis Eppich Schafer Jones LLP, and by Sanford L. Frey, John M. Steiner and Kristin Anders Lawson of Leech Tishman Fuscaldo & Lampl LLC.

The case is In re: Linqto Texas LLC, case number 4:25-bk-90186, in the U.S. Bankruptcy Court for the Southern District of Texas.

--Editing by Karin Roberts.

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Odebrecht Investors Score Early Wins In Bribe-Scheme Suit

By **Katryna Perera**

Law360 (July 16, 2025, 8:45 PM EDT) -- A New York federal judge on Wednesday granted partial wins to an investment firm and funds that are suing Brazilian engineering conglomerate Odebrecht SA and two subsidiaries over an alleged far-reaching bribery scheme, saying the plaintiffs have established the defendants knowingly made material misrepresentations that were relied upon.

U.S. District Judge Dale E. Ho issued an **opinion and order** granting DoubleLine Capital LP and its affiliated trusts' request for summary judgment on elements of their claims over securities fraud and New York state common law fraud.

The remaining elements of the claims that the judge didn't rule on will proceed to trial. The judge also declined to grant summary judgment on the plaintiffs' claim of control person liability.

The suit accuses Odebrecht of paying government officials in Brazil and "at least 12 other countries" to help subsidiary Construtora Norberto Odebrecht SA, or CNO, obtain public construction contracts. DoubleLine and two affiliates allegedly purchased a significant quantity of two bonds issued by a separate Odebrecht affiliate and guaranteed by CNO between May 2013 and March 2015.

According to the opinion, the court previously issued two sanctions orders against Odebrecht and the other defendants for **failing to comply** with discovery orders. Through the sanctions orders, the court found that several of the facts alleged in the complaint were established.

Therefore, in their summary judgment motion, the plaintiffs only sought judgment on the reliance element of the securities fraud claim, according to the opinion. The plaintiffs argued summary judgment should be granted because they "undisputably relied on [defendants'] false statements and omissions."

Judge Ho said the plaintiffs specifically pointed to the declaration of one of their employees stating that he and his team "considered ... the reported financial results of defendant CNO" and "incorporated the financial data released quarterly by defendant into their analysis," in determining whether to purchase Odebrecht securities.

"Because the [employee declaration] and plaintiffs' subsequent purchase of the Odebrecht notes provide an initial showing that plaintiffs reviewed the quarterly reports and relied on them in purchasing the Odebrecht notes, plaintiffs have satisfied their initial burden to demonstrate that there is no genuine dispute of fact as to the reliance element of their Section 10(b) claim," Judge Ho said.

The plaintiffs also sought summary judgment on the first four elements of their New York state common law fraud claim, according to the opinion.

"The first element — material misrepresentation or omission of fact — is met. Plaintiffs argue that elements two and three — knowledge of falsity and intent to defraud — are also satisfied under [the sanctions order's] finding that defendants made their misrepresentations and omissions with scienter," Judge Ho said. "Because plaintiffs demonstrate actual and reasonable reliance, this court finds that plaintiffs satisfy the reliance element of their common law fraud claim."

Judge Ho declined to grant summary judgment on the plaintiffs' control person liability claim, as it must be predicated on an established securities fraud violation, and summary judgment has only

been granted for the first four elements of the suit's securities fraud claim.

"Given that Section 20(a) liability is predicated on an established violation of Section 10(b), it is not clear to the court that partial summary judgment on a Section 10(b) claim — that is, summary judgment as to four of the six elements necessary to establish a Section 10(b) violation — is sufficient to show 'a primary violation by the controlled person,'" the judge added.

Odebrecht has faced massive fines and legal risks after its bribes were revealed as part of Brazil's "Operation Car Wash," a probe into corruption at state-owned oil firm Petrobras that has significantly widened. Odebrecht and its chemicals affiliate, Braskem SA, agreed in December 2016 to pay **\$3.6 billion** to settle with U.S., Brazilian and Swiss authorities.

In September 2019, U.S. District Judge Gregory H. Woods **tossed conspiracy claims** against Odebrecht, finding no clear indication that subsidiary CNO conspired with Odebrecht to misrepresent profit margins and financial ratios that investors relied on when purchasing securities.

That ruling left a slew of allegations intact, including securities claims alleging violations of Brazilian GAAP — the country's generally accepted accounting principles — along with fraud claims against subsidiaries CNO and Odebrecht Engenharia e Construcao SA, and claims for negligent misrepresentation against all defendants.

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

The plaintiffs are represented by Steve W. Berman and Karl P. Barth of Hagens Berman Sobol Shapiro LLP.

The defendants are represented by Victor L. Hou, Thomas S. Kessler and Patrick C. Swiber of Cleary Gottlieb Steen & Hamilton LLP.

The case is DoubleLine Capital LP et al. v. Odebrecht Finance Ltd et al., case number 1:17-cv-04576, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Sarah Jarvis. Editing by Lakshna Mehta.



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2 Firms Tapped To Lead Meme Coin Pump-And-Dump Suit

By **Sydney Price**

Law360 (July 16, 2025, 7:14 PM EDT) -- Two law firms have been named lead counsel in a proposed securities class action accusing a crypto platform, a venture capital firm and their executives of a "covertly orchestrated" scheme to pump and dump a token affiliated with a newly launched meme coin exchange.

Burwick Law PLLC and Hoppin Grinsell LLP are "experienced in complex digital assets and securities litigation," the order signed Tuesday by U.S. District Judge Jennifer L. Rochon said.

The order also appointed Anuj Mehta as the suit's lead plaintiff. Mehta claims to have suffered \$19,000 in net losses of a token known as \$M3M3 during the class period, more than any of the 68 members of the proposed class, according to the order.

The **complaint filed in April** by plaintiffs Jonathan Clarke and Rodrigo Ferreira da Cruz Vogt alleges that Solana-based platform Meteora and its founder Benjamin Chow secretly collaborated with family-run venture firm Kelsier Labs LLC, which does business as Kelsier Ventures, to structure an unfair launch and subsequent pump and dumps of \$M3M3, costing the proposed class at least \$69 million.

Meteora introduced a decentralized exchange known as M3M3 in December 2024 and touted it as a way to reduce price volatility, increase overall market cap and protect investors from pump and dumps in meme coins, the suit said. The exchange's flagship asset was \$M3M3, which it represented as "a uniquely reliable memecoin investment" due to its revenue generating function and other characteristics.

But Meteora never disclosed Kelsier's involvement with the token, the suit said. Together, they structured the launch in such a way that only a "tightly controlled group of insiders" were able to purchase the assets initially, leading them to control 95% of the supply and inflate the market capitalization of the asset to more than \$5 million, the investors said.

Thinking the valuation genuinely showed market interest, the investors said, they purchased the tokens and felt the fallout when the price crashed as insiders sold their holdings for a profit.

According to the suit, the insiders took steps to conceal the structure of the launch, even using anonymizing software known as mixers to obscure the origin of their proceeds.

Meteora and Kelsier continued to temporarily inflate the price of the tokens by announcing "purported" partnerships and investor rewards, but eventually, the token collapsed, and the defendants abandoned the project by February, the suit said. Chow stepped down soon after, acknowledging the collaboration with Kelsier in social media posts but disclaiming any wrongdoing.

The suit also names Kelsier executives Gideon Davis, Charles Thomas Davis and Hayden Davis.

In addition to bringing claims of negligent misrepresentation, unjust enrichment, fraud and violations of New York business law, the suit also said the sale of \$M3M3 was an unregistered securities offering and amounted to securities fraud.

In March, Burwick Law filed a separate suit in New York state court that named Meteora and Kelsier Ventures for their **alleged involvement** in the offering of a collapsed Argentinian meme coin project

called Libra.

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

The proposed class is represented by Max Burwick of Burwick Law PLLC and Margaret Hoppin, Joshua Shields Molder and Timothy Wood Grinsell of Hoppin Grinsell LLP.

Chow is represented by Edward Nathaniel Moss, Gregory Stephen Mortenson, Samson Aaron Enzer and Sheila Chithran Ramesh of Cahill Gordon & Reindel LLP.

The case is Clarke et al. v. Chow et al., case number 1:25-cv-03268, in the U.S. District Court for the Southern District of New York.

--Editing by Stephen Berg.

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2nd Circ. Backs Argentina In Bondholders' \$360M Debt Suit

By **Jessica Corso**

Law360 (July 16, 2025, 8:31 PM EDT) -- Argentine debtholders claiming the country owes them more than \$360 million in improperly withheld payments lost their case before the Second Circuit on Wednesday, which ruled that the bonds' governing documents prohibited the lawsuits.

A three-judge panel upheld a lower court decision granting summary judgment to Argentina, reasoning that contracts signed by the parties — including one known as the global security agreement — prevented the lawsuits from moving forward.

"The plaintiffs ask us to resolve the merits of their claims and to decide whether Argentina violated the terms of the securities," the court said in a **summary order**. "Because we hold that the no-action clause of the global security bars this suit, we do not reach those issues."

The series of lawsuits grew out of a 2013 decision by Argentina to recalibrate the way it calculates its annual gross domestic product, which the suing bondholders said was part of an effort by the South American nation to "evade" billions of dollars in payments. They claim to personally be owed more than \$360 million.

The securities in question were issued in 2005 and 2010 and paid out annually after certain GDP metrics were met.

The GDP-linked securities were issued as part of Argentina's effort to restructure its debt after a 2001 economic crisis led it to default on more than \$80 billion worth of debt and were meant to give noteholders a buy-in on the country's future economic growth, according to the bondholders.

But the plaintiffs — bondholders who filed a series of suits beginning in 2019 — said that the country's statistical agency adjusted measurements of real GDP from 1993 constant prices to 2004 constant prices in 2013. Argentina **told a lower court** in 2019 that the change was meant to more accurately reflect the state of the economy.

The Second Circuit didn't get into the merits of the statistical change, because the panel said lawsuits related to the securities were allowed only under limited circumstances that weren't met in these cases.

The first would be if the trustee were informed and declined to sue, but the trustee of the securities was not notified, the Second Circuit said. The second instance allows lawsuits to recover principal and interest, which the court said also didn't apply.

The court declined to endorse a third exception to the prohibition of lawsuits that plaintiffs said would have allowed them to sue to recover payments owed under the GDP-linked securities, saying that the governing document "does not envision" such an exception.

The Second Circuit also rejected an argument from debtholders that the contractual claims should be barred because Argentina didn't raise them soon enough.

"The scope of the no-action clause and whether it bars this suit is a purely legal question of contract interpretation, not a fact-sensitive issue in need of additional discovery," the panel said.

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

U.S. Circuit Judges Steven Menashi and Alison Nathan and U.S. District Judge Katherine Polk Failla sat on the panel for the Second Circuit.

The bondholders are represented by Roy Englert, Zachary Ferguson and Paul Brzyski of Herbert Smith Freehills Kramer LLP, as well as attorneys from Friedman Kaplan Seiler Adelman & Robbins LLP, Bleichmar Fonti & Auld LLP, Perkins Coie LLP, Latham & Watkins LLP and the Law Offices of Eric J. Grannis.

The Republic of Argentina is represented by Bob Giuffra, Sergio Galvis, Amanda Davidoff and Tom White of Sullivan & Cromwell LLP.

The case is In re: Argentine GDP-Linked Securities Litigation, case number 24-1209, in the U.S. Court of Appeals for the Second Circuit.

--Editing by Dave Trumbore.

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BREAKING: Meta, Stockholders Settle \$8B Privacy Breach Suit

By **Jeff Montgomery**

Law360 (July 17, 2025, 9:53 AM EDT) -- Attorneys for Meta stockholders reported a midtrial agreement Thursday to settle an \$8 billion-plus Delaware Court of Chancery suit accusing the company's directors and officers of breaching privacy regulations and corporate fiduciary duties tied to allegations dating to the Cambridge Analytica scandal more than a decade ago.

Samuel L. Closic of Prickett Jones & Elliott PA, co-lead counsel to the stockholder class, told Chancellor Kathaleen St. J. McCormick about the development, without further details, as the second day of a scheduled eight-day trial opened.



Meta founder and CEO Mark Zuckerberg speaking at an artificial intelligence developer conference in Menlo Park, California, in April. Attorneys for Meta stockholders reported a midtrial agreement Thursday to settle an \$8 billion-plus suit in Delaware Chancery Court. (AP Photo/Jeff Chiu, file)

At issue were claims in an April 2018 complaint, amended twice and now totaling 412 pages, alleging "intentional, recidivist violations of the law" by Mark Zuckerberg — founder of Facebook and its successor Meta Platforms Inc. — and others. Claims headed for trial relate in part to failures to assure compliance with a 2012 Federal Trade Commission consent order, as well as subsequent insider trading claims involving violations of consent orders.

The claims could have put Zuckerberg on the hook for disgorgement of more than \$5 billion in shares

allegedly gained through insider trading. Those named, aside from him, also face some \$3 billion in damage claims, plus interest, paid out in a Federal Trade Commission settlement of claims alleging breaches of privacy regulations and privacy program failures.

Those facing trial were 11 current or former directors, including Zuckerberg, former Chief Operating Officer Sheryl Sandberg and four officers, some grouped as "insider trading" defendants.

Behind the suit in part are security failures that exposed the data of some 87 million Facebook users believed to have been improperly shared with Cambridge Analytica, the now-defunct political consulting firm hired by President Donald Trump's 2016 campaign.

The plaintiffs are represented by Thomas J. McKenna and Gregory M. Egleston of Gainey McKenna & Egleston, Joseph J. Tabacco Jr. and Daniel E. Barenbaum of Berman Tabacco, Brian J. Robbins, Stephen J. Oddo and Gregory E. Del Gaizo of Robbins LLP, Joseph W. Cotchett, Mark Molumphy, Julia Peng, Tyson Redenbarger and Gia Jung of Cotchett Pitre & McCarthy LLP, and Peter B. Andrews, Craig J. Springer, David M. Sborz and Jacob D. Jeifa of Andrews & Springer LLC.

Plaintiffs Construction and General Building Laborers' Local Union No. 79 General Fund, the City of Birmingham Retirement and Relief System and Lidia Levy are additionally represented by Kevin H. Davenport, Samuel L. Closic, John G. Day, Stacey A. Greenspan, David C. Skoranski, Kirsten M. Valania and Seth T. Ford of Prickett Jones & Elliott PA.

Another plaintiff, the City of Birmingham Retirement and Relief System, is additionally represented by Maxwell R. Huffman, Justin Reliford, Donald A. Broggi, Jing-Li Yu, Melissa K. May and Geoffrey M. Johnson of Scott + Scott Attorneys at Law LLP.

Plaintiff Karen Sbriglio is additionally represented by Catherine Pratsinakis of Dilworth Paxson LLP.

Plaintiffs California State Teachers' Retirement System and Firemen's Retirement System of St. Louis are additionally represented by Frederic S. Fox, Hae Sung Nam and Aaron Schwartz of Kaplan Fox & Kilsheimer LLP.

The derivative suit executive committee is represented by Frank Schirripa, Daniel B. Rehns, Kurt M. Hunciker, Kathryn A. Hettler and Scott R. Jacobsen of Hach Rose Schirripa & Cheverie LLP, and Thaddeus J. Weaver of Dilworth Paxson LLP.

The 11 current or former directors are represented by Wachtell Lipton Rosen & Katz, and Brian M. Lutz and Martie Kutscher Clark of Gibson Dunn & Crutcher LLP.

Zuckerberg and Sandberg are additionally represented by Kevin R. Shannon, Berton W. Ashman, Callan R. Jackson, Justin T. Hymes and Megan R. Thomas of Potter Anderson & Corroon LLP.

Meta is represented by David E. Ross, R. Garrett Rice, Elizabeth M. Taylor, A. Gage Whirley and Benjamin M. Whitney of Ross Aronstam & Moritz LLP.

The case is In re: Facebook Inc. Derivative Litigation, case number 2018-0307, in the Court of Chancery of the State of Delaware.

--Editing by Robert Rudinger.



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Meta Wanted To Shield Zuckerberg From FTC Suit, Chancery Told

By **Jeff Montgomery**

Law360 (July 16, 2025, 8:55 PM EDT) -- A former Facebook director testified Wednesday that company directors resisted federal efforts to include CEO Mark Zuckerberg as a defendant in a privacy breach suit that settled for \$5 billion in 2019, starting a Delaware trial on a derivative stockholder suit to recover the payout.



Board members sought to shield Facebook CEO Mark Zuckerberg, pictured, from a 2018 privacy suit that later settled for \$5 billion, a former company executive testified Wednesday in Delaware Chancery Court. (AP Photo/Alex Brandon)

Jeffrey Zients, an ex-White House chief of staff who served as a Facebook director from 2018 to 2020, testified that Zuckerberg "had been and seemed to be a driving force of the company for its competitiveness and ability to grow, and it was important that he continue in that role."

Zients, who served in the Obama administration and as former President Joe Biden's top White House staffer, testified at the opening of the eight-day trial that Facebook directors viewed Zuckerberg as "essential to running the company and executing its growth plan. There was no indication that he had done anything wrong."

At issue are claims in an April 2018 complaint, amended twice and now totaling 412 pages, alleging "intentional, recidivist violations of the law" by Zuckerberg — founder of Facebook and its successor Meta

— and others. Claims headed for trial relate in part to failures to assure compliance with a 2012 Federal Trade Commission consent order, as well as subsequent insider trading claims involving violations of consent orders.

The claims could put Zuckerberg on the hook for disgorgement of more than \$5 billion in shares allegedly gained through insider trading. Those named, aside from him, also face some \$3 billion in damage claims, plus interest, paid out in a Federal Trade Commission settlement of claims alleging breaches of privacy regulations and privacy program failures.

Behind the suit in part are security failures that exposed the data of some 87 million Facebook users believed to have been improperly shared with Cambridge Analytica, the now-defunct political consulting firm hired by President Donald Trump's 2016 campaign.

Zients said board members initially advanced a \$1 billion settlement offer, countered by a \$5 billion proposal from the FTC as well as a structured settlement. The final agreement called for \$5 billion, without making Zuckerberg liable but with "enhanced accountability and independent oversight for privacy programs," he said.

Stockholders, meanwhile, intervened in November 2021 with a second amended complaint built on claims dating to the 2012 settlement as well as later breach claims.

The suit contains insider trading claims and claims that directors intentionally prioritized profits over compliance. Those two claims alone were described as resulting in \$8 billion in damages to Facebook.

A stockholder brief said the \$8 billion "excludes other harms and costs to the company due to the individual defendants' disloyalty that plaintiffs will seek at trial, including the costs of similar investigations, lawsuits, and fines outside the United States."

Facing trial are 11 current or former directors, including Zuckerberg and former Chief Operating Officer Sheryl Sandberg and four officers, some grouped as "insider trading" defendants.

According to their pretrial brief, attorneys for the stockholders called for disgorgement of company payments and said they plan to show that "the board agreed to pay significantly more than what Facebook itself perceived as its maximum exposure to protect Zuckerberg from personal liability."

Early on Wednesday, Neil Richards, Koch Distinguished Professor in Law and director of the Cordell Institute at Washington University School of Law, testified that Facebook misled consumers about its privacy practices, with users left unaware that installing apps on the social media site would expose their "friends" data, even if those friends did not use the app.

That allowed other parties to send both advertising and content to users without approval, he said.

Driving the company's conduct, Richards said, was an "existential crisis" created by the explosion of cell phone and mobile device use that offered less "real estate" for advertising.

The model adopted by Facebook, he said, encouraged "engagement at any cost," leading to manipulation of vulnerable users and the exposure of Facebook users and user data to third parties.

The trial, presided over by Chancellor Kathaleen St. J. McCormick, is to continue through next week, with Zuckerberg scheduled to testify Monday or Tuesday.

The plaintiffs are represented by Thomas J. McKenna and Gregory M. Egleston of Gainey McKenna & Egleston, Joseph J. Tabacco Jr. and Daniel E. Barenbaum of Berman Tabacco, Brian J. Robbins, Stephen J. Oddo and Gregory E. Del Gaizo of Robbins LLP, Joseph W. Cotchett, Mark Molumphy, Julia Peng, Tyson Redenbarger and Gia Jung of Cotchett Pitre & McCarthy LLP and Peter B. Andrews, Craig J. Springer, David M. Sborz and Jacob D. Jeifa of Andrews & Springer LLC.

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Meta is represented by David E. Ross, R. Garrett Rice, Elizabeth M. Taylor, A. Gage Whirley and Benjamin M. Whitney of Ross Aronstam & Moritz LLP.

The case is In re: Facebook Inc. Derivative Litigation, case number 2018-0307, in the Court of Chancery of the State of Delaware.

--Additional reporting by Hailey Konnath, Dorothy Atkins and Al Barbarino. Editing by Adam LoBelia.

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Wells Fargo Sued Over 'Flippant' Mortgage Fee Refunds

By **Emilie Ruscoe**

Law360 (July 16, 2025, 10:52 PM EDT) -- A Wells Fargo mortgage borrower has filed a proposed class action against the bank, alleging the bank made an "inadequate" effort to resolve purported mortgage origination fee errors it has vaguely alerted certain borrowers to.

In a **complaint** removed to California federal court Tuesday, Lance Baird claimed that since roughly December 2022, Wells Fargo had been sending out "cryptic" letters informing mortgage borrowers that during their loan origination process, certain fees they'd been charged "may have been incorrectly assessed."

The fees at issue, known as return to float fees, are assessed when a loan's interest rate is unlocked, Wells Fargo explained in the letters to consumers, according to the complaint. These letters also included cashier's checks the bank claimed would make its borrowers whole, Baird said.

But according to Baird, the bank had made a "wholly inadequate" effort to actually remedy the situation.

For instance, Wells Fargo's letters didn't explain to the borrowers when the inaccurate fee assessments happened, "how or why the errors occurred, nor an adequate accounting or itemization to show how the error affected its customers' mortgage loan accounts," he said.

This lack of information makes it impossible for consumers to independently verify how much they might have actually sustained in damages in as a result of the bank's fee errors, the complaint said.

"Wells Fargo's flippant attempt to mitigate its liability is inadequate and has left consumers, including Plaintiff, facing ongoing harm and out-of-pocket loss that has yet to be reimbursed," Baird said.

For his part, Baird claimed he'd applied for a home mortgage loan with Wells Fargo in 2010, noting he hadn't signed an agreement that would have locked in a rate for his mortgage during the origination process.

Over a decade later, Baird said, he received a December 2022 letter from Wells Fargo with an enclosed check for about \$3,270, which the bank said included more than \$2,500 to refund improperly assessed return to float fees, nearly \$390 in interest and more than \$370 to compensate "for the time these funds were unavailable" to Baird.

He alleged this did not make him whole as the bank "instead retained for itself, the full profits Wells Fargo obtained by wrongfully charging and withholding [return to float fees] paid by Mr. Baird."

Baird seeks to represent a class of consumers he estimates number in the thousands.

On Wednesday, Wells Fargo declined to comment. Representatives for Baird did not respond to requests for comment.

Baird is represented by Brian S. Kabateck, Anastasia K. Mazzella, Annie Martin-McDonough of Kabateck LLP, and D. Joshua Staub and James C. D. Carr of the Law Office of D. Joshua Staub.

Wells Fargo is represented by Mark D. Lonergan, Rebecca S. Saelao, Erik W. Kemp and Elizabeth C.

Farrell of Severson & Werson.

The case is Baird v. Wells Fargo Bank NA et al., case number 3:25-cv-05959, in the U.S. District Court for the Northern District of California.

--Editing by Lakshna Mehta.

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Business Court Bill Furthers Texas' Pro-Corporate Strategy

By **Ted Huffman, Eric Hail and Mark Solomon** (July 16, 2025, 6:01 PM EDT)

On the final day of its 89th legislative session, the Texas Legislature passed H.B. 40, expanding the jurisdictional and operational framework of the Texas Business Court.[1] The bill has since been signed by Gov. Greg Abbott, and becomes effective on Sept. 1.

The new law builds on Texas' 2023 initiative to establish a specialized forum for complex business litigation comparable to the Delaware Chancery Court, and makes that forum more accessible to corporate litigants.

The most significant statutory changes include amendments to reduce the monetary threshold for invoking the Business Court's jurisdiction, and to expand the category of case types that may be heard.

The bill's amendments, coupled with broader national conversations around litigation costs and court specialization, support the court playing an increasingly important role in the national corporate governance and commercial litigation landscape.

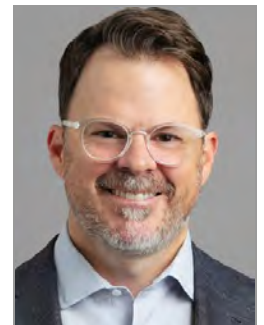
Reduced Monetary Threshold

H.B. 40 lowers the Business Court's amount-in-controversy requirement from \$10 million to \$5 million — and allows that threshold to be met by aggregating the total amount of all joined parties' claims — for certain case types. These include:

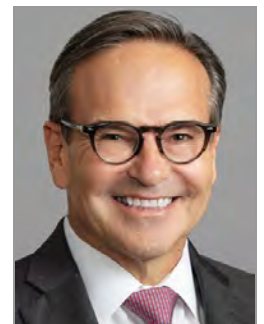
- Cases arising out of any single transaction or a series of related transactions with consideration valued at or above \$5 million;
- Actions arising out of a business, commercial or investment contract or transaction, other than an insurance contract, in which the parties agree to Business Court jurisdiction;
- Claims involving alleged violations of the Texas Finance Code or Business and Commerce Code by an organization, its officers or other governing persons; and
- Certain matters relating to intellectual property rights or trade secrets disputes.



Ted Huffman



Eric Hail



Mark Solomon

Under the initial version of the Texas Business Court Act that passed in 2023, the lower \$5 million threshold applied only to fundamental internal governance and securities matters — such as derivative actions, internal affairs disputes, securities claims against an organization or related persons, fiduciary duty claims against controlling persons and managerial officials, and the like.

H.B. 40's promulgation of a lower threshold for other claim types within the Business Court's

jurisdiction will make the court more accessible to a broader array of commercial parties and increase the volume of cases.

Claim Categories Added to Business Court Jurisdiction

In another significant addition, H.B. 40 adds intellectual property and trade secrets claims to the Business Court's jurisdictional reach.

While the 2023 act did not authorize the court to hear intellectual property matters, H.B. 40 now expressly permits the court to hear trade secrets cases and other "action[s] arising out of or relating to the ownership, use, licensing, lease, installation, or performance of intellectual property."

H.B. 40 separately clarifies the Business Court's authority to render decisions on arbitration matters. Parties that otherwise have standing to file claims in Business Court will be permitted to use the forum to enforce arbitration agreements, appoint arbitrators review arbitral awards or seek other judicial relief authorized by an arbitration agreement.

While the above amendments are significant, earlier versions of H.B. 40 were even more expansive. The initial version of the bill would have extended the Business Court's jurisdiction to also capture insurance and indemnity contract matters, "fundamental business transactions" involving mergers and similar large corporate asset transactions, large banking litigations, malpractice claims filed by corporate clients, and multidistrict litigation transfer cases.

However, H.B. 40 was repeatedly revised in committee and through the legislative process to change the law more narrowly — at least for now.

Other Substantive Changes to Texas State Laws

H.B. 40 includes other amendments to Texas state laws affecting the rights and obligations of parties seeking to litigate in the Business Court. Some of the more notable such amendments are addressed below.

Venue

The bill permits parties to amend their governing documents to designate venue for Business Court matters involving derivative proceedings, governance or internal affairs disputes, fiduciary duty claims against certain corporate persons, and other actions arising out of the Business Organizations Code.

This is one of many recent changes to Texas' corporate law that should cause Texas businesses and in-house counsel to evaluate whether their governing documents and contracts are up to date to take full advantage of the new laws.

Exclusion of Consumer Actions

The bill prohibits parties from filing state and federal consumer claims in Business Court, even if supplemental jurisdiction may otherwise exist. This amendment essentially prevents large consumer class actions from flooding the court's gates.

Expansion of Injunctive Relief Procedure

A new provision is added to the Texas Civil Practice and Remedies Code allowing parties to seek writs of injunction from another Business Court judge if the appointed judge is unavailable to timely consider and implement the writ's purpose.

New Removal Avenue for Lawsuits Predating the Business Court's Existence

The 2023 enabling bill for the Business Court did not allow lawsuits predating Sept. 1, 2024, to be removed to the court.

In H.B. 40, the Legislature addressed industry pushback over this limitation by adding a new

provision allowing such suits to be removed upon agreement of all parties and by permission of the court.

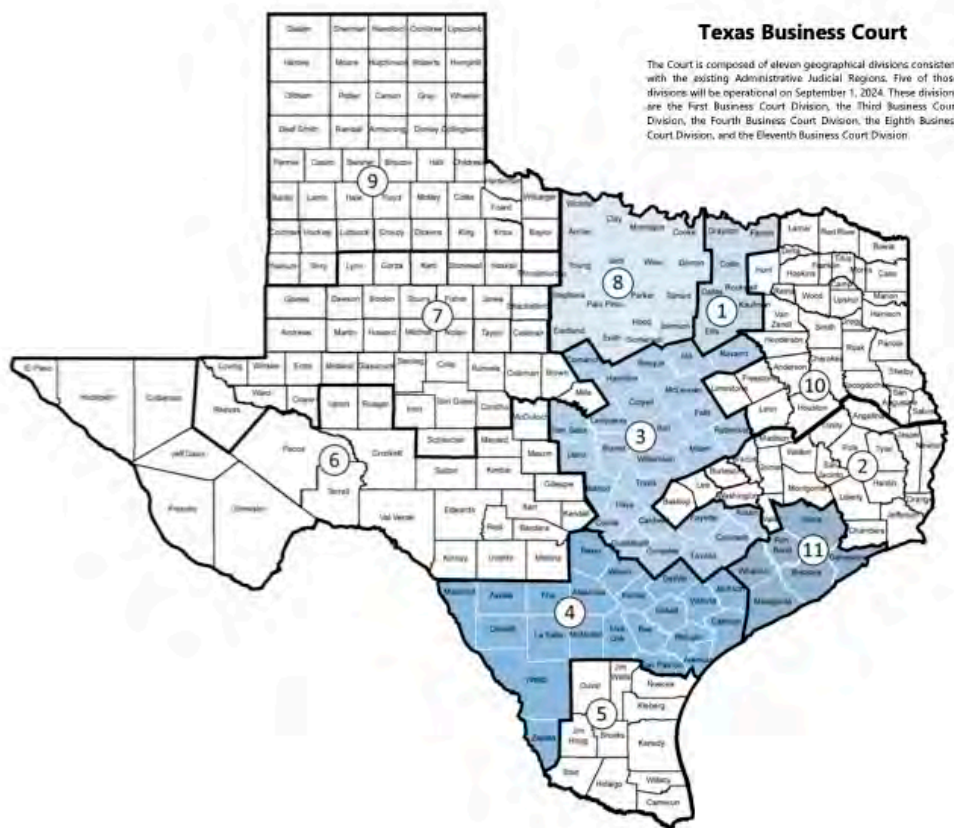
Montgomery County Moves Division

Montgomery County, covering Conroe, the Woodlands and other areas north of Houston, is being transferred out of the nonoperational Second Business Court Division, and added to the Eleventh Business Court Division in Houston.

Houston and Dallas have notably received a large share of the new case filings in the opening months of the court's existence.

Preserving Business Court Divisions Outside of Massive Urban Centers

The Legislature modified statutory sunset language from the Business Court Act to preserve the six nonoperational divisions of the Business Court — namely the Second, Fifth, Sixth, Seventh, Ninth and Tenth Divisions, as shown on the map below.[2]



H.B. 40's Larger Implications for Texas' National Business Law Profile

The Texas Legislature has stated multiple reasons for passing H.B. 40, including to refine the Business Court Act based on the opening nine months of the court's existence, and to clarify procedural rules and operational matters.

But one of the most apparent and significant reasons for this bill's enactment — especially the provisions expanding the court's jurisdiction — is to further bolster Texas' campaign to become a new corporate capital of America. The expansion of the Business Court is part of the long play to take that title from Delaware.

For the past century, Delaware has largely been considered the premier state for incorporation and corporate governance. As of 2023, two-thirds of Fortune 500 companies were domiciled in Delaware,

and approximately 80% of new U.S.-based IPOs were registered in Delaware as well.

One of the primary reasons for Delaware's attractiveness is that, quite unlike any other state, it has developed a large body of corporate case law, emanating from the Delaware Chancery Court, that is generally viewed as providing predictability and flexibility to corporations in the management of their internal affairs.

In recent years, however, the corporate economy has changed in many ways, and that includes a large migration of companies to Texas. Many of these companies have not only moved their headquarters, but also brought substantial operations and workforces to the state as well.

Leaders of these companies have cited the state's low taxes, affordable living costs, growing technology talent pool, diverse economy and increasingly business-friendly laws. Texas lawmakers have taken note, and, in an effort to further promote this phenomenon, they have worked hard to find ways to attract companies to not only move to Texas, but also to incorporate under Texas law.

That means finding ways to compete with Delaware — and, by implication, to emulate or improve upon the benefits of the Delaware Chancery Court system.

In 2023, Texas took a big step forward in its campaign by passing H.B. 19. That law created the Texas Business Court, with a sophisticated group of qualified business law judges, to hear and render decisions on corporate governance and other complex, large-dollar commercial matters. This gave Texas the court system it needed to compete with the Delaware Chancery Court.

The Texas Legislature next used its lawmaking powers to enact new corporate laws clarifying corporate governance standards, an area where Texas jurisprudence has been less developed than under Delaware case law. These legislative efforts have and will continue to enhance the perception that Texas — like Delaware — provides a firm and predictable legal framework on which corporations can rely.

Even more significant, Texas' new corporate laws in some instances provide even more protection to corporate managers and decision-makers than Delaware allows. This is aimed at making Texas even more business-friendly.

H.B. 40 is the most recent move from Texas' playbook. With the Business Court now operational, and the Legislature filling in the corporate code, the pieces are in place for Texas to continue to attract significant corporate activity.

By lowering the monetary threshold for entry to the Business Court, expanding the case types it may hear, and providing other mechanisms that will cause additional significant matters to be filed, heard in and resolved by the court, Texas continues to shout to the markets that it is open for business.

Context: New Industry Pressure in Delaware Increases Appeal for Texas Court System

The passage of H.B. 40 — less than a month after the Legislature's passage of another business-friendly amendment to the Texas Business Organizations Code — notably comes at a time of significant scrutiny of Delaware's court system.

Institutional investors and industry groups are increasingly criticizing perceived shortcomings of the Delaware Chancery Court, from its predictability to its fairness.

The Delaware Legislature has tried to step in to curb the complaints, including by amending the Delaware General Corporation Law to add new safe harbor protections for controlling stockholder transactions, exculpating controlling shareholders from liability for alleged breaches of the duty of care, and implementing limits on shareholder books and records requests.

Nonetheless, the national discourse continues. In fact, the same week that H.B. 40 made its final rounds through the Texas Legislature, a Stanford Law School study made rounds through corporate boardrooms, again questioning outcomes out of the Delaware Chancery Court.[3]

The study specifically found that the Chancery Court system has increasingly allowed large fee

multipliers for plaintiffs attorneys, often exceeding 10 times the lodestar, at higher rates than observed in cases out of the federal court system. These findings have prompted renewed criticism from corporate governance groups, and further calls for reform.

The growing tension in Delaware should ultimately increase the appeal of Texas and its alternative corporate governance system.

Conclusion

The Texas Legislature was busy this session expanding corporate protections and enhancing its Business Court system. The enactment of H.B. 40 specifically helps Texas build out the court's framework by refining jurisdictional standards and procedural mechanisms to expand access to the court.

Texas' playbook for trying to become the center of corporate America is well in motion. Time should soon tell how effective these measures will be in drawing companies to incorporate in the state.

Ted Huffman and Eric Hail are partners, and Mark Solomon is a managing partner, at Katten Muchin Rosenman LLP.

Katten partner James C. Bookhout, senior counsel Missy Apodaca, and partner Kenya S. Woodruff contributed to this article.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

[1] The Texas Legislature enacted H.B. 40 just weeks after passing Senate Bill 29 — which expanded the Business Court's jurisdiction over corporate governance matters, and also extended related litigation protections to domestic entities. See Texas Governor Signs New Business-Friendly Governance Law to Promote In-State Corporate Growth: Senate Bill 29 Analysis, Katten (May 14, 2025), available at <https://katten.com/texas-governor-signs-new-business-friendly-governance-law-to-promote-in-state-corporate-growth-senate-bill-29-analysis>.

[2] See Texas Business Court Divisions Map, Tex. Judicial Branch, available at <https://www.txcourts.gov/media/1458995/texas-business-court-divisions-map.pdf>.

[3] Grundfest, Joseph A. and Dor, Gal, Lodestar Multipliers in Delaware and Federal Attorney Fee Awards (April 30, 2025), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5237545.

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