

Class Action

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Moelis, Archer Aviation Must Face Some Claims Over SPAC Deal

July 21, 2025, 8:50 AM PDT

- **Investors adequately alleged some breaches of fiduciary duties**
- **Deal paperwork overstated worth of SPAC shares into merger**

Ken Moelis and other architects of the merger that took Archer Aviation Inc. public must defend against stockholder allegations that the paperwork they filed misrepresented the value of its shares.

Still, the Delaware Chancery Court on Monday narrowed claims brought by investors against the billionaire, his investment bank, Archer, and other backers of the blank-check transaction, tossing aiding and abetting claims.

Vice Chancellor Lori W. Will dismissed from the suit one of the directors, Todd Lemkin, of the special purpose acquisition company that brought Archer public. Will said in her bench ruling Monday there will be no reargument while allowing some claims that deal negotiators breached their fiduciary duties.

Investors adequately alleged that the deal's proxy statement overstated SPAC Atlas Crest Investment Corp.'s share price going into the merger with Archer's private predecessor in 2021. A difference between \$10 and less than \$8 was reasonable enough to carry claims of a breach of fiduciary duty.

A partial disclosure about litigation that Archer was tied up in starting before the merger was actionable, Will said. The paperwork disclosed that a preliminary injunction had been denied, but deal-makers didn't disclose that a later motion to dismiss was denied before shareholders voted on the merger, she said.

In all, stockholders sufficiently alleged some claims showing the deal wasn't fair. Given some breach of fiduciary duty claims survived, Will allowed an allegation of unjust enrichment to proceed with them. Will questioned whether Moelis was a controlling stockholder as matter of law, but noted that was something to address later in the case.

Investors alleged that the merger wasn't beneficial for Atlas Crest's public stockholders, rather was a windfall for those with founder shares. After a six-month lock-up period expired, the founder shares were worth \$52.6 million, a 210,500% return, Will said while summarizing the facts of the case.

The lawsuit followed a wave of litigation targeting the financial backers of special purpose acquisition companies after blank-check transactions—designed to let early-stage businesses bypass initial public offerings—receded from a boom in 2020 and 2021. Such shareholder lawsuits generally claim sponsors pursue lopsided incentives to dupe investors into doomed deals.

The investors alleged Moelis stood by while Archer's executives falsely claimed it was months from testing an electric, vertical-launch prototype capable of flying 60 miles at speeds up to 150 mph, according to the June 2024 complaint.

Grant & Eisenhofer PA and Robbins Geller Rudman & Dowd LLP are co-lead counsel for the investors. Moelis, Archer, and other deal sponsors are represented by Paul Weiss Rifkind Wharton & Garrison LLP. Other outside director defendants are represented by Ross Aronstam & Moritz LLP. None of these law firms immediately responded to emails seeking comment.

The case is In re Archer Aviation Inc. S'holder Litig. , Del. Ch., No. 2024-0527, 7/21/25 .

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Securities Law News

This Week in Chancery Court: Moelis SPAC Dispute, AT&T, Phunware

July 21, 2025, 2:00 AM PDT

Billionaire investment banker Ken Moelis will learn this week whether the Delaware Chancery Court will advance allegations that he and other architects of Archer Aviation Inc.'s going-public merger stood by amid false claims that it was months from testing an electric, vertical-launch prototype.

Here's a look at what else is coming up in court this week:

Monday: Hillblom v. Wilmington Trust Co., Del. Ch., No. 2021-1034, trial 7/21/25.

At issue: Claims leveled by a son of DHL Worldwide Express founder Larry Hillblom against a trustee appointed to manage his inheritance go to trial before Vice Chancellor Morgan T. Zurn. Wells Lory Hillblom sued Wilmington Trust Co. in 2021, alleging the trustee cost him \$1.1 million by mishandling his inheritance. Zurn allowed Hillblom's lawsuit to advance in a 2022 ruling that found it plausible for the trustee to be liable for failing to keep Hillblom in the loop as it fought over fees with the law firm that established his parentage. His trust allegedly ended up paying the firm \$1.4 million after ignoring a \$300,000 settlement offer.

Court action: A three-day trial begins Monday in Wilmington, Del.

Son of DHL Founder Lost at Sea Advances Claims Against Trustee

Monday: In re Archer Aviation, Inc. S'holder Litig., Del. Ch., No. 2024-0527, bench ruling 7/21/25.

At issue: Vice Chancellor Lori W. Will issues her decision on Moelis' motion to dismiss claims that he and other architects of the merger duped the air-taxi startup's investors with "wildly misleading" video footage. The investors leading the litigation have argued Moelis and the other defendants "have advanced no reason for this Court to depart from the long list of cases refusing to dismiss challenges to indisputably conflicted de-SPAC mergers."

Court action: Will's bench ruling will be delivered by teleconference.

Moelis Sued Over 'Sham' SPAC Deal to Take Archer Aviation Public

Tuesday: Nielsen Holdings Ltd. v. Nielsen Consumer, Inc., Del. Ch., No. 2025-0651, trial 7/22/25.

At issue: Vice Chancellor Nathan A. Cook fast-tracked some claims in a multi-pronged bid by Nielsen Holdings Ltd. affiliates to close the sale of a segment to Circana LLC, which is allegedly trying to renege over meddling by a former Nielsen affiliate. The media analytics giant is suing both Circana and Nielsen IQ, a consumer intelligence company—and direct competitor of Circana—that spun off in 2021.

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

Nielsen Opens Two Legal Fronts in Effort to Close Circana Deal

Wednesday: Gene Marshall Betts Revocable Tr. v. Phunware, Inc., Del. Ch., No. 2022-0168, post-trial arguments 7/23/25.

At issue: Investors sued Phunware Inc. and the leaders of the mobile marketing and cryptocurrency services business in 2022, alleging they had been wrongly subjected to a stock lockup clause after a 2018 reverse merger with a blank-check company. Vice Chancellor Nathan A. Cook narrowed the claims in a 2023 bench ruling, and the case went to trial in March on a single remaining claim of wrongful refusal to issue a stock certificate. Cook now hears closing arguments in the case.

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

Phunware Sued by Angel Investors Challenging SPAC Stock Lockup

Wednesday: In re 2022 Cellular Tele. Coordinated P'ship Litig., Del. Ch., No. 2022-1078, hearing 7/23/25.

At issue: Consolidated litigation in which AT&T Inc. is accused of building its nationwide mobile network by exploiting control over its regional affiliates has gone through multiple rounds of mediation talks, according to a filing. But with no resolution reported to the court, Vice Chancellor J. Travis Laster will hear oral arguments on a pending motion to dismiss.

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

AT&T Accused of Exploiting Regional Affiliates to Build Network

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Expert Opinion

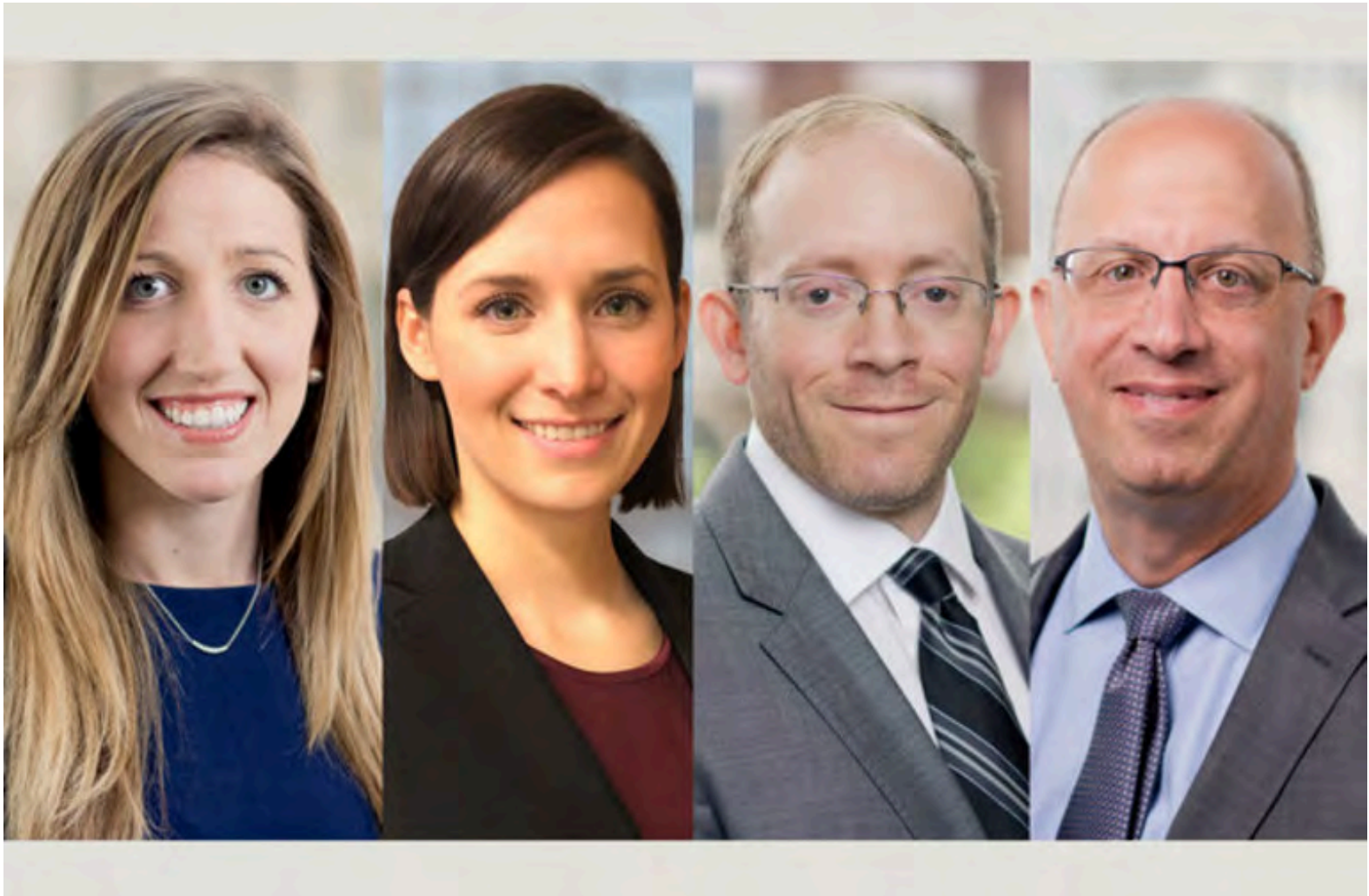
Reaffirming the High Bar to Insider Trading Liability: Lessons From 'Central Laborers' Pension Fund v. Karp'

July 21, 2025 By **Jessica Lewis**

Erika Schutzman

Timothy Perla

Michael Bongiorno



(l-r) Jessica Lewis, Erika Schutzman, Timothy Perla, and Michael Bongiorno, with WilmerHale. Courtesy photos

In a decision that reinforces Delaware's high threshold for insider trading claims, the Delaware Court of Chancery in *Central Laborers' Pension Fund v. Karp*, 2025 WL 1213104 (Del. Ch. Apr. 25, 2025), recently dismissed a derivative suit against Palantir's directors, offering timely guidance for public companies navigating post-listing litigation risk. Against the backdrop of Palantir's high-



profile direct listing and SPAC investments, the case underscores the importance of Rule 10b5-1 trading plans and fulsome disclosures in defending against derivative claims premised on insider trading.

The court's analysis in *Karp* focused on two key issues: whether the insider trading allegations met the *Brophy* standard, and whether plaintiffs were excused from making a demand under Delaware Court of Chancery Rule 23.1.

Insider Trading Allegations Under 'Brophy'

After 17 years as a private company, Palantir went public through a direct listing in September 2020, making it possible for early investors, executives, and directors to sell shares into the market. In the two years following the direct listing, the company's corporate insiders sold stock for over \$2 billion in proceeds. The insiders made the vast majority of these sales pursuant to Rule 10b5-1 trading plans or to satisfy tax withholding obligations. In 2022, Palantir faced some headwinds in connection with a marketwide downturn impacting SPACs, and shareholder litigation followed after its stock price declined.

In 2023, plaintiffs filed a derivative action in which they asserted, among other claims, a *Brophy* claim for alleged insider trading against several of Palantir's directors. Under the framework set out in *Brophy v. Cities Service*, the plaintiffs claimed that knowledge of material, nonpublic information (MNPI), including financial forecasts, strategic risks, and board-level discussions regarding revenue growth, customer acquisition challenges, and government contracts, motivated the corporate insiders to make lucrative trades, thereby breaching their duty of loyalty to the company.

The *Karp* court rejected the plaintiffs' *Brophy* claims. The court found that the plaintiffs failed to plead adequately that the directors had MNPI when the trades occurred. The court concluded that the corporate information on which the plaintiffs' *Brophy* claim relied was immaterial or was information the company had already disclosed publicly through SEC filings and investor statements. Furthermore, the court found that the plaintiffs failed to plead that intentional misconduct motivated any of the sales. The use of Rule 10b5-1 trading plans, sales to satisfy tax withholding obligations, and the substantial percentage of stock that the directors retained following these trades undermined the plaintiffs' allegations of scienter.

Demand Futility under Delaware Court of Chancery Rule 23.1

The court assessed the *Brophy* claim in the context of analyzing whether plaintiffs were excused from making a demand on Palantir's board before filing a derivative lawsuit.



To plead demand futility under Delaware Court of Chancery Rule 23.1, a plaintiff must allege particularized facts showing that at least half of the board received a material personal benefit from the alleged misconduct, faced a substantial likelihood of liability, or lacked independence from someone who received such a benefit or faced a substantial likelihood of liability.

The court held that none of these elements was met. The plaintiffs' arguments that the directors had retained a material personal benefit were not persuasive because the benefit allegedly received—proceeds from sales of stock—did not result from misconduct. The plaintiffs' arguments that the directors faced a substantial likelihood of liability failed because there was no viable *Brophy* claim and the plaintiffs' other claims for breach of fiduciary duty were also inadequate. In the absence of allegations of a material personal benefit from alleged misconduct or a substantial likelihood of liability, independence considerations were not relevant because there was no one from whom the directors would need to be independent. As a result, the court found demand futile and dismissed the complaint under Rule 23.1.

Implications for Corporate Governance and Securities Litigation

The Court of Chancery's decision in *Karp* offers important guidance for corporate legal teams and public companies:

- Brophy Liability Requires MNPI and Scierter. Courts will scrutinize whether the information alleged to have been misused was truly nonpublic and material. Courts will also continue to require plaintiffs to proffer particularized facts supporting a reasonable inference that trades were motivated by the MNPI. Companies should enforce strict trading window policies and disclosure controls to prevent misunderstandings over insider knowledge. Conversely, companies can also take steps to ensure internal forecasts align with public disclosures.
- Rule 10b5-1 Trading Plans Provide a Strong Defense. Pre-established trading plans continue to reduce liability risks. Companies should ensure these plans are properly structured, adopted outside blackout periods and well-documented.
- Demand Futility Remains a Significant Barrier to Derivative Litigation. Plaintiffs must plead with particularity that directors are compromised, which remains a challenging threshold to meet under Delaware law.

Conclusion

The *Karp* decision reinforces the longstanding principles governing insider trading liability and shareholder derivative suits in Delaware. In particular, it highlights the strong protection that



Delaware law affords to corporations facing derivative lawsuits based on *Brophy* claims. For corporate legal teams, the *Karp* decision serves as both a shield and a guide: it reinforces the value of proactive compliance, disciplined disclosure, and strategic use of trading plans in mitigating litigation risk and upholding fiduciary standards.

Jessica Lewis is a partner in the Palo Alto, California office of Wilmer Cutler Pickering Hale and Dorr. She focuses on high-stakes securities litigation, class action and trial work. She was honored in the Mentor & Mentee Collaboration category of Corporate Counsel's Women, Influence and Power in Law Awards in 2024. **Erika Schutzman** is counsel in the Boston office of the firm. She focuses her practice on complex litigation matters and securities enforcement and litigation. A partner at the firm, **Timothy Perla** is a leader in the rising generation of complex civil litigators. Over the past 20 years, he has defended over a hundred securities class actions, shareholder derivative lawsuits, insurance and annuity class actions, consumer class actions, and regulatory enforcement matters. **Michael Bongiorno** is co-chair of the firm's securities litigation and enforcement practice group.

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Securities Law News

Capricor Investor Sues After Disappointing FDA Return on Therapy

July 18, 2025, 1:45 PM PDT

- **COURT:** S.D. Cal.
- **TRACK DOCKET:** No. [3:25-cv-01815](#) (Bloomberg Law subscription)

Capricor Therapeutics Inc. and its CEO overhyped regulatory approval odds for its cell therapy to treat a serious heart condition, leading to a series of stock drops, a proposed class action said.

Capricor said last week that the US Food and Drug Administration required more information after reviewing the treatment's biologics license application. The biotechnology company's stock price fell almost 33% to close at \$7.64 that day—its steepest one-day slide in nearly two years, according to data compiled by Bloomberg.

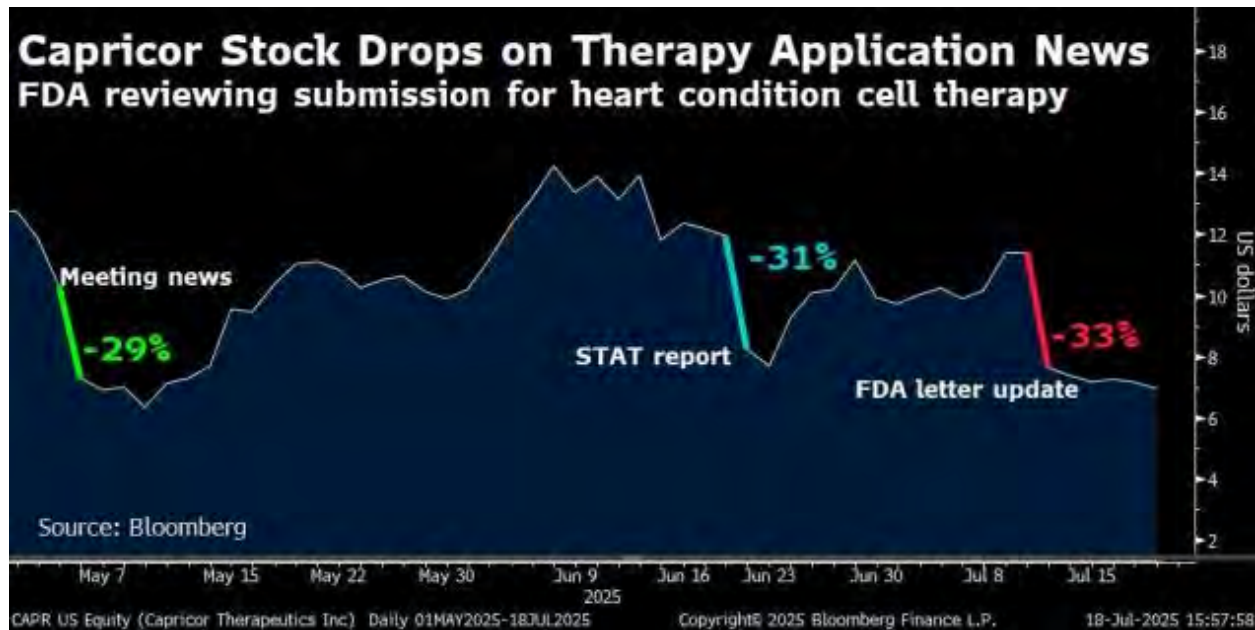
CEO Linda Marbán said in the same press release that Capricor plans to submit data from an ongoing, later-stage clinical trial to bolster evidence of the effectiveness of deramioce, the company's lead cell therapy candidate drug.

Before then, Capricor had concealed shortcomings in an earlier clinical study's data for the therapy, which targets cardiomyopathy tied to Duchenne muscular dystrophy, while overstating the strength of its FDA application, said the investor's complaint filed in the US District Court for the Southern District of California on Thursday.

Investors began learning about potential application issues after Capricor said the FDA intended to hold an advisory committee meeting for deramioce, said shareholder Hau Xiang Leong. Share prices slipped more than 29% the next day, May 6, to close at \$7.30.

Still, Marbán said that meeting of outside advisers didn't indicate "weaknesses in the application" for the company's lead cell therapy candidate in a later call, assuaging investors, Leong said.

Medical news outlet STAT reported in June that the director of the FDA's Center for Biologics Evaluation and Research was skeptical of the therapy and canceled the meeting. Capricor's stock price tumbled nearly 31% to close at \$8.26 that day.



Capricor said in March the FDA granted priority review of deramioce's BLA to treat patients with cardiomyopathy tied to the deadly degenerative muscle disease.

The proposed class would include those who invested from Oct. 9, 2024—when Capricor said it initiated its rolling submission process for a BLA—through July 10, 2025.

Levi & Korsinsky LLP represents Leong, who seeks damages for alleged securities law violations.

A spokesperson for Capricor didn't immediately respond to an email seeking comment.

The case is Leong v. Capricor Therapeutics, Inc., S.D. Cal., No. 3:25-cv-01815, complaint filed 7/17/25.

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Class Action

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Forescout Settles Investor Revenue, Merger Suit for \$45 Million

July 21, 2025, 9:34AM PDT

- **Investors got case revived at 9th Cir., obtained class status**
- **Proposed deal said to represent 11% of maximum damages**

Forescout Technologies Inc. has agreed to pay \$45 million to settle an investor class action alleging the cybersecurity company misrepresented its sales pipeline and the prospects of a merger.

The proposed settlement in the five-year-old case “easily meets the standard for preliminary approval,” the lead investors told the US District Court for the Northern District of California on July 18. It represents 11% of the plaintiffs’ estimate of about \$410 million in maximum recoverable damages, they said.

The suit concerns the lead-up to the 2020 announcement of a possible merger with private equity firm Advent International Corp. and the rocky period following that announcement.

Glazer Capital Management LP, related funds, and other investors alleged that Forescout and two of its executives made misleading statements about the certainty of some sales closing in 2019 and about the experience of its sales force. The defendants also allegedly misled them about two interrelated issues: its relationship with partner organizations and the likelihood of the Advent merger.

News of the planned merger in February 2020 allegedly led three “channel,” or marketing, partners to leave, potentially taking tens of millions of dollars of profit away. And Advent began to get cold feet, informing Forescout in May 2020 that it might not go through with the tie-up, the investors said. Yet Forescout allegedly said a few days later that it looked forward to completing the merger.

Advent terminated the merger plan, Forescout sued Advent, and they settled by agreeing to combine at a lower acquisition price.

After the district court dismissed the case, the US Court of Appeals for the Ninth Circuit revived some of the claims. The suit returned to the district court, where Judge Susan Illston certified a class.

The parties announced a settlement-in-principle in June.

Class counsel may ask for attorneys’ fees up to one-third of the settlement amount, the investors said in their request for preliminary approval. That amount, \$15 million, is less than the “lodestar” calculation based on attorney and paralegal time, which amounts to more than \$20 million, they said.

Pomerantz LLP and Abraham Fruchter & Twersky LLP represent the class. Ropes & Gray LLP and Wilson Sonsini Goodrich & Rosati PC represent Forescout.

The case is Sayce v. Forescout Techs., Inc. , N.D. Cal., No. 3:20-cv-00076, motion 7/18/25 .

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Class Action

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Deep Dive

Meta Deal Cuts Short Landmark Test of Corporate Oversight Law

July 18, 2025, 2:00 AM PDT

- **Shareholder lawsuit targeted data scandal, \$5 billion FTC fine**
- **Accord kicks can on untried legal theory further down the road**

Mark Zuckerberg's settlement Thursday of a \$7 billion shareholder case cut short the most promising test to date for one of corporate law's most potent, yet elusive, liability theories.

Terms of the accord, announced one day into trial, remain undisclosed. The agreement would resolve allegations Zuckerberg and other Meta Platforms Inc. leaders turned a blind eye to red flags involving Cambridge Analytica—a consulting firm hired by President Donald Trump's 2016 campaign—then got themselves out of trouble by funding a \$5 billion fine with investor money. The pact requires court approval.

The case in Delaware's Chancery Court presented claims asserting a total lack of corporate oversight—a theory no shareholder has ever prevailed on. Although preliminary rulings in recent years have widened the path forward for investors who say officers or directors ignored mission-critical risks, settlements followed. The Cambridge Analytica case was the first to reach trial.

Thursday's détente averted a potential landmark decision that could've clarified the contours of oversight liability for boardroom leaders and their lawyers, who still don't really know what kind of exposure they're confronting, said Columbia University law professor Eric Talley.

It's common for cases to settle just as trial gets underway, before any surprises in court shake up the litigation leverage one last time. Regardless of how hungry the corporate community may be for more judicial guidance, "that's only beneficial to the general population," not for parties with skin in the game, according to retired University of Delaware law professor Charles Elson.

"No one likes to be a guinea pig for everyone else," he said.

Corporate Overhaul

The eight-day trial was expected to draw testimony from a roster of Silicon Valley A-listers—current and former board members—including Zuckerberg, former chief operating officer Sheryl Sandberg, venture capitalist Marc Andreessen, and Palantir Technologies Inc. co-founder Peter Thiel.

Jeffrey Zients, a onetime Meta director who later served as former President Joe Biden's chief of staff, testified Wednesday.

The dispute represented the latest flashpoint in a cultural cold war among Delaware's competing corporate constituencies that periodically escalates into open conflict. Presiding over the case was the chief judge of the state's elite business tribunal, Chancellor Kathaleen St. J. McCormick, who has weathered a barrage of attacks from Elon Musk since voiding his \$56 billion pay package last year.

That ruling and several others cracking down on conflicts of interest prompted a legislative push to address the priorities of tech leaders and venture capitalists threatening to leave Delaware, which funds a quarter of its budget with billions in corporate fees.

The bill, which passed in March, was drafted by a panel that included former judges now practicing law at firms linked to Musk and Zuckerberg.

Although every settlement is largely about immediate litigation risks, it's impossible to divorce Thursday's news from the company's recent political activism, according to Elson.

"The context is this significant controversy in which Meta played a role—suggesting they were considering leaving the state, meeting with the governor's office, then pushing to get the corporate statutes changed," he said. "It's not a good look."

Hot Potato

With the accord's details under wraps, there's no way of knowing exactly what brought Meta's board to the table. The immediacy of having to publicly answer detailed questions about what they knew and when they knew it may have clarified stakes that previously felt remote, according to Southern Methodist University law professor Carliss Chatman.

"There was this idea among people like Musk and Zuckerberg that by bullying the Delaware courts, they could get more of what they want," she said. "But what I see is that they're holding the line."

The trial's abrupt termination is sure to disappoint court watchers hoping to learn the limits of corporate oversight liability. But although the doctrine's outer bounds remain unknown, the inherent difficulty in bringing an oversight claim gave the judge a plausible reason for rejecting the lawsuit's premise without appearing to bend to pressure, according to Talley.

"If she did want to get to a ruling for Zuckerberg, she wouldn't have to stretch," he said.

Still, getting the hot potato off her hands may make McCormick the biggest winner at the end of the day, according to Thompson Coburn LLP partner David Kaufman.

Instead of hitting her with criticism from one side, the other, or both, now "people can look at her and say, 'You did a great job, because you got people to settle this,'" he said.

Settlement Approval

Neither Zuckerberg nor Meta's other directors will have to concede wrongdoing in the settlement, which will likely include an astronomical headline figure and the type of mega-fee request from the shareholder attorneys that has fueled discontent among the boardroom set in recent years, said Widener University law professor Paul Regan.

Despite the missed opportunity for a trial, the accord is still instructive, according to Kaufman, who said it offers an example of how far both sides of an oversight case can push before reaching a deal.

When corporate lawyers are asked, "Should I do this? Should I not to do that?" the answer is usually, "You need to do what other directors do in like circumstances," he said.

Although McCormick could still shoot down the agreement, that seems unlikely, according to University of Pennsylvania law professor Jill Fisch, who said the late stage of the litigation reduced concerns about "trying to get rid of the case by buying off the plaintiffs' lawyers."

"All of the work has been done," Fisch said. "I would expect this settlement to be more closely tied than usual to what the parties actually expected to be able to prove."

The case is *In re Facebook Inc. Deriv. Litig.*, Del. Ch., No. 2020-0363.

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Meta investors settlement with Zuckerberg takes heat off Delaware



reuters.com/sustainability/boards-policy-regulation/meta-investors-settlement-with-zuckerberg-takes-heat-off-delaware-2025-07-21

Tom Hals

July 21, 2025

Item 1 of 3 Meta Platforms CEO Mark Zuckerberg departs after attending a Federal Trade Commission trial at U.S. District Court in Washington, D.C., U.S., April 15, 2025.
REUTERS/Nathan Howard/File Photo

[1/3]Meta Platforms CEO Mark Zuckerberg departs after attending a Federal Trade Commission trial at U.S. District Court in Washington, D.C., U.S., April 15, 2025.
REUTERS/Nathan Howard/File Photo [Purchase Licensing Rights, opens new tab](#)
WILMINGTON, Delaware, July 21 (Reuters) - A last-minute settlement between Meta Platforms ([META.O](#)), [opens new tab](#) shareholders and the company's leadership last week ended an \$8 billion trial and spared Mark Zuckerberg from testifying about alleged violations of Facebook users' data. It also took the heat off the state of Delaware, which has been plagued by criticism from technology and business leaders.

The second day of the eight-day trial in Delaware's Court of Chancery was about to start on Thursday when the legal team for the shareholder plaintiffs announced they had reached a deal to resolve the case.

The terms are still being hammered out, but the agreement ends a case that had the potential to fuel a trend of companies abandoning the state as their legal home.

Since last year, Elon Musk and other business leaders have attacked the state's courts, once the key reason companies incorporated in Delaware, for rulings that they say made it easier for shareholders to sue directors.

Musk encouraged companies to leave the state and in the past year Dropbox([DBX.O](#)), [opens new tab](#), Trump Media & Technology([DJT.O](#)), [opens new tab](#), Roblox([RBLX.N](#)), [opens new tab](#) and Simon Property Group([SPG.N](#)), [opens new tab](#) were among the large public companies that [reincorporated](#) outside Delaware, a trend dubbed "Dexit."

Critics claim the state's courts are biased against company founders -- an uncomfortable backdrop for the Meta case, whose 11 defendants included the billionaires Zuckerberg, Sheryl Sandberg, Marc Andreessen, Palantir Technologies([PLTR.O](#)), [opens new tab](#) co-founder Peter Thiel and Reed Hastings, who co-founded Netflix([NFLX.O](#)), [opens new tab](#). A ruling that spared the defendants might have given the impression the court caved to pressure to let them off the hook, while one that favored the plaintiffs could have led to further calls for companies to leave Delaware.

"It was going to be really awkward for the court," said Ann Lipton, a professor at Colorado Law School.

Meta, which owns Facebook, Instagram and WhatsApp, and lawyers for Meta investors and the defendants did not respond to requests for comment.

Meta shareholders alleged current and former officers and directors of Facebook were liable for failing to protect users' data. The shareholder plaintiffs wanted the court to order the defendants to use their personal fortune to reimburse the company for the \$8 billion in legal costs that Facebook had shelled out for violating user privacy, including a \$5 billion fine paid to the Federal Trade Commission in 2019.

The case put a spotlight on Delaware courts and the judge handling the case, Chancellor Kathaleen McCormick, who gained prominence last year for [rescinding](#) Musk's \$56 billion pay package from Tesla([TSLA.O](#)), [opens new tab](#). That ruling is on appeal.

Adding to the high stakes, Andreessen's venture capital firm, Andreessen Horowitz, [said](#) earlier this month it was moving its incorporation to Nevada from Delaware and encouraged other companies to follow. "In particular, Delaware courts can at times appear biased against technology startup founders and their boards," said a blog post on the firm's website, citing McCormick's Musk pay ruling. The firm did not respond to a request for comment.

Earlier this year, representatives from Meta met with Delaware's governor and soon after the state [changed](#) its widely used corporate law to make it harder for shareholders to sue corporate boards over deals with controlling shareholders like Zuckerberg.

Delaware's political leaders said the changes were meant to keep Meta and other companies from fleeing the state. Delaware gets more than a quarter of its budget revenue from fees associated with chartering businesses.

Despite the new law, some companies, like Affirm Holdings([AFRM.O](#)), [opens new tab](#), still opted to leave, saying it was unclear how it would be interpreted by Delaware courts.

Lawrence Cunningham, director of the Weinberg Center for Corporate Governance in Delaware, said the Meta shareholder settlement highlighted the strengths of the Delaware court in handling a complicated case and guiding it to a resolution, which might be hard to replicate elsewhere. "It was a very desired judicial outcome," he said of the case.

Reporting by Tom Hals in Wilmington, Delaware; Editing by Noeleen Walder and Daniel Wallis

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Securities Law News

Argentina Says It Won't Negotiate With Burford Over YPF Shares

July 18, 2025, 9:11 AM PDT

Argentina won't negotiate with Burford Capital, the firm leading efforts to collect a \$16 billion judgment against the South American nation, a spokesman for President **Javier Milei** told reporters Friday.

The spokesman, Manuel Adorni, also denied that the government had held any secret talks. "Argentina will not negotiate with the plaintiffs and categorically denies any malicious discussion of parallel meetings or secret agreements," he said.

Adorni's remarks come a few weeks after US District Judge Loretta Preska in New York ordered Argentina to hand over its 51% stake in oil company YPF SA to partially satisfy the judgment. Preska is also the judge who in 2023 awarded \$16 billion to YPF shareholders expropriated by the Argentine government in 2012.

Milei's administration is appealing both the original judgment and Preska's June 30 handover order. Many legal experts have said the more recent order is likely to put pressure on Argentina to reach a settlement.

Burford declined to comment on Friday. Its shares have surged in the last few weeks on such expectations. The litigation funding firm's share price was largely unchanged around noon on Friday.

The government's registrar of visitors recently disclosed that two Burford negotiators met with Milei's cabinet chief back in October, but the government said talks never advanced.

Adorni's comments come a day after the Trump administration submitted a court filing supporting Argentina in the federal appeals court in New York. The US Justice Department said that allowing the YPF handover order to take effect would violate legal protections of sovereign immunity.

Argentina on Thursday ordered a restructuring of the Treasury prosecutor's office, which is handling the case on its behalf. The decision comes after local media reports on suspected information leaks in the trial for YPF. Adorni denied Friday that the restructuring had anything to do with the purported leaks.

Securities Law News

James River Defeats Buyer's Suit Over Reinsurance Unit Sale

July 18, 2025, 8:59 AM PDT

- Deal was outside the US, not subject to federal securities law
- Judge tossed suit but buyer can refile state claims

James River Group Holdings Ltd. beat US securities fraud claims that it misled a buyer about the worth of its sold-off Bermudan reinsurance company.

While James River is headquartered in North Carolina, Bermuda-based buyer Fleming Intermediate Holdings LLC's private purchase of JRG Reinsurance Company Ltd. was outside the US, said Judge Jennifer L. Rochon while tossing the case Thursday. Another allegation that the people "controlling" James River were liable for federal securities law violations failed as a result of the lacking fraud claim, the US District Court for the Southern District of New York judge said.

Fleming, majority-owned by Altamont Capital Partners, alleged that James River knew or recklessly disregarded that the deal's stock purchase agreement was misleading. Fleming said James River rushed to close the deal—under which the seller was to receive up to about \$300 million—concealing that it "looted" \$20 million from JRG Re, improperly took payments from it, and manipulated the reinsurance company's monetary reserve levels.

James River sued Fleming in the New York Supreme Court for not closing the transaction last year. Following a court order, Fleming closed its purchase of JRG Re in April 2024, paying James River more than \$152 million.

James River "was desperate for cash," Fleming alleged, in part due to a \$30 million investor class settlement that got a federal court's final approval in May 2024 after years of litigation.

Rochon tossed the federal allegations with prejudice. She declined to take up Fleming's state law claims for fraud and breach of contract, but dismissed them with the ability to refile in state court. Given pending state law proceedings, it wouldn't be efficient or convenient to keep these allegations in federal court, Rochon said.

Gibson, Dunn & Crutcher LLP represents Fleming. Quinn Emanuel Urquhart & Sullivan LLP represents James River and two of its executives. Neither of these law firms immediately responded to emails seeking comment on their client's behalf.

The case is Fleming Intermediate Holdings LLC v. James River Grp. Holdings, Ltd. , 2025 BL 250144, S.D.N.Y., No. 1:24-cv-05335, 7/17/25 .

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Securities Law News

'Simply Fake': Ignored Dossier Warned Credit Suisse About Gupta

July 21, 2025, 2:55 AM PDT

- Internal 2018 report alleged Sanjeev Gupta took part in fraud
- Gupta's group 'categorically' denies wrongdoing, lawyer says

The report that landed on the desks of Credit Suisse executives was a bombshell: **Sanjeev Gupta**, a global steel tycoon and one of the bank's key borrowers, was a "clear participant" in a multi-billion dollar fraud, it claimed.

It was November 2018 and a small group of bankers at Credit Suisse, who had long mistrusted Gupta and his group of companies known as Liberty House, had hired a private-intelligence firm to probe his dealings. Now they were flagging its eye-popping conclusion to their superiors: he was, the report claimed, a central player in a web of companies that had made many trades that were "simply fake."

"Liberty and Sanjeev Gupta were a clear participant in the fraud," according to the report, a copy of which has been reviewed by Bloomberg. The alleged wrongdoing, which included fake documents and hidden related-party deals, had cost banks in the United Arab Emirates some 16 billion dirhams (\$4.4 billion), the report claimed.



Sanjeev Gupta

Photographer: Brendon Thorne/Bloomberg

What happened next is well known. Credit Suisse officials dismissed the warnings and pushed ahead, lending large amounts of clients' money to Gupta's companies through a suite of investment funds they created with Greensill Capital. The arrangement ended in ignominy: Greensill imploded in 2021 and Credit Suisse was sold to UBS Group AG to avoid collapse two years later. Gupta and his companies have yet to repay most of the loans, which amounted to \$1.2 billion at the time of Greensill's failure, and are being pursued by creditors around the world.

Yet the contents of the report, carried out by private-intelligence firm Diligence, show in new detail the warnings that executives at Credit Suisse's asset management division saw and dismissed. The allegations remain relevant as Gupta's sprawling empire remains enmeshed in fraud and money-laundering investigations. His companies still own important steel-making assets across the world from northern England to Australia, and employ more than 10,000 people.

A lawyer for Gupta's wider group — known as the GFG Alliance — said that the group “categorically” denied any wrongdoing.

“It is wholly unclear how Diligence, an investigations firm, could possibly have felt in a position to state definitively, and in such generic terms, that Liberty House Group and Sanjeev Gupta were *“a clear participant”* in a *“multibillion-dollar fraud”*, or that there were trades that were *“simply fake”*,” GFG’s lawyer said.

"Diligence did not speak to Mr Gupta or Liberty, nor are they a law enforcement agency with formal powers of investigation. There is no indication of the evidence relied upon by Diligence in reaching such serious conclusions, so one can only speculate," he said. "However, the clear position is that, almost 7 years after the apparent date of the Diligence Report, no such findings have been made by any law enforcement agency or regulator nor have the claims in the Diligence Report ever been put to GFG."

A spokesperson for UBS declined to comment. A spokesperson for Diligence, a Geneva-based firm that now operates as DGBI, also didn't comment.

The existence of the report emerged last month in a London legal battle between Credit Suisse and SoftBank Group Corp.

As part of the London case, the Swiss financial regulator Finma's investigation into Credit Suisse's relationship with Greensill was made public. That investigation cited the report produced by Diligence, including the allegation that Gupta "carried out undeclared transactions with related parties" and that Liberty was involved in a "carousel fraud."

The Diligence report described the alleged "carousel fraud" as dating back to 2015. A set of companies based mainly in the UAE — including some from Gupta's group — "engaged in fraudulent practices, such as, but not limited to, fake bill of lading, undeclared related parties transactions, carousel of funds, undeclared use of proxy companies, multiple financing for the goods and fabricating paper trade," it alleged.

Gupta's group played an "instrumental" role in the fraud, according to the report.

Bills of lading are shipping receipts that play a vital role in the world of trade finance as they're used by banks as a form of security to underpin lending. The sector has been hit by numerous frauds in recent years where bills of lading have been forged or used to raise money against the same cargo several times, often leaving banks and insurers facing losses.

The trades were routed through a so-called carousel of apparently unconnected companies that were all in fact acting together, according to the report. In some transactions, it said, Gupta's Liberty acted as both the original seller and the ultimate buyer of a cargo.

"Such a scheme allows Liberty to pocket twice the money for the same materials," according to the report.

The Diligence report also alleged that Liberty controlled a shipping company that it used "to control the issuance of bill of lading and other trades documents."

Outside Gupta's group, other companies named in the report included Phoenix Commodities, which collapsed amid losses in 2020, and was later alleged in court to have raised finance based on fabricated documents. The report also alleged the involvement of Ushdev International, the now-defunct company of **Prateek Gupta**, who Trafigura Group alleges defrauded it of more than \$500 million. Prateek Gupta (who is not believed to be related to Sanjeev) has conceded he sold Trafigura cargoes that were supposed to contain nickel but did not, but denies fraud.

The liquidators of Phoenix did not respond to a request for comment. Neither did a lawyer for Prateek Gupta.

Read More: Trafigura Faces \$577 Million Loss After Finding Nickel Fraud

In the report, Diligence said it had not investigated all of the trades it had found that were connected to Liberty, but that when it had investigated other trades carried out by companies it believed to be part of the fraud, it had found that “an overwhelming number of those trades were simply fake.”

The report doesn’t include detailed evidence for all of its claims. Still, it prefigures much of what has been reported about Gupta, Liberty and the GFG Alliance in the years since the findings were delivered to Credit Suisse in 2018.

Bloomberg has previously reported that several banks backed away from Gupta’s companies starting in 2016 after finding irregularities in bills of lading that suggested the same cargoes were being borrowed against multiple times. In response to that report, Gupta’s group denied wrongdoing.

Read More: As Gupta Rose From Trader to Tycoon, Several Banks Backed Away

The Financial Times reported that Liberty invoices that had been financed by the Credit Suisse funds involved sales to companies that denied doing business with Gupta’s group. Gupta responded with a letter to the FT, saying “I refute any suggestion of wrongdoing.”

And a UK lender that Gupta bought — Wyelands Bank — was censured by the banking regulator after it was found to have lent large amounts of money to parties connected to him, and forced to return money to depositors.

For Credit Suisse, the Diligence report adds to a damning picture of failures that ultimately contributed to the Zurich-based bank’s near-collapse and sale to crosstown rival UBS.

The Greensill funds that lent to Gupta had been arranged by Credit Suisse’s asset-management arm, and executives at that division oversaw the arrangement. Yet as far back as 2016, the bank’s trade-finance division, which lent money to companies in the commodities sector, had blacklisted Gupta and stopped doing business with him after becoming concerned about some of his transactions, Bloomberg has previously reported.

Read More: A Credit Suisse Unit Blacklisted Gupta as Another Bankrolled Him

Around 2018, officials at the trade-finance division heard from a confused executive at Trafigura, one of the world’s biggest commodities trading firms, according to people familiar with the matter. He had been approached by bankers from Credit Suisse, pitching an investment in the Greensill funds. If the bank had blacklisted Gupta, the executive wondered, why was it asking clients to lend money to him?

Credit Suisse's trade-finance bankers were alarmed and raised their concerns with colleagues at the asset-management division involved with the Greensill funds. When this went nowhere, they commissioned the Diligence report and took it to Credit Suisse's Swiss general counsel, **Thomas Grotzer**, in a final effort to kill the relationship, the people said.

Grotzer sent the report to **Michel Degen** and **Luc Mathys**, the respective heads of Switzerland and of fixed income at the asset management business, writing that "the issues raised here should be clarified in detail," according to the Finma investigation. He copied in two other general counsel at Credit Suisse on his email, which was then sent on to other top officials at the division.

In mid-2019, a memorandum written by Mathys and portfolio manager **Lukas Haas** dismissed the allegations of the Diligence report as unsubstantiated and incorrect — a conclusion that they based on information provided by Greensill and Liberty, according to Finma. In any case, they wrote, all of Credit Suisse's investments were covered by insurance so "we have zero economic exposure to GFG Alliance."

Mathys didn't respond to requests for comment and Haas couldn't be reached for comment. A lawyer for Degen declined to comment.

In the ruling from its investigation, Finma described the asset management division's handling of the warnings about Gupta as "questionable" and said that the 2019 memorandum contained "serious and demonstrable misstatements."

UBS bought out most of the investors in the Greensill funds in 2024 for 90 cents on the dollar and is now owed around \$900 million by Gupta's group. Almost seven years since the allegations made in the Diligence report, and despite several legal cases and long-running talks over a settlement, the money remains outstanding.

--With assistance from **Jonathan Browning** and **Lucca de Paoli**.

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Litigation Trends to Watch: Suits Strike at Video Game Safety, CBD Products and Water Pollution

July 18, 2025 By Mike Neighbors



Credit: Rokas/Adobe Stock

Welcome to the Trend Detection Weekly Scan from [Law.com Radar](#). This weekly article highlights shifts and patterns in case filings that are surfaced by Law.com Radar's award-winning Trend Detection system.

New to Trend Detection? This proprietary system employs specialized algorithms to identify early signs of litigation trends in federal litigation filings. [Click here](#) to learn more about Law.com Radar's new suit alerting and trend detection capabilities.

Here's what caught our attention this week:

- Cases are piling up against Roblox over video game addiction and sexual grooming of minors.
- Public health groups are fighting back against Medicaid cuts and other directives.
- A cannabis company is waging a litigation campaign against sellers of CBD products.
- Class action law firm Bursor & Fisher launched a cluster of false advertising cases.
- Manufacturers are under fire for allegedly polluting waterways in California.

► [Litigation Surge - Gaming & Esports | Roblox](#)

Roblox, a video game platform which enables users to create and share games, was hit with a cluster of federal lawsuits on July 9 and 11. At least four cases were initiated, most of which allege the platform has [dangerous and addictive qualities](#) which threaten users' mental, emotional and physical health. The suits are part of a [broader trend of cases](#) claiming modern games and platforms are deliberately designed to be addictive: Other companies under fire include [Apple](#), [Epic Games](#), [Google](#), [Microsoft](#) and [Nintendo](#). Roblox won a major victory earlier this year when a federal judge in Illinois ruled video game addiction claims against the company were barred under the First Amendment and Section 230 of the Communications Decency Act.

Plus, a product liability suit was filed against Roblox and communications platform Discord on behalf of a minor who was allegedly [attacked](#) in an attempt by a now-incarcerated man who arranged a meet-up after communicating with the plaintiff through the defendants' platforms. The suit



of a string of cases accusing Roblox and Discord of failing to implement adequate safeguards to protect minors from grooming and other sexual exploitation.

[View Surge Data](#)

► **[Litigation Surge - Health Care](#) | [Massachusetts](#)**

Law.com Radar spotted a surge of lawsuits in the health care sector in Massachusetts during the week of June 7. Six federal cases were filed by or against entities on Radar's industry watchlist, two of which challenge recent actions by the U.S. Department of Health and Human Services and other government entities. For instance, the American Academy of Pediatrics and other groups claim the Center for Disease Control's [removal](#) of children and pregnant women from the COVID-19 vaccine recommendation list is arbitrary and capricious and jeopardizes public health. Also, Planned Parenthood alleges a provision in the 'One Big Beautiful Bill' which [blocks](#) Planned Parenthood and affiliated centers from receiving Medicaid reimbursements violates the First and Fifth Amendments and constitutes an unlawful bill of attainder.

[View Surge Data](#)

► **[Litigation Surge - Florida](#) | [Patent](#)**

Patent cases spiked in Florida on July 16. At least eight patent lawsuits were filed in the Sunshine State, seven of which were brought by cannabis company Metronome. The [suits](#), filed by Rabicoff Law and Beusse Sanks, are part of a wave of cases alleging competitors' topical CBD products infringe the plaintiff's patent. In recent months, Law.com Radar has detected identical lawsuits in [Colorado](#), [Delaware](#), [New Jersey](#) and [Wisconsin](#).

The cannabis sector has been a hotbed for litigation in recent months. For instance, major cannabis companies have been sued in Illinois for allegedly selling vaping products with [excessive THC content](#) in violation of the state's recreational and medical cannabis statutes, and California's largest cannabis retail STIIIZY has been hit with several product liability suits brought by users who allegedly developed [psychosis](#) after using the company's products.

[View Surge Data](#)

► **[Litigation Surge - Class Actions](#) | [Bursor & Fisher](#)**

Class action law firm Bursor & Fisher launched a flurry of lawsuits in federal courts on July 15. At least three class actions were brought by the firm, all asserting false advertising claims. A California lawsuit accuses Cole's Seafood of failing to disclose that its farm-raised salmon is [artificially colored pink](#) with the additive astaxanthin, while another suit in California claims mattress and bedding company Resident Home and parent company Ashley Furniture failed to inform customers of the presence of [toxic fiberglass](#) in their Nectar mattresses. Plus, Barebones Ventures was sued in New York for allegedly mislabeling 16-ounce containers of bone broth as 'single serving' in order to [artificially inflate protein claims](#) to 20 grams per serving.

[View Surge Data](#)

► **[Litigation Surge - California](#) | [Environmental](#)**

Law.com Radar detected a swarm of environmental lawsuits in California federal courts during the week of June 7. At least six cases were filed, roughly triple the usual weekly average. What triggered the surge? Five suits were brought by various non-profit groups, such as the [Sierra Club](#), [Los Angeles Waterkeeper](#) and [San Diego Coastkeeper](#), over claims that businesses violated the Clean Water Act by discharging pollutants into navigable waters without securing necessary permits or implementing appropriate control measures. Plus, a coalition of environmental groups, including the Clean Air Council and the Natural Resources Defense Council, are challenging the U.S. Environmental Protection Agency's recent denial of a petition to [regulate hydrogen fluoride](#), which is used in fuel production at dozens of refineries.

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California Brief

Consumer Suit Advances Over LiveRamp's 'Surveillance Ecosystem'

July 18, 2025, 2:02 PM PDT

- Plaintiffs adequately pleaded privacy, wiretap claims
- Suit targets creation and sale of consumer ID profiles

Data broker LiveRamp Inc. must face a proposed class action alleging it created and sold comprehensive identity profiles of consumers without their consent in violation of state and federal privacy laws.

The plaintiffs adequately pleaded claims of invasion of privacy, unjust enrichment, and violations of the federal Wiretap Act and the California Invasion of Privacy Act, the US District Court for the Northern District of California said Friday.

Lead plaintiffs Christine Riganian and Donna Spurgeon alleged in an April complaint that LiveRamp tracked their online activities across thousands of websites and combined the resulting information with data drawn from offline sources to create identity profiles of them for sale to third parties.

LiveRamp also created a commercial "surveillance ecosystem" where advertisers and data brokers bought and sold the data that LiveRamp collected, the complaint said. Consumers were unable to give meaningful consent to the surveillance because they couldn't foresee how their identity profiles would be used and to whom the profiles would be sold, it said.

LiveRamp argued in a motion to dismiss that the invasion of privacy claims should be tossed because they didn't allege that it collected sensitive data, but Judge Jon S. Tigar disagreed.

The key issue was the capacity of new technologies to combine online and offline information into a new category of information that was otherwise unknowable, implicating privacy concerns that were different from traditional intrusions, he said.

The plaintiffs' allegations that LiveRamp collected their information across thousands of websites, combined it with offline records gathered over decades, and created identity profiles of them for sale to third parties were enough to allege intrusion into their privacy, he said.

Tigar rejected LiveRamp's challenge to the plaintiffs' claim under the Wiretap Act, which allows recording of conversations if at least one party consents.

The company argued it wasn't liable because its data-collection pixel was only in use on sites that chose to install it.

That argument failed because of a Wiretap Act exception allowing for liability where the purpose of the interception was to commit a criminal or tortious act. The plaintiffs' allegations concerning LiveRamp's conduct were enough to trigger the crime-tort exception and allow for liability despite the website operators' consent, Tigar said.

He also held that the plaintiffs adequately pleaded that LiveRamp's pixel technology qualified as a "pen register," and that it was too early to resolve LiveRamp's argument that it didn't intercept communications while they were "in transit," requirements for liability under CIPA.

Lieff Cabraser Heimann & Bernstein LLP and Simmons Hanly Conroy LLP represent the plaintiffs and the proposed classes. Wilson Sonsini Goodrich & Rosati represents LiveRamp.

The case is *Riganian v. LiveRamp Holdings Inc.*, N.D. Cal., No. 4:25-cv-00824, 7/18/25 .

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Litigation

Subscribe

Kentucky Sues Temu for Collecting 'Alarming' Amount of User Data

July 18, 2025, 12:17 PM PDT

- **COURT:** Ky. Cir. Ct.

Temu is collecting users' sensitive personal information without their knowledge and designed its app's code in a way to evade detection, Kentucky's attorney general says in a state court complaint.

The popular online shopping app is also "awash in products that baldly infringe upon, or simply copy outright, intellectual property" owned by Kentucky-based businesses, according to the state's lawsuit filed Thursday in the Kentucky Circuit Court for Woodford County.

The retailer is also facing a lawsuit brought by Nebraska over its data practices.

Kentucky's Temu investigation revealed the app is collecting data on users that's "well beyond" what's necessary for its operations—including a user's physical location, data points that allow the app to track a device's movements, and lists of a consumer's installed apps and associated accounts—Kentucky Attorney General Russell Coleman (R) says.

Temu's code is also "purposely designed to evade front-end security review," applying "multiple layers of encryption" to shield itself, the state alleges. The code also allows Temu to reconfigure its functionality once it's downloaded, effectively bypassing security and privacy tests to gain Google or Apple app store approval, the complaint says.

PDD Holdings and Temu didn't immediately respond to emailed requests for comment.

The code is allegedly modeled on Pinduoduo, an app created by Temu parent company PDD Holdings Inc. Pinduoduo has been described as malware by security experts and was banned from Google's app store over privacy issues. Many of the engineers who developed its code were transferred to work on Temu, the state claims.

Chinese law requires businesses to hand over data and cooperate with national intelligence agencies if requested, and provides the government "broad authority" to investigate and access private networks and communication systems. The companies have a portion of their operations in China, amplifying the consequences of Temu's alleged privacy violations, Kentucky asserts. Temu also deceptively represents the quality of its products and engages in other business practices that violate Kentucky's consumer protection law.

Consumers have allegedly reported receiving products that are low quality and don't resemble images on the app, and being charged for and sent items they didn't order. Temu also has a "convoluted and ineffective IP protection policy," allowing unlicensed products to be sold on the app, the state alleges.

Kentucky asserts various violations of the state's consumer protection law, and an unjust enrichment claim. The state is seeking injunctive relief, up to \$2,000 per violation of its law, and disgorgement of all ill-gotten gains.

The case is Kentucky v. PDD Holdings Inc. , Ky. Cir. Ct., No. 25-CI-00232, complaint filed 7/17/25 .

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From trauma to triumph: The personal growth that built a law firm

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[dailyjournal.com/articles/386626](https://www.dailyjournal.com/articles/386626)



Alreen Haeggquist

From trauma to triumph: The personal growth that built a law firm

Alreen Haeggquist faced the typical startup challenges when she launched her San Diego-based employment law firm and then some. Building Haeggquist & Eck LLP into an 18-person firm would require confronting both the male-dominated legal industry and personal obstacles that could have derailed her ambitions.

Haeggquist established the firm on Sept. 1, 2008, alongside partner Helen I. Zeldes after both had left careers at what was then one of the nation's largest class-action firms, Lerach Coughlin Stoia Geller Rudman & Robbins, now known as Robbins Geller Rudman & Dowd. Their departure wasn't merely about independence--it was about creating a different kind of workplace culture. Zeldes is now a partner with Schonbrun Seplow Harris Hoffman & Zeldes, LLP.

"There was just definitely a glass ceiling, you could see there was only so far you could go with the firm, even if you ever made partnership," Haeggquist said. "Partnership didn't really mean that you had a vote or a say in how things ran. And I also just wanted a different culture."

The firm's growth to its current size wasn't linear. After working separately for a year to test their partnership, Haeggquist and Zeldas joined forces, hiring their first employee, Aaron Olsen, in March 2009. Olsen, now a partner, was followed by current partner Amber Eck in

2010. Jenna Rangel, another partner, joined in 2014.

What sets Haeggquist's story apart is her acknowledgment that overcoming personal issues was integral to the firm's success. She credits therapy and business coaching with helping her overcome childhood trauma that was affecting her ability to scale the firm.

"I have a lot of childhood trauma, so for me, I would say my biggest challenge was myself and overcoming my own fears, the belief systems that I grew up with as a result of the abuse," she said. "And as I healed, and I addressed my trauma, that really allowed me to grow the firm, because it improved my relationships. It allowed me to believe what's possible when I stopped getting in the way."

Born in Pakistan as the youngest of 10 children to an Indian family that had fled Burma and settled in the San Fernando Valley, Haeggquist brought her own perspective to building her practice.

The firm operates as a 100% contingency fee practice, focusing on individual cases rather than the large class actions that dominated Haeggquist's early career. This shift reflected her desire to represent "women and people that were powerless on an individual level, as opposed to a class level."

Aside from overcoming personal obstacles, marketing presented unexpected challenges. Haeggquist initially assumed clients would find her through word-of-mouth referrals.

"I really didn't think I needed to market, I just thought I was a really good attorney, and because I'm a really good attorney, people would just come to me because I did good work," she said. "And I just realized, well, nobody's going come to you if you don't know you exist."

She discovered that potential clients often chose other attorneys simply because they appeared first in search results, leading her to invest in search engine optimization and video marketing to ensure people knew they had the option of working with "a woman of color."

For attorneys considering starting their own practices, Haeggquist offers both encouragement and realism. While she strongly advocates for entrepreneurship, she emphasizes the multifaceted nature of running a firm.

"If all you want to do is research the issue, and argue in court and only have this one role of being a lawyer, then running a law firm is not your best bet," she said. "But when you run a law firm, you wear a lot of different hats, but you also control the life of it."

Her advice to aspiring solo practitioners centers on authenticity and specialization rather than trying to compete with large marketing budgets.

"Don't be the jack of all trades, right? Like, figure out, like, the niche and the practice and the people that you want to represent, and go represent them," she said.

#386626

News from Bloomberg Terminal

5 years after Ohio's \$60M bribery scandal, critics say more could be done to prevent a repeat

July 21, 2025, 9:13 AM PDT

5 years after Ohio's \$60M bribery scandal, critics say more could be done to prevent a repeat

By JULIE CARR SMYTH

COLUMBUS, Ohio (AP) - Five years after a \$60 million bribery scheme funded by FirstEnergy Corp. came to light in Ohio, expert observers say the resulting prosecutions, lawsuits, penalties and legislation haven't led to enough change and accountability to prevent politicians and corporate executives from cutting similar deals in the future.

The scheme - whose prospective \$2 billion-plus pricetag to consumers makes it the largest infrastructure scandal in U.S. history - surfaced with the stunning arrests of a powerful Republican state lawmaker and four associates on July 21, 2020.

That lawmaker, former House Speaker Larry Householder, is serving 20 years in federal prison for masterminding the racketeering operation at the center of the scandal.

Jurors agreed with prosecutors that money that changed hands wasn't everyday political giving, but an elaborate secret scheme orchestrated by Householder to elect political allies, become the House speaker, pass a \$1 billion nuclear bailout law in House Bill 6 and crush a repeal effort. One of the dark money groups Householder used also pleaded guilty to racketeering.

Householder and a former lobbyist have unsuccessfully challenged their convictions. Two of the arrested associates pleaded guilty, and the other died by suicide.

Dark money keeps flowing

Any hope that the convictions would have clarified federal law around 501(c)4 nonprofit "dark money" groups or prompted new restrictions on those hasn't materialized, said former U.S. Attorney David DeVillers, who led the initial investigation.

"I think it's actually worse than it was before," he said. "Nationally, you have both Democrats and Republicans using these, so there's no political will to do anything about it."

Indeed, a study released in May by the Brennan Center for Justice found that dark money unleashed by the 2010 Citizens United decision hit a record high of \$1.9 billion in 2024 federal races, nearly double the \$1 billion spent in 2020. The vast majority of money from undisclosed donors raised into dark money accounts now goes to super PACs, providing them a way to skirt a requirement that they make their donors public, the study found.

DeVillers said one positive result of the scandal is that Ohio lawmakers appear genuinely concerned about avoiding quid pro quos, real or perceived, between them and their political contributors.

Anti-corruption legislation perennially introduced by Ohio Democrats since the scandal broke has gone nowhere in the GOP-dominated Legislature. Republican legislative leaders have said it is outside their authority to amend federal campaign finance law.

The U.S. Attorney's office declined to discuss the investigation because prosecutions remain ongoing. Two fired FirstEnergy executives have pleaded not guilty on related state and federal charges and await trial.

Former Public Utilities Commission of Ohio Chairman Samuel Randazzo, to whom FirstEnergy admitted giving a \$4.3 million bribe in exchange for regulatory favors, had faced both federal and state charges. He died by suicide after pleading not guilty.

State regulator hasn't penalized FirstEnergy

Akron-based FirstEnergy - a \$23 billion Fortune 500 company with 6 million customers in five states - admitted using dark money groups to bankroll Householder's ascendance in exchange for passage of the bailout bill. It agreed to pay \$230 million and meet other conditions to avoid prosecution, and faced other sanctions, including a \$100 million civil penalty by the U.S. Securities and Exchange Commission.

But FirstEnergy hasn't yet faced consequences from the state regulator.

"They never actually got penalized by regulators at the PUCO level," said Ohio Consumers' Counsel Maureen Willis, the lawyer for Ohio utility customers.

Testimony in four PUCO proceedings stemming from the scandal finally began last month after the cases were delayed for nearly two years, in part at the request of the Justice Department. They're intended to determine whether FirstEnergy used money for bribes that was meant for grid modernization and whether it improperly comingled money from its different corporate entities.

FirstEnergy spokesperson Jennifer Young said it invested \$4 billion in grid upgrades in 2024 and plans to spend a total of \$28 billion through 2029.

Young said FirstEnergy has redesigned its organizational structure, established a dedicated ethics and compliance office, overhauled the company's political activity and lobbying practices and strengthened other corporate governance and oversight practices.

"FirstEnergy is a far different company today than it was five years ago," she said.

The PUCO also made changes in response to the scandal. Chair Jenifer French told state lawmakers that ethics training has been enhanced, staff lawyers and the administrative law judges who hear cases now report to different directors to ensure legal independence, and she never takes a meeting alone.

Some tainted money hasn't been returned to customers

Ashley Brown, a retired executive director of the Harvard Electricity Policy Group who previously served as a PUCO commissioner, said the commission is the only state entity with the power to order FirstEnergy to return tainted cash - including the bribe money - to customers. That largely hasn't happened.

He said the Ohio commission had vast power to hold FirstEnergy accountable for its misdeeds but hasn't conducted its own management audit of the energy giant, demanded an overhaul of FirstEnergy's corporate board or pressed for public release of FirstEnergy's own internal investigation of the scandal, whose findings remain a mystery. Shareholders won some accountability measures as part of a \$180 million settlement in 2022, but they continue to fight in court for release of the investigation. Willis does, too.

"How do you allow a utility to operate a vast criminal conspiracy within the utility (with) consumer dollars, and you don't even look at what went wrong?" Brown said.

PUCO spokesperson Matt Schilling reiterated that the commission's probes are ongoing. He said the panel has vowed to take its proceedings "wherever the facts lead."

The portion of HB 6 that bailed out two FirstEnergy-affiliated nuclear plants was repealed in 2021, and \$26 million was refunded to customers.

The scandal investigation revealed that other power distribution companies got a lucrative payout of their own added to the bill in exchange for their buy-in: subsidies for two unprofitable Cold War-era coal plants. It wasn't until April that a law was passed repealing those subsidies.

Until that takes effect Aug. 14, the charges cost Ohio ratepayers \$445,679 a day - and it's unclear if or when they'll get that money back. A ticker on Willis' website puts the total they've paid at more than \$500 million and counting.

[Editor notes: Eds: UPDATES: Fixes spacing issue in headline]

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More About the Trump Administration and Potential False Claims Act Liability



dandodiary.com/2025/07/articles/regulatory-enforcement-2/more-about-the-trump-administration-and-potential-false-claims-act-liability

Kevin LaCroix

July 20, 2025

In numerous public statements, Trump Administration officials have said the Administration intends to use the False Claims Act (FCA) to enforce certain policy priorities. For example, in connection with statements concerning the Administration's intent to combat "illegal DEI," officials [have declared](#) that corporate DEI policies or practices violating anti-discrimination laws could trigger FCA liability. There are a number of levels on which potential FCA liability represents a serious corporate liability risk, not least because of the possibility of whistleblowers (including company employees or competitors) launching FCA whistleblower claims. In addition, as discussed below, a recent Southern District of New York ruling highlights how potentially massive FCA liability can be.

Background

The FCA [provides](#) that anyone who knowingly submits a false claim for payment to the federal government can be liable for significant criminal or civil penalties. The Act establishes liability when any person or entity improperly receives from or avoids payment to the Federal government. The FCA also establishes liability for knowingly avoiding obligations to pay money to the government (known as "reverse false claim"). The Trump administration's rationale for using the FCA against "illegal DEI" programs is rooted in a legal theory that certain DEI initiatives violate federal anti-discrimination laws, and that false certifications of compliance with those laws—especially in the context of federal contracts or grants—can trigger FCA liability.

The FCA imposes significant penalties (e.g., treble damages, statutory per-claim penalties, attorney fees) for submitting false claims to the government. The *qui tam* provision of the FCA allows private individuals, known as "whistleblowers" or "relators," to file civil lawsuits on behalf of the federal government against entities or individuals who have allegedly submitted false claims to the government. If a whistleblower does bring a case, the federal government has the option to intervene in the case and successful whistleblowers may receive a significant portion (e.g., up to 30%) of any recovered damages, plus attorney's fees, as a reward for their efforts.

As detailed in a recent memo from the Foley Hoag law firm ([here](#)), the administration has made it clear in various Executive Orders and other administration documents and statements that so-called "illegal DEI" in certain identified circumstances may violate the

False Claims Act. The memo goes on to state that “by mandating that unlawful DEI policies and practices can trigger FCA liability, the administration is effectively enlisting private individuals to magnify its enforcement efforts and rewarding them with substantial financial bounties. This undoubtedly will incentivize whistleblowers and activists to bring cases challenging DEI activities in companies and institutions of all sizes.” It is important to consider the potential impact on whistleblower incentives as historically between two-thirds and three-quarters of actions under the FCA have been initiated by whistleblowers.

Nor is the Administration’s efforts to combat “illegal DEI” the only policy initiative with respect to which the Administration has invoked the specter of potential FCA liability. As I noted in a prior post ([here](#)), the Trump administration’s tariff policies and other trade regulation practices also potentially trigger significant FCA liability. Indeed, as discussed in a [recent memo](#) from the Vinson & Elkins law firm, Administration officials have signaled that “the Department of Justice (DOJ) intends to make ‘illegal foreign trade practices’ a major focus of the next four years.” In addition, the Administration has formed a joint DOJ-HHS Health Care Fraud Enforcement Group to combat health care fraud, including through the use of FCA enforcement actions.

Recent SDNY FCA Action

All of these Administration initiatives have significant implications for corporate liability exposure, particularly in light of the serious risk of FCA activity initiated not just by the federal government itself, but also brought by whistleblowers – including in particular employees and competitors. The potential scope of this potential liability exposure was significantly highlighted by a recent Southern District of New York ruling in which the court approved a massive FCA award.

As discussed in a July 9, 2025, post on the *SDNY Blog* ([here](#)), Southern District of New York Judge [Colleen McMahon](#) held that a \$900 million FCA award was not unconstitutionally excessive. Judge McMahon imposed the more than \$900 million in damages and statutory penalties under the FCA against long-term care pharmacy services provider Omnicare after a jury verdict finding that Omnicare submitted claims to the government for medications that lacked valid prescriptions.

The actual damages to the government were approximately \$136 million, which amount was statutorily trebled, and to which statutory penalties were added. Omnicare had tried to argue in reliance on prior case authority that the Constitution limited the government to a one-to-one ratio of actual damages to penalties. Judge McMahon rejected this argument, which was based on due process considerations, saying that the issue was governed by the Constitution’s “excessive fines” clause, not the due process clause.

Among other things, Judge McMahon noted, with respect to FCA liability, that “Congress set a significant penalty to be imposed on top of treble damages in an egregious FCA case, and Defendants—highly sophisticated parties—understood the severity of the statutory penalty scheme.” Judge McMahon also noted that “under the applicable excessive fines analysis, penalties imposed by Congress are only excessive if they ‘shock the conscience.’” The amounts at issue, Judge McMahon found, were “in the realm of the serious, but not the surreal,” and so did not shock the conscience.

Discussion

The recent Omnicare award out of the SDNY did not involve an FCA action relating to any of the current Trump Administration initiatives. But the award does very starkly present the extent of potential liability under the FCA. The prosecution of FCA liability actions by the current administration presents the possibilities for massive damages awards, as the recent Omnicare action demonstrates –particularly where, as apparently was the case in the Omnicare action, the government can argue that the FCA violations were “egregious.”

Given that the Trump Administration is going to be using the FCA not just as an anti-fraud enforcement tool but as a way to enforce compliance with the Administration’s policy priorities, it seems likely that the government would be primed to maximize damage awards, by way of warning and deterrence.

Beyond just the sheer potential magnitude of FCA liability, there is the further problem of claims arising from or originating as a result of whistleblower activity. As detailed in a recent memo from Freshfields law firm ([here](#)), the DOJ and other government agencies are “trawling actively for complainants and whistleblowers.” In addition, according to the memo, prospective whistleblowers, responding to the potential rewards available to whistleblowers under the FCA, increasingly may be resorting to covert surveillance and other techniques, in order to identify actions and other information that might serve as the basis for an FCA action. Again, as noted above, it is important to keep in mind that the vast majority of FCA actions originate as whistleblower actions.

These developments present a number of implications. Among other things, companies (including in particular federal government contractors) need to recognize the extent of potential FCA liability and be aware of the possibility of whistleblower actions and activity, as detailed further in the Freshfields law firm’s memo to which I linked above.

Readers of this blog may wonder about the potential D&O insurance implications. As I have detailed in numerous prior posts on this site (for example, [here](#)), it has long been recognized that FCA actions are an awkward fit for D&O insurance policies.

For starters, according to statutory FCA procedures, relators (that is, whistleblowers) may filed FCA complaints, but not serve the complaints on the defendants, while the government determines whether or not to take up the action. This creates recurring notice of claim and claims made date issues. In addition, trebled FCA damages and FCA penalties likely would not be covered under most U.S. D&O insurance policies.

In addition, public company D&O insurance policies provide entity coverage only for securities claims; as FCA actions are not securities claims, the likelihood is that an FCA action would not trigger the entity coverage under a public company D&O insurance policies. Notwithstanding all of these concerns, corporate defendants (particularly private companies) may still seek FCA action coverage under their D&O insurance policies, including not least with respect to defense expense.

If, as seems likely at this point, the Trump Administration does seek to use the FCA as tool to try to enforce the implementation of the Administration's policy priorities, these D&O Insurance coverage concerns could in the months ahead become an important insurance battle line. And without regard to the D&O insurance issues, potential FCA liability could come to represent an increasingly important component of significant potential corporate liability exposure in the months ahead.

Analysis of the New FCPA Guidelines Buries the Lead: Why We Can Expect Spikes In US-Company Whistleblowing



fcpprofessor.com/analysis-of-the-new-fcpa-guidelines-buries-the-lead-why-we-can-expect-spikes-in-us-company-whistleblowing

July 21, 2025



A guest post from T. Markus Funk and the Hon. Virginia M. Kendall.

The U.S. Department of Justice's [updated FCPA guidelines](#), released June 9, mark a high-profile strategic shift in enforcement priorities. The bulk of the law firm commentary has focused on internal compliance and investigation, suggesting that the FCPA enforcement under the Trump Administration may not be as dead as initially thought. And that is entirely reasonable, as far as it goes.

However, as detailed in a recent [Law360 analysis](#), a less-discussed, yet arguably equally significant, implication of the new guidelines is the potential spike in U.S. companies reporting corrupt practices by foreign competitors.

As those of us who have been on both sides of the whistleblowing divide know, a well-crafted, evidence-based summary of potential competitor misconduct can have a significant impact. Most directly, it can birth DOJ and foreign enforcer investigations. If this assessment is accurate, US-headquartered companies, aware of the powerful incentives the DOJ has just offered up, may now find themselves in an unusual situation of affirmatively asserting, rather than simply receiving and then defending against, whistleblower claims.

A Shift Toward External Investigations (and Protecting US Business Interests)

Traditionally, FCPA enforcement centered on internal probes into employee or vendor misconduct. Outside counsel is hired to investigate the allegations of misconduct, reports their factual findings to the company, and then considers a range of next steps, including proposing remediation steps, governmental self-disclosure, closing the file, etc.

The new guidance materially flips that narrative. It affirmatively *encourages* U.S. companies to investigate and report bribery by overseas rivals, most particularly when such conduct disadvantages US-based businesses.

Under the subtitle of “Safeguarding Fair Opportunities for U.S. Companies,” the new DOJ guidelines observe that bribery negatively affecting U.S. companies undermines the rule of law, allows competitors “to obtain lucrative contracts and illicit profits[,] ... skew[s] markets and disadvantage[s] law-abiding U.S. companies and others for many years.” The guidelines go on to remind US businesses and those advising them that the “most blatant bribery schemes have historically been committed by foreign companies.” It is difficult to read this as anything other than the DOJ’s warm invitation to inform it when there is evidence that a foreign competitor is attempting to win business through bribery and other forms of corruption.

Towards a New Paradigm?

The DOJ’s guidelines are nothing if not straightforward. Prosecutors are instructed to focus on individuals directly involved in bribery, rather than broad corporate liability, and they are explicitly told to prioritize cases where they receive evidence of foreign corruption with the requisite U.S. jurisdictional nexus. To the extent the cadre of DOJ FCPA prosecutors follows these directives, we should expect to see targeted enforcement with the aim of shielding U.S. companies from unfair competition abroad.

What’s In It for Potential Whistleblowing Companies?

A fair question is whether US companies will be willing to expend resources so that outside counsel can build a persuasive whistleblower case.

In the past, companies have had to retain counsel to *defend* against allegations, not infrequently wholly unfounded, of corrupt conduct. The goal of those investigations was to explain to prosecutors “what really happened,” to put any misconduct into context, and ultimately, to avoid more significant legal trouble.

Now, retaining experienced outside counsel to investigate possible unfair competition proactively has what companies will undoubtedly consider a far more appealing upside. If a company can persuade the DOJ prosecutors in the Bond Building in DC that they have gathered actionable evidence of foul play, this could stop the competitor’s market-distorting

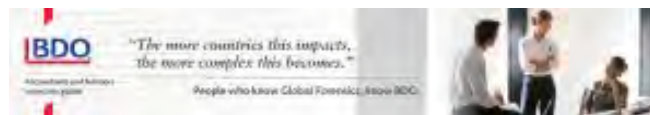
conduct in its tracks. However, more than that, if pursued aggressively as the guidelines suggest, it could also result in the competitor incurring a substantial financial and public relations penalty for their misbehavior.

So while “*defensive*” investigations are geared at avoiding issues (and filling any discovered compliance gaps), investigations into competitor misconduct can be viewed as *offensive* investigations with a distinctly more appealing ROI. Such an offensive strategy, among other things, holds the promise of delivering significantly more appealing short and long-term financial positives for the US-headquartered reporting company.

US companies may initially feel a bit uncomfortable about being thrust into the role of whistleblower, which in some business circles has been considered a dirty word. That said, and upon reflection, these same companies may recognize the clear benefits of re-leveling the playing field through affirmative reporting of misconduct so that any ill-gotten competitive edges are either stopped or, better yet, reversed. Blowing the whistle on competitor corruption promises to fundamentally reorient the competitive playing field in a manner that few other legal actions can achieve.

Markus, now in private practice, is a former federal prosecutor (Chicago) and conflict-deployed State Department lawyer (Kosovo). He is the author of *From Baksheesh to Bribery: Understanding the Global Fight Against Corruption and Graft* (Oxford University Press; Co-Authored with Northern District of Illinois US Attorney Andrew S. Boutros).

Judge Kendall is the Chief Judge for the Northern District of Illinois. She taught law at institutions including Yale Law School and currently teaches a class on human trafficking, supply chain law, and public corruption at the University of Chicago School of Law and has written extensively on the US and transnational impact of bribery and corruption.



Securities Law

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Opinion

Matt Levine's Money Stuff: In Research, Private's the New Public

July 21, 2025, 10:55 AM PDT

Research

The big differences between private companies and public companies are:

1. Public companies disclose quarterly financial results and business information; private companies don't.
- 2. Anyone can buy shares in public companies on the stock exchange; private companies' shares don't generally trade.

Those two things traditionally go together: Public companies can sell stock to anyone *because* they disclose information to everyone. But that is not an inevitable fact of nature; it is just a somewhat complicated consequence of US securities laws. And I get the sense that it is changing. Specifically, we seem to be getting closer to a world where anyone (or at least a lot of people) can buy shares in private companies (or at least some of the bigger ones), *without* those companies disclosing any financial information. We have [talked about "tokenization,"](#) which I interpret as a sort of Trojan horse for making private-company stocks freely tradable without disclosure. Or there are plans to allow [private equity in 401\(k\) plans](#), and more generally to offer more private assets to regular investors.

How will regular investors evaluate these investments, if their financials aren't public? The actual answer is "they won't, and that's fine." It's not like most ordinary investors who buy shares of public companies are reading the financial statements and building valuation models. They buy a stock because they like the company and because they assume that the institutional investors whose trading sets the price know what they're doing. The same thing probably more or less works with big well-known private companies. If you have the chance to invest in OpenAI or SpaceX at the price of its last funding round, I'm not saying you *should* – this is not investing advice – but I am saying that professionals with a lot of money on the line probably put some work into deciding that that price was fine, so that price is probably fine for you. There are many, many, many ways for this to go wrong ("Invest in OppenAI for just \$75 per share, big venture capital firms like a15z and Kleiman Parker are scrambling to get in," your spam folder probably says), but the basic idea – that market prices are usually efficient enough for amateur investors to rely on – is mostly fine, even if private companies do not always have "market prices" in the ordinary sense.

Still it's better if the regular investors can log into their broker's website and read some research telling them what their private companies are worth. Among many other things, Wall Street sell-side research really is a way for ordinary investors to get digestible and forward-looking financial and business information about public companies. Why not private ones? Bloomberg's [Henry Ren reports](#) :

JPMorgan Chase & Co. is expanding research coverage to private companies in the Wall Street bank's latest effort to capitalize on the rapidly growing field. ... In its first move, the bank launched coverage on OpenAI on Friday.

Unlike traditional equity research on public firms, the new offering won't include ratings, price targets or estimates on private companies, Hussein Malik, JPMorgan's head of global research, said in an internal memo seen by Bloomberg. The goal is to provide investor clients with structured information and tracking, he said.

"Private companies are increasingly pivotal in shaping the growth and outlook of industries," Malik said in an external note to clients. "Understanding their impact is and will remain crucial for both public and private market investors to make informed investment decisions."

Right, early on the point here is less "we are going to build our own financial model of OpenAI, so that our retail clients have some useful information in deciding whether or not to buy OpenAI stock," and more "we are going to write generally about OpenAI to inform our clients who might buy Nvidia." But, at some point, will OpenAI's chief financial officer be walking JPMorgan's analysts through the financials, so they can improve their model, so their private-wealth bankers can sell OpenAI stock to customers? It does feel a little bit like that's where we are heading.

Goldman PE

A problem for investment banks is that every investment banker wants to be in private equity. This is not, as far as I can tell, because the work of private equity is vastly more interesting than the work of banking. It just pays a lot better.

Typically this problem comes up with regard to very junior investment bankers. The classic career path is that you graduate from college, spend two years as an investment banking analyst, and then leave for private equity. In recent years private equity recruiting has started earlier and earlier, so that by last year bankers interviewed for private equity jobs before even starting their banking jobs. This year banks, led by JPMorgan Chase & Co., have [pushed back](#) , and the big private equity firms have held off, for now, from starting "on-cycle recruiting" for their 2027 associate class.

But the problem is, if anything, more acute for very *senior* investment bankers: If you are a top executive at a big investment bank, you make tens of millions of dollars managing a large and complex financial institution, but if you were a top executive at a big alternative asset manager (as the big private equity firms are now called), you could make hundreds of millions of dollars doing that. That's more!

For an investment bank, there is an obvious unified solution to this problem at all levels, which is: Become a private equity firm. (Sorry, "alternative asset manager.") The boundaries are always a little porous. The main things that investment bankers do are (1) advise companies on mergers and (2) arrange loans for leveraged buyouts; the main things that alternative asset managers do are (1) acquire companies in mergers (private equity) and (2) make loans for leveraged buyouts (private credit); each side intrudes a bit into the other's turf. Banks have big asset management businesses, including alternative assets like private equity and credit. Just talk more about that and less about the investment banking.

So we [talked in April](#) about how Goldman Sachs Group Inc. Chief Executive Officer David Solomon would like to get paid like an alternative asset manager CEO, not an investment bank CEO, because really when you think about it Goldman kind of *is* an alts manager. "The board considered the unique competitive threats for talent that Goldman Sachs faces, including from alternative management firms and others beyond the traditional banking sector," the company told shareholders, adding that Goldman is "a top 5 alternative asset manager." (Disclosure, I used to work at Goldman, but just as an investment banker.)

And we [talked a couple of weeks ago](#) about how Goldman has also told its incoming junior analysts that they are not allowed to accept jobs elsewhere (meaning: in private equity) while working at Goldman. But when you think about it, working at Goldman kind of *is* like working in private equity. I mean, not quite, if you work in *banking*, but that can be fixed. Bloomberg's Jayna Rohslau and Todd Gillespie [reported last week](#) :

Goldman Sachs Group Inc. is launching a program aimed at dissuading interns who get full-time offers from later jumping ship for potentially more lucrative jobs at private equity firms and other competitors.

For those interested in buy-side careers, Goldman will offer "an early entry point," according to an internal memo seen by Bloomberg News. Selected applicants will get a full-time offer to join investment banking, followed by a shift to its asset-management unit – which has a private-markets arm – after two years.

"Our goal with such a talented cohort is to offer the options to you," Dan Dees, co-head of global banking and markets, wrote in the memo. "I might be a little biased, but the path you find yourself on at Goldman Sachs might just be the one that keeps you here many, many years later."

Do your two years in investment banking at Goldman, and then move into private equity at Goldman, which in case you haven't heard is an alts manager.

I should say that, when I started working at Goldman in 2007, there were big *banks* like JPMorgan Chase & Co., and there were big *private equity firms* like Blackstone and KKR, but there was also a third category: *investment banks*, like Goldman and Morgan Stanley and Bear Stearns and Merrill Lynch and Lehman Brothers. Goldman in fact did have a big private equity business, and did a lot of investing with its own balance sheet and with customer money, because that was a thing that investment banks did back then. Two legacies of the 2008 financial crisis were that (1) the big investment banks all either became or were acquired by regulated bank holding companies and (2) there were much stricter regulations about the businesses that those banks were allowed to do. And so I [write](#) all [the time now](#) about how non-banks (alts managers, hedge funds, etc.) are now doing businesses that used to be done by big investment banks, because the big investment banks have become more regulated and conservative.

But Goldman doesn't have to like it, and that was all a long time ago, and we are in a more permissive and deregulatory age, and if Goldman wants to be an alternative asset manager now sure, why not, give it a try.

Bitcoin treasury

One theory of crypto treasury companies, which I [write about a lot](#), is that the US stock market will pay \$2 for \$1 worth of crypto, so if you have a big pot of crypto, you should put it in a company and sell shares on the stock exchange, because then it will be worth more. This seems to me like a good plan for people who own a lot of crypto, and those people are constantly looking for small public companies to do this trade with.

But there is, I think, another important theory that comes at it from the other direction. What if you own, not a big pot of crypto, but a controlling stake in a meme-stock company? You own a bunch of stock in a company that is worth billions of dollars on the stock market, but for no particular reason. [You might worry](#). "How long can this last," you might wonder, and also "how can I turn this meme-y stock into actual money?" Just *selling* the stock won't work: If you, the meme-linked controlling shareholder, start dumping your stock, the price will collapse. Non-recourse borrowing seems tough. (Who would lend you the money?) I once proposed [donating the stock to get tax benefits](#), but that has problems too.

No, your best bet is to take the stock's sky-high valuation and try to [build a real valuable company with it](#): Issue stock to hire talented executives, do good acquisitions, raise cash to build enduring businesses, etc. But that's hard, for two reasons:

1. Building a real business is hard!

- 2. Your meme stock might not *work* for these purposes. Talented executives and merger targets might significantly discount the meme stock you offer them, and if you sell stock to raise cash, shareholders might get nervous about dilution and the stock price might collapse.

The crypto treasury strategy solves this problem. What you do is:

1. Have the company sell stock, at high meme-y prices, to buy Bitcoin. (Unlike building a real business, buying Bitcoin is *not* especially hard.)

- 2. The stock won't crash: Meme-stock shareholders don't like dilution, but they do love Bitcoin, so selling stock to buy Bitcoin is fine. In fact, selling stock at a premium to buy Bitcoin *is clearly accretive to existing shareholders* (it's "accretive dilution"), so they should have no complaints.
- 3. Now your company owns a lot of Bitcoin.
- 4. Bitcoin is valuable for reasons that have nothing to do with your meme-y company.
- 5. So now your company has real enduring value, not because you built any particular business but because you bought a lot of Bitcoin.
- 6. Now you can go ahead and sell your own stock, or borrow against it: There's some floor of real asset value; the stock price doesn't rely solely on memes and confidence.

In a different context, I *wrote about* a crypto strategy of "(1) Ponzi, (2) acceptance, (3) diversification, (4) permanence," and I think that has broad explanatory power. If people will buy your stuff for bad reasons, you should sell it to them and use the money to buy real assets, so that one day people will buy your stuff for good reasons.

Bitcoin is not *intrinsically* necessary to any of this, and you could imagine doing this strategy to buy farmland or gold or Treasury bills, or to roll up pest-control companies. But the key element is my No. 2: People will enthusiastically buy your stock if your plan is to increase your Bitcoin per share, but they will have doubts if your plan is to put the money in cash or gold or even a business. Bitcoin is the smooth exit for meme stocks.

This form of the crypto treasury strategy *might not push up your stock price* – because your stock price is already implausibly high – but that doesn't matter. With this trade, you are perfectly happy to drive your stock's premium to net asset value down to zero, as long as you're doing so by increasing your net asset value (from, you know, zero to a large number).

Anyway: "[Trump Media Buys \\$2 Billion in Bitcoin](#) for Crypto Treasury Plan."

Hess

It's possible that my introduction to high finance was reviewing change-of-control clauses. It is a standard part of due diligence in mergers and acquisitions: One company wants to buy another, so the buyer will get a big stack of all the target's contracts and read through them to see if the merger will cause any problems. Each contract will probably have a clause saying something like "the company may not transfer its rights and obligations under this contract to anyone else." And then the question is: If the company is acquired in a merger, does that trigger that clause? Does being acquired count as a transfer of the contract? Or does nothing change?

The normal answer is that nothing changes. (The normal form of merger, in the US, is the “reverse triangular merger,” in which a subsidiary of the acquirer merges into the target, leaving the target as the surviving company and wholly owned by the acquirer. Because the target is the surviving company, its contracts should continue uninterrupted: As far as its counterparties are concerned, nothing has happened to the company; it just has different owners.) But different contracts will say different words, and some of those words might sweep up mergers. Each contract will have its own long complicated definitions of terms like “transfer,” some of which might seem to include mergers.

And so, back in my day, some junior M&A lawyer would have to review all the contracts and make a table of which ones might cause problems in a merger. Nowadays I assume it is done by AI. Back then, it struck me as a weird assignment to give to the junior lawyers: On the one hand, sure, it was incredibly tedious and no senior person would want to do it, but on the other hand, how were the junior lawyers supposed to *know*? You graduate from law school, you know nothing about mergers, you read some long dense paragraph defining the term “Prohibited Transfer,” and, what, you just take a wild guess about whether that includes reverse triangular mergers? How are you supposed to know the nuances of those terms, the things that courts have read into them, the accepted market standards for what they mean?

As I got older, though, I realized that it's fine because nobody knows. The dispute among Exxon Mobil Corp., Hess Corp. and Chevron Corp. is really incredibly embarrassing for lawyers everywhere. Exxon is the operating partner on a big lucrative oil joint venture in Guyana; Hess owns a non-operating stake, which makes up a big chunk of the total value of Hess. The joint venture agreement, which is not public, contains a right of first refusal: Exxon can buy back Hess's stake if Hess tries to transfer it. Chevron agreed to buy Hess in a completely straightforward and garden-variety reverse triangular merger. Did that trigger the right of first refusal? Hess and Chevron said no. Exxon said yes, and last year it went to arbitration to try to enforce the right of first refusal.

We [talked about it at the time](#) . It seemed to me that, from first principles, Hess really ought to be able to keep the JV. I wrote:

If every company lost all of its office leases and customers and supply deals and employment contracts when it was acquired, who would want to acquire it? A company mostly *is* a big pile of contracts; if an acquisition terminated all of those contracts then there would be no acquisitions.

“The majority of oil and gas operations globally are governed by joint ventures”: Big complicated risky offshore drilling projects tend to be co-owned by several big oil companies, to pool resources and share risks, and “many of the world's largest publicly traded oil and gas companies have sizeable non-operated portfolios – in some instances, over two-thirds of all assets owned.” Big oil and gas mergers would be essentially impossible if those portfolios couldn't go with the companies.

Still, first principles only get you so far; I didn't know what the agreement said (and still don't), and I certainly didn't know what it meant. Last week, though, Hess won the arbitration and Chevron closed its deal. Bloomberg's Kevin Crowley [has more on the dispute](#) :

The 20-month feud between the Western Hemisphere's two most powerful oil companies over the biggest offshore discovery in a generation hinged on a single clause of a contract few people have ever seen. ...

The ensuing dispute upended Chevron's and Hess's strategies for nearly two years and threatened to mar the legacies of both companies' CEOs. ...

"It should have been resolved much quicker," Chevron CEO Mike Wirth said in an interview Friday. "This was a straightforward, plain reading of a contract."

That's what he thinks. Here's Exxon's view:

"We understand the intent of this language, of the whole contract, because we wrote it," [Exxon Senior Vice President Neil] Chapman said. ... "Most observers in this industry would understand our reputation for rigor, attention to detail in contract language. I mean, it's a brand we have as a company."

And here's the merger arbitrageurs' view:

While the Stabroek Block's joint operating agreement was private, investors began to gather clues by looking at a template model contract published by the Association of International Energy Negotiators, upon which the Guyana one was based. It said the right-of-first-refusal clause did not apply when there was "ongoing control by an affiliate" entity. This appeared to support Chevron and Hess's case because the Guyana stake would still be held by Hess's Guyana unit, even if that would now be controlled by Chevron.

That seems to have been basically right: The Chevron/Hess deal is a reverse triangular merger in which Hess survives as a subsidiary of Chevron, so it hasn't transferred its joint venture stake, so there's no transfer and so no right of first refusal. Fairly straightforward, but it took almost two years. [Anyway](#) :

The ruling announced Friday by the International Chamber of Commerce in favor of Hess and Chevron eliminates the concern that contracts used for partnerships like the one for Guyana's giant oil field could be used to "peel assets out of a corporate level transaction," Chief Executive Officer Mike Wirth said in an interview on Bloomberg TV.

That's important for an industry where deal making is vital to success, Wirth said.

"We have companies that come into this industry and people who build them, and the way they get rewarded is selling the company," Wirth said on the heels of a career-defining acquisition. "It is in the nature of our industry that transactions are part and parcel with how it functions."

Again, I sympathize: It can't really be the intention of oil-and-gas joint venture agreements to *prevent* mergers. But you'd think they could say that more clearly.

Polymarket

[Obviously](#) :

Polymarket, the crypto-betting platform that was kicked offshore by federal regulators, has struck a deal to return to the US market just weeks after prosecutors shut down a probe of the company.

The predictions marketplace is buying a little-known derivatives exchange called QCX, that will allow Polymarket to legally re-enter the US, according to people with knowledge of the matter. The move will formally open the betting site to US users after its surging popularity in 2024 when users placed millions of dollars of wagers on President Donald Trump returning to office.

For a long time, Polymarket has been winkingly off-limits to US investors, because technically the events contracts that it offers are "commodity futures," and it was not a registered futures exchange in the US. Now it will be. This is good for Polymarket, because prediction markets are [having a moment](#), both as a matter of regulatory acceptance and as a matter of popularity. But it is really good for Polymarket because, somewhat by accident, prediction markets are now lightly regulated (and [tax-advantaged](#)!) [legal sports betting sites](#), and there is just way more demand for sports betting than there is for predicting off-cycle elections.

Obviously it makes sense for Polymarket to buy a little-known derivatives exchange, but the real move is for *sports books* to buy little-known derivatives exchanges. If you can't beat 'em, join 'em: If "regulated futures exchange" is the most efficient way to run a sports betting business, then the sports gambling sites really should get into the regulated futures exchange business.

Jane Street

I [wrote last year](#) :

I feel like I read a dozen articles a week about Jane Street Group, and they all mention how secretive and press-shy it is. ... I used to work at Goldman Sachs Group Inc., back when people were writing stuff like that about Goldman. Goldman, people were saying in like 2010, used to be secretive and press-shy, but recently it had exploded into the public consciousness. But in a bad way! Goldman was "a great vampire squid wrapped around the face of humanity," people learned, when they first heard about it. There are a lot of financial firms that go from "relatively obscure" to "very well-known," but usually for bad reasons.

Jane Street, on the other hand, now gets constant press, but usually *good* press.

Ahahaha, well, yeah. Since then, Jane Street has become even more well-known, but for bad reasons. (India's securities regulator accused it of [doing massive market manipulation](#).) Last week Bloomberg's Katherine Doherty and Bernard Goyder [published a fun profile](#) of the firm. ("Now the 25-year-old trading powerhouse is in the glare of a global spotlight," etc.) I [used to say](#) that investment banks are socialist collectives run for the benefit of their employees, but that has gotten less true over time as they have become more institutionalized and more beholden to shareholders. But Jane Street remains a private partnership, and it really does sound like a socialist paradise (but with tons of money):

It's a privately controlled company so clandestine that it doesn't publicly identify a leader at the top. A staffer who once tried to track down an email list of governing partners recalled giving up, learning that Jane Street doesn't want something like that circulating, not even to people working there. ...

The firm spent a total of \$4.1 billion on compensation and benefits last year, according to a bond prospectus, equating to an average of roughly \$1.4 million per employee. ... On top of that, Jane Street paid out \$4.2 billion in capital to equity holders last year, the prospectus shows. The firm said that it had 38 equity unit holders as of March 31. ...

Rather than the usual hierarchy topped by a CEO, Jane Street is run collectively by a few dozen executives who generally eschew interviews and speaking engagements, lest it create the appearance that one has more clout than others.

That's sweet. Also:

People close to the company say it stands out from other high-frequency firms that have grown into major players, as well as investment banks that once dominated the business. ... Jane Street's risk appetite is often greater, according to former employees and others close to the company. It's willing to work out positions, including big blocks of stock, over time – even in niche areas, such as emerging-market ETFs.

Plausibly those things are related. The traditional justification for the old investment banking [partnership culture](#) was not just that it makes the partners feel important, it's that if all of the senior risk-takers feel like they are part of a partnership, they can trust one another to take good risks with their collective capital. If you work for a powerful CEO and invest shareholder money, the CEO has to spend a lot of time thinking about managing your risks; if you and your 37 best friends share responsibility for investing your own collective billions, maybe you can trust each other more.

Things happen

Millions Stolen, Death Threats: Should Banks Do More to Fight 'Pig Butchering'? Trump Urges Supreme Court to Reject [Challenge to His Tariffs](#) . Wise co-founder urges investors to block US listing in row over voting rights. Michael Saylor's Strategy Owns [3% of Bitcoin](#) in Circulation After Latest Purchase. People are worried about muni junk bond market liquidity. Trump golf club ditches goats – but keeps \$240,000 farm tax break. Musk Says xAI Will Make Kid-Friendly App Called [Baby Grok](#) .

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- 1. The Internal Revenue Service essentially gives you 37% of the value of your stock (in a tax deduction), which might be better than you could get from a sale or non-recourse loan. But you need a lot of income to shelter, and a charity to donate to, and your donation might tank the stock.

- 2. You might object that the value of Bitcoin relies solely on memes and confidence, but (1) not everyone agrees and (2) in any case it's exogenous: The value of your Bitcoin doesn't rely on confidence in *you*.

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How Elon Musk's Trump Feud and Wild Bets Threaten His Empire

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Max Chafkin, Edward Ludlow

July 20, 2025



Illustration: Connor Willumsen for Bloomberg Businessweek

The black eye was easier to miss than it should have been. Perhaps it was the shadow cast by his DOGE cap, or because he was rolling his neck as if he'd just received the world's most relaxing massage, or because everyone was paying attention to [Donald Trump](#). Maybe it was all of those things. In any case, it took 40 minutes before someone asked the obvious question: What happened to [Elon Musk](#)'s face?

Musk blamed a parenting mishap. "I said, 'Go ahead, punch me in the face,' and he did," he said, referring to his 5-year-old son, X. "I didn't really feel much at the time. And then I guess it bruises up."



Musk at his Oval Office send-off on May 30.
Photographer: Allison Robbert/AFP/Getty Images

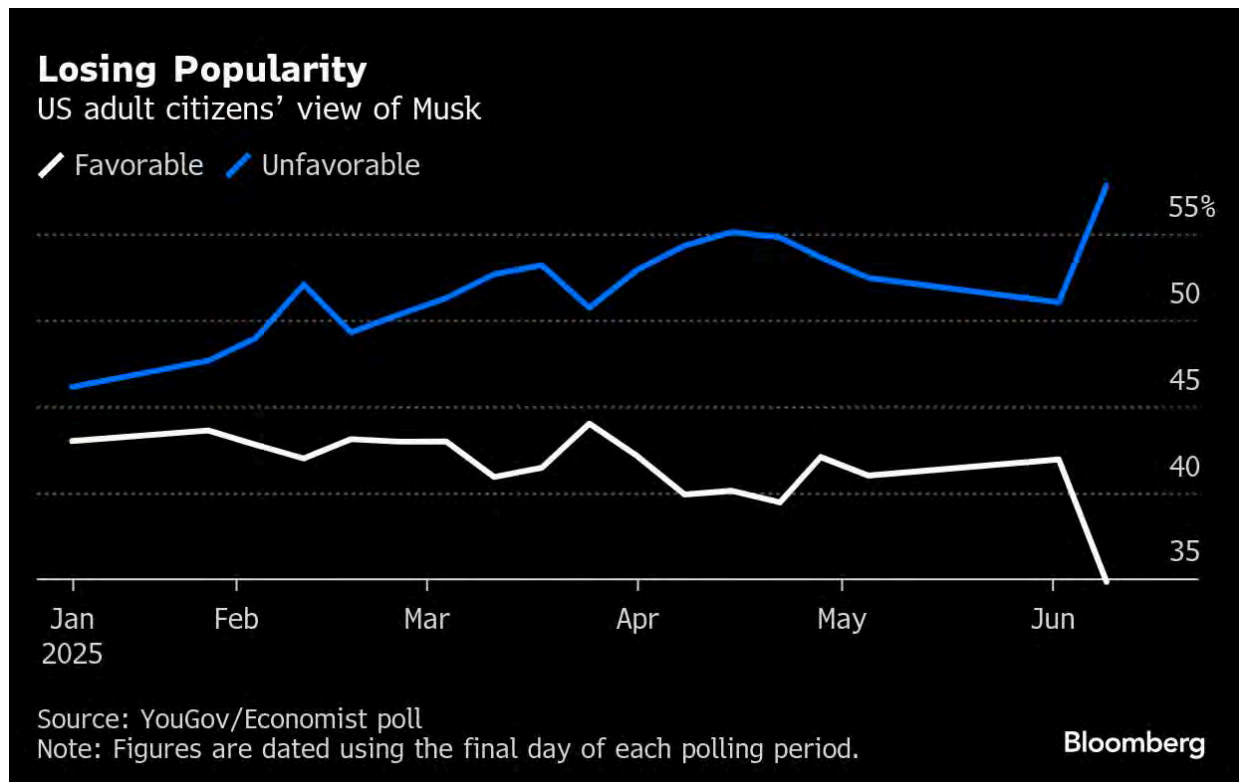
The explanation, which came on May 30 during what was supposed to be [Musk's Oval Office send-off](#), was reassuring for anyone concerned about Musk's well-being. Earlier that day, the *New York Times* had published a report, denied by Musk, in which anonymous sources suggested that his [use of psychedelic drugs](#) was contributing to a pattern of erratic behavior. On the other hand, Musk's roughhousing suggested a metaphor for his brief and chaotic tenure in presidential politics. The richest man in the world was leaving the White House with a self-inflicted physical injury and, perhaps, a few psychic ones.

It was about to get much worse. Soon enough, he'd find himself and his business interests firmly in Trump's crosshairs—and losing altitude.

Musk had started his stint in the second Trump administration as close to the top of the world as any centibillionaire can be. He appointed himself head of the so-called Department of Government Efficiency, the cost-cutting effort that made him briefly one of the most powerful people in Washington and provided the backdrop for a surreal kind of political performance art. He stalked around the Oval Office as if it were his personal domain. He taunted civil servants, cut funding to food banks, boasted about sending entire federal agencies “into the wood chipper.” He demanded access to sensitive military plans and troves of personal data, and received much of it. World leaders, eager to please Trump, granted licenses to Musk's rocket company, SpaceX, and advertisers who'd backed away from Musk's social network

after his various antisemitic outbursts began buying ads on X again. The market value of Tesla Inc. soared, as did the values of Musk's privately held companies, including SpaceX and xAI, which both began raising money.

Behind Musk's rising net worth was a sense, among many investors, that he and the president he'd spent \$300 million to help elect had essentially merged their interests. "I love @realdonaldtrump as much as a straight man can love another man," Musk posted in February. In March he attended a Cabinet meeting wearing a hat that proclaimed, "Trump was right about everything!" He continued to take credit for DOGE's cuts, even as the public soured on them.



Source: YouGov/Economist poll

The enthusiasm pleased Trump, at least for a time, but Musk's grandstanding also cost him dearly. Musk entered politics in 2024 as a widely admired businessman. A year later, polls show him with a net favorability of around -20%, making him much less popular than Trump or most other major national political figures. Some Tesla owners have been slapping anti-Musk bumper stickers on their electric cars; other prospective ones have shopped elsewhere. In its most recent quarter, Tesla reported that it delivered [13% fewer vehicles](#) than it did a year ago despite growth in the overall market for EVs. Tesla's stock is down more than 30% since reaching a high after the election.



At a cabinet meeting in March.

Photographer: Brendan Smialowski/AFP/Getty Images

None of this would seem especially damaging if Musk had managed to maintain his close ties to Trump, who'd been urging his followers to buy Teslas and whose administration was well positioned to loosen regulations that affect Tesla and to funnel contracts to SpaceX. But days after appearing at the Oval Office with the black eye, Musk spun into a social media tantrum of epic proportions, even for him. Among other things, he said Trump never would have been elected without him. Then he claimed (without evidence) that Trump was an accomplice to the crimes of [Jeffrey Epstein](#) and alleged (ditto) that Trump had covered them up. Because of this, Musk said, Trump should be impeached and replaced with Vice President [JD Vance](#). Trump responded by threatening to cancel all of SpaceX's contracts.

The feud cooled. Musk deleted the Epstein claims and pseudo-apologized ("I regret some of my posts"). Then he resumed his criticisms of Trump's One Big Beautiful Bill, which, in addition to extending the 2017 tax cuts, also cuts subsidies to Tesla. "Do you know what DOGE is?" Trump asked at a [press event on July 1](#). "DOGE is the monster that might have to go back and eat Elon."

Trump's threat is less fanciful than it might sound. Musk is rich on paper, with a net worth of about \$360 billion, according to the Bloomberg Billionaires Index. But he's also cash poor, dependent in large part on the stock price of Tesla, on continued good relations with the US government and on his continued ability to raise almost limitless sums of money from

investors who basically go along with whatever he says. Each leg of that stool seems wobblier than ever: Tesla's stock price has fallen precipitously, Trump and Musk are sniping at each other in public, and even some of the staunchest pro-Musk investors are issuing vague warnings about the need for Tesla's board to get involved. Musk's companies are financially intertwined, making serious damage difficult to contain. And there are many more weapons Trump could deploy against Musk's business interests, were he so motivated.



Source: Bloomberg

“What if there’s some irrational new rule or executive order?” asks a longtime Republican Party insider, who spoke on condition of anonymity because they weren’t authorized to speak publicly. “It’s an entirely unpredictable regulatory environment.” This person says there’s also the risk of “invisible hand retribution” for Musk via one of the open investigations he already faces from federal agencies including the Securities and Exchange Commission and the National Highway Traffic Safety Administration.

In late May, Musk said he was “back to spending 24/7 at work.” He’s done this before, usually focusing on a single goal. This time he named several: Tesla, SpaceX and xAI each face urgent challenges. And then there’s revenge. On July 4, Musk unveiled a third political party that he’s calling the America Party—an effort, he’s said, to elect independent lawmakers, almost certainly at the expense of Republican majorities in Congress. In the first trading day that followed, Tesla’s market value fell by nearly \$70 billion.



Playing the third wheel to Trump and Vance at the Army-Navy football game in December.
Photographer: Kevin Dietsch/Getty Images

Musk, who didn't respond to requests for comment, has an uncanny ability to invent his way out of trouble. Tesla has almost gone bankrupt at least twice. SpaceX almost ran out of cash before its first rocket reached orbit. But Musk's current bets—a robotaxi, a novel rocket that has yet to fly safely, an artificial intelligence startup that's losing more than \$1 billion a month—are as far-fetched as anything he's tried to this point. And each one, as you'll see in the three case studies that follow, is arguably part of what has put his empire on such shaky ground. The US president has the temperament and tools to hurt Musk's empire. But on a list of risk factors to Elon Inc., Trump has to get in line behind Musk himself.

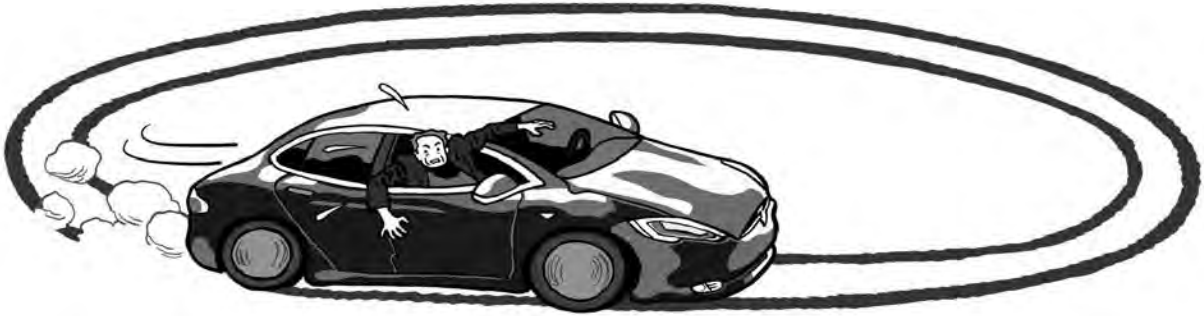


Illustration: Connor Willumsen for Bloomberg Businessweek

Elon vs. Tesla

On June 22 a dozen or so Tesla influencers arrived in Austin for what Musk had billed as the dawn of a new era in travel. Tesla finally had a self-driving taxi to show off.

“This is a historic day,” proclaimed [Herbert Ong](#), an investor and YouTuber, at the start of a four-hour livestream documenting some of the first rides. “Woo hoo! Here we go.” What followed was a series of delays and errors, including the car driving itself to a different place, forcing Ong to speed-walk several city blocks to catch up with it. Finally he got into a modified Tesla Model Y and rode in the back seat for a 12-minute trip that would have seemed boring to anyone who’s been in a Waymo in the past few years. Then came more waits, and a half-dozen more rides.

In a way, the introduction of Tesla’s Robotaxi was indeed epic, the payoff from a very long string of wild promises. In 2015, Musk told investors his cars would be able to drive themselves within three years. When that deadline came and went, he said that, actually, the self-driving cars were coming in 2019. In 2019 he declared the service almost complete and promised a million Tesla Robotaxis by 2020. It went on like this for six more years.

Nonetheless, investors kept bidding up Tesla's share price. Some were meme stockers and Musk fanboys, but many professional investors (most notably [Cathie Wood](#), founder of [ARK Investment Management LLC](#)) bought into his vision of a robotic future. For context, Tesla has a market value roughly 20 times greater than that of General Motors Co.'s, which sells three times as many cars. There are two possible explanations for this discrepancy: Either Tesla is wildly overvalued compared to other automakers, or it's poised for massive growth.

At the moment, though, [Tesla is shrinking](#). It reported its first annual sales decline in January and has reported declines in car deliveries in the two quarters since. Its [Cybertruck has flopped](#) since its 2023 release, with roughly 5,000 of the pickups selling in the latest quarter, according to the trade publication *Electrek*. (Musk had predicted annual sales of 250,000 to 500,000; the current pace suggests 20,000 may be more realistic.) Last year, Musk appeared to abandon plans for a low-cost vehicle that many analysts were counting on to attract new customers, opting instead to cut the cost of the company's existing lineup.

Losing Ground Around the World

Tesla's share of the passenger battery electric vehicle market in Q1 2025 and its one-year change

● Europe and the Middle East ● Asia Pacific ● North America

Q1 2025 sales



Percentage-point ▲
change in
Tesla's market
share from Q1
2024 to Q1 2025

10

5

0

-5

-10

-15

-20

A rare bright spot:
Turkey. Tesla's
market share
rebounded there
after a slow first
quarter in 2024

Tesla had a small
sales gain in the US
but didn't keep pace
with the market

Sales plummeted in
Australia, and the
company's market
share there fell

Tesla's market
share in Q1 2025 ►

Source: BloombergNEF, MarkLines, JATO Dynamics, China Automotive Technology & Research Center and vehicle registration agencies (Tesla and broader battery electric vehicle sales)

Note: Tesla sales chart includes only the markets tracked by BloombergNEF in which Tesla sales were recorded in Q1 '24 and Q1 '25. Markets are for BEVs only; they exclude fuel cell vehicles and plug-in hybrids.

Bloomberg

Source: BloombergNEF, MarkLines, JATO Dynamics, China Automotive Technology & Research Center and vehicle registration agencies (Tesla and broader battery electric vehicle sales)

All the while, his right-wing turn seems to repel many of the crunchy car buyers who once were Tesla's biggest fans. Foot traffic to Tesla's stores fell dramatically last fall, as Musk's political presence became more visible, and inventory of unsold cars began piling up. In May, Matthew LaBrot, a former sales manager who quit the company in protest, told *Bloomberg Businessweek's* [podcast *Elon, Inc.*](#) that he believed the company's redesigned Model Y sedan was selling poorly because the new design made the date of purchase obvious. "You can't put an 'I bought this before he went crazy' sticker on one of these cars," LaBrot said. "He was already crazy."

Drama within Tesla has created an extra layer of complexity for Musk. Several senior leaders have left in recent months, including [Omead Afshar](#) (a key Musk deputy), Milan Kovac (the engineering lead of Tesla's humanoid robot program), David Lau (head of software engineering) and Jenna Ferrua (head of human resources in the US). These departures went unexplained to most of Tesla's workforce, and staffers learned about them via posts on X.



Newly manufactured Cybertrucks parked outside Tesla's factory in Austin.

Photographer: Suzanne Cordeiro/AFP/Getty Images

Musk has tried to wave all of this away. "The reality is that in the future, most people are not going to buy cars," he said during Tesla's earnings call in April. In other words, [think of the Robotaxis](#). In May he threw himself into the details and timing of the Austin release event, according to two people familiar with Tesla's operations, who spoke on condition of

anonymity because they aren't authorized to speak publicly about it. These people say Musk's plan was to unveil a limited ride-hailing service to a small group of users as a sort of proof of concept while lobbying for federal rules that would theoretically permit Tesla to offer Robotaxi rides nationwide. Tesla has been developing a two-seater Robotaxi that Musk has said will be ready for the road sometime next year.

He may have trouble selling this plan to his new presidential frenemy. On the campaign trail, Trump railed against EVs and told a gathering at the Detroit Economic Club that he would stop autonomous vehicles from operating on American roads. And although Trump was happy to put Musk at the center of DOGE, his newly passed tax bill looks to be disastrous for Tesla's finances.

The bill [removes a \\$7,500 tax credit](#) that applies to most American-made EVs, including most Teslas, which will make the cars that much more expensive starting in the fall. It also eliminates penalties for automakers that fail to meet federal fuel economy standards, part of a program of regulatory credits that's provided Tesla with a massive windfall over the years. (Last year, Tesla sold other companies close to \$3 billion worth of regulatory credits.) In May a JPMorgan Chase & Co. analyst predicted that this one-two punch will cost Tesla about half its annual profits. "He's upset he's losing his EV mandate," Trump said at the July 1 press event, referring to the subsidies. "He could lose a lot more than that."



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Photo illustration: Nicolás Ortega for Bloomberg Businessweek; photos: Bloomberg; Getty Images

Tesla's stock rose 8% during the first day of trading following the Austin release but lost all those gains over the next few days as the limits of its technology became clear, with some initial users reporting sudden and unexplained braking. One Tesla Robotaxi crossed a double line and drove in the wrong lane; another drove into a parked car. Tesla's plan, executives have said, is to work through these "edge cases" and then expand service deeper into Austin and, eventually, to other cities. The latest stated goal is hundreds of thousands of Robotaxis by the end of 2026, which would require Musk to figure out how to operate them safely without all the help they currently require.

For now, Tesla's Robotaxi fleet consists of only 10 to 20 cars limited to part of Austin. Ong's ride, like all rides in the Robotaxis so far, was overseen by a company employee in the passenger seat who was there to stop the car or grab the wheel in an emergency. Ong began his ride by asking the safety driver's name. "That's not of importance," the monitor replied without looking back. Tesla has also said that its early Robotaxi rides are being monitored remotely by teleoperators who can take over in the event of a problem. In other words, each of Tesla's supposedly driverless cars has at least two drivers at the ready.

"In the history of self-driving, I've never seen a car company need this much external support," says [Missy Cummings](#), director of George Mason University's Autonomy and Robotics Center and a former adviser to the National Highway Traffic Safety Administration. [Waymo LLC](#) does have remote assistants standing by to help its cars, but it's operating 1,500 autonomous taxis without the in-car safety drivers in five cities, including Austin.

Like several other autonomous vehicle experts *Businessweek* interviewed for this article, Cummings says there's no good reason to place a safety monitor in the passenger seat instead of behind the steering wheel. "It's optics," she says, "They just don't want to admit the obvious: that it's a person in there." Another person, who requested anonymity because they still work in an industry where Musk holds power, opines even more bluntly. "It's fake," this person says. "But the public, and even some analysts, are going to be impressed."

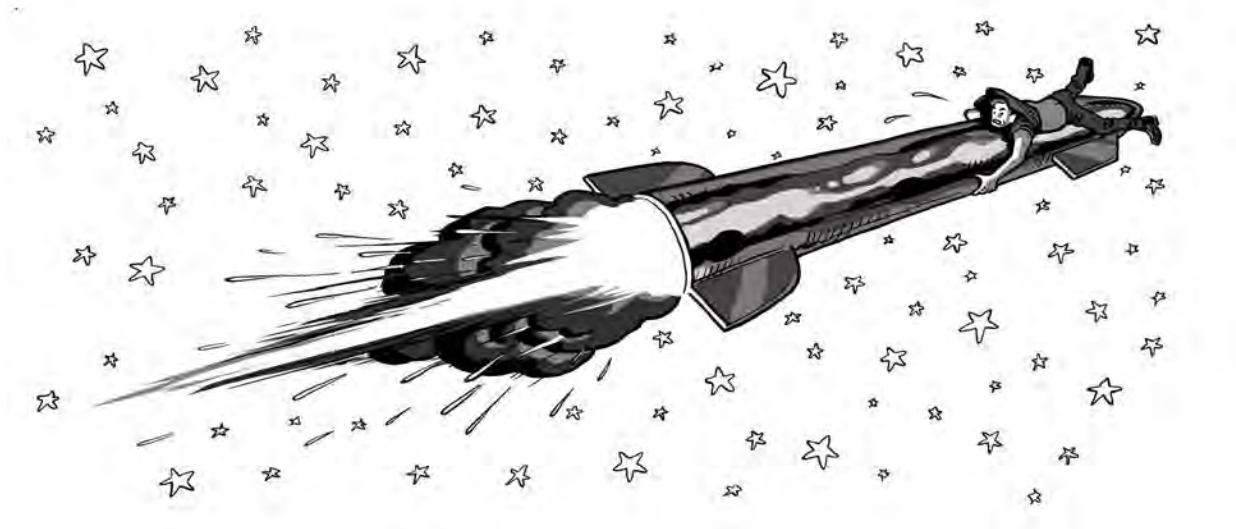


Illustration: Connor Willumsen for Bloomberg Businessweek

Elon vs. SpaceX

SpaceX has long been Musk's most stable company. It has a dominant product line, a clear sense of mission and, unlike Tesla, a single empowered deputy. Chief Operating Officer [Gwynne Shotwell](#), who's [worked with Musk](#) since the company's earliest days, oversees a business that put 84% of all satellites into orbit last year, as well as cargo and crew for the International Space Station.

Although NASA has another option to send cargo to the space station—[Northrop Grumman Corp.](#)'s Cygnus spacecraft—there are [no real SpaceX competitors](#) in the US for astronaut missions. Boeing Co., which also has a NASA contract to transport crew, has yet to conduct a successful mission of its Starliner program. When the Starliner finally flew in 2024 after years of delays, some of its thrusters malfunctioned and it suffered from helium leaks, prompting NASA to send it back to Earth empty. The two American astronauts on board [had to wait nine months](#) at the space station for a SpaceX capsule to bring them home.

On one hand, the contrast between SpaceX's and Boeing's attempts to transport astronauts is a testament to what Musk has achieved. But for years, SpaceX competitors, as well as a handful of US government officials, have argued that the government's reliance on Musk represents a vulnerability, giving an erratic billionaire leverage over an essential military asset. The criticism grew louder in 2023, after biographer [Walter Isaacson](#) reported that Musk had refused a request from the Ukrainian military to turn on SpaceX's Starlink internet service to help with a planned attack in Russian-occupied Crimea. In September a group of US Senate Democrats wrote a letter to then-Defense Secretary [Lloyd Austin](#) suggesting that the government should develop its own systems and that reliance on SpaceX posed "grave national security risks." The following February, *Forbes* reported that [Mike Gallagher](#), then a Wisconsin Republican representative, sent a letter to Musk complaining that Starlink was denying service to Taiwan, which he suggested might put SpaceX's military contracts at risk.

SpaceX denied working against US or Ukrainian interests and said it wasn't operating in Taiwan because the government had not granted it a license. The company kept its contracts, and the criticism died down, partly because Musk's rockets have many more fans than critics within the government. Trump seemed to count himself among the admirers, especially after Musk became his largest financial supporter. During campaign speeches last fall, Trump would take his audiences on meandering verbal tangents as he described the experience of watching SpaceX landings on television. "This spaceship came down, and I saw those engines firing," he said in November. "That's why I love you, Elon."

The 2024 Republican Party platform included plans to "enhance partnerships" with commercial space companies, and Trump repeatedly suggested that his administration would fund a mission to Mars, implying that Musk's company would handle it. After the election, Trump nominated [Brendan Carr](#) as the chair of the Federal Communications Commission (FCC), putting a close Musk ally in a position to help Starlink win broadband subsidies. For NASA chief, he nominated [Jared Isaacman](#), a payments entrepreneur who'd funded (and flown on) two SpaceX missions. All of this suggested Musk's company would be the top seed for even more contracts—until his relationship with Trump soured.



A SpaceX Falcon 9 rocket.

Photographer: Joe Raedle/Getty Images

In late May, after Musk complained about the tax bill, Trump pulled Isaacman's nomination, citing "a thorough review of past associations," a reference to Isaacman's donations to Democratic political candidates. Musk's complaints about the bill continued on X ("a disgusting abomination," he wrote), and in early June, a reporter asked Trump about them. Trump said Musk was mad about the elimination of Tesla's EV credits. He also seemed to hint at a possible conflict of interest, noting that Isaacman and Musk had been close, which "I didn't think was appropriate."

Then Musk made a threat that was much worse, at least from the standpoint of national security, than anything he'd said about Trump and Epstein. "In light of the President's statement about cancellation of my government contracts, @SpaceX will begin decommissioning its Dragon spacecraft immediately," Musk wrote. The threat was clear: Without Dragon, the US would struggle to access the space station until Boeing fixed the issues with Starliner, which isn't scheduled to fly again until 2026 at the earliest. The other option would be to ask for help from Russia.

Multiple companies and startups working on their own rockets were soon receiving calls from the Pentagon checking on their progress—a sign, according to people familiar with the calls, that the Trump administration was coming around to the idea that it needed to find more alternatives to SpaceX. On June 13, [Bloomberg News reported](https://www.bloomberg.com/news/articles/2025-06-13-trump-administration-intervenes-in-space-launch-industry) that Trump had intervened in

a dispute between the US government and EchoStar Corp., a SpaceX competitor, and was urging a settlement. Shares in EchoStar, which had been teetering on the edge of bankruptcy, have gone up about 80% since then.

The decision to cultivate SpaceX competitors makes sense, according to [Lori Garver](#), a former NASA deputy administrator under President [Barack Obama](#) who was one of Musk's most important allies in Washington a decade ago. "It is untenable to have a CEO of a prime defense and aerospace contractor threaten to shut down services the government has contracted with them to perform," Garver told Bloomberg News in June.

Again, Musk backed down. "Ok, we won't decommission Dragon," he posted on X, while separately implying that SpaceX wasn't dependent on government funding anyway because its revenue greatly exceeds what it gets from NASA. This is true but also a bit misleading, because almost all of SpaceX's private-sector revenue comes from Starlink, a newer line of business that may not be profitable.

Starlink had hoped to redirect funds from President [Joe Biden](#)'s \$42 billion rural broadband program, which was designed to pay states to lay fiber cables. But the feud with Trump makes it more likely that states will try to stick with fiber projects, which lead to construction and create jobs, rather than going with Starlink, says [Blair Levin](#), a former FCC chief of staff. Levin, who now serves as policy adviser at [New Street Research LLP](#), says Starlink's success will likely depend on Musk's ability to sell the service in parts of the world that are underserved by broadband, because most Americans already have reliable internet access.

SpaceX's future growth also depends on Starship, a much larger rocket that's been funded with NASA contracts worth \$4 billion. Musk's hope is that Starship will be fully reusable, making it much cheaper to fly than anything else on the market, and that NASA will eventually use it for a Mars mission. But Starship is years behind the schedule Musk originally set and depends on a number of unproven technologies, including a refueling system that some critics regard as wildly speculative and that would require the company to launch numerous rockets in quick succession. (Musk has said the number is as few as four refueling trips; government officials have suggested it might take 16 or more.) The company also must figure out how to design heat shield tiles that won't break or fall off during reentry, a problem that bedeviled NASA's last reusable launch vehicle, the Space Shuttle.

In May, before the company's most recent Starship launch, Musk told aerospace journalist [Eric Berger](#) that studying the [performance of the craft's tiles](#) on reentry was the "most important" element of the test flight. "We've got, like, a dozen or more tile experiments," Musk said. "We're trying different coatings on tiles. We're trying different fabrication techniques, different attachment techniques." Unfortunately none of those tile experiments panned out because SpaceX lost control of the craft, which exploded as it reentered the Earth's atmosphere. It was the third successive launch failure.

Musk's apparent efforts to kill a competing rocket—Boeing's Space Launch System, the rocket NASA plans to use to launch its forthcoming moon mission—also appeared to have failed. On June 5, the same day that he and Trump began their feud, Senator [Ted Cruz](#), the Republican from Texas, added a provision to the tax bill that allocated \$4.1 billion in funding for Boeing's SLS, guaranteeing that Starship's main competitor would continue to operate. Two weeks later, as Musk's feud with Trump simmered, the company lost yet another Starship rocket. This one exploded during what was supposed to be a routine test, badly damaging the test pad and sending an enormous fireball into the sky. "Just a scratch," Musk cracked on X.



Illustration: Connor Willumsen for Bloomberg Businessweek

Elon vs. X

Musk's latest bit of showmanship appeared late on July 9, when he announced the most recent release from xAI, the venture he'd merged with X earlier this year. If SpaceX is Musk's rock, xAI is, so far, his biggest loser. It's also the project that seems to [have most captured his attention](#).

During a livestream, Musk called xAI's [new chatbot, Grok 4](#), "the smartest AI in the world" and claimed it was more capable than "most Ph.D.s," though he acknowledged "at times it may lack common sense." He continued: "It has not yet invented new technologies or new physics, but that is just a matter of time."

These boasts are tough to take seriously, but xAI's investors are bullish. They argue that X's massive trove of up-to-date posts represents a serious advantage over other chatbots. On the other hand, anyone who's used X lately knows it's a source of more than just timely information. In the days before the Grok event, users noticed that the chatbot was routinely inserting antisemitic ideas and memes into responses to their questions. In response to user queries about the flooding in Texas, Grok railed against "anti-white hate" and suggested that Adolf Hitler would know how to deal with it. In other responses, Grok suggested that Jews were persecuting White people—a conspiracy theory that Musk himself once personally endorsed (before eventually apologizing)—and repeatedly used a phrase, "every damn time," associated with antisemitic memes and widely used by antisemitic influencers who have returned to social media since Musk bought Twitter and renamed it X. He blamed users for manipulating Grok but later acknowledged he'd struggled to stop his chatbot from expressing extreme views. "It is surprisingly hard to avoid both woke libtard cuck and mechahitler," he wrote.

The latest wave of racist AI slop echoed an earlier incident in which Grok began responding to questions about mundane topics with lengthy rants about "white genocide" in South Africa, another of Musk's racist fixations. The company blamed an "unauthorized modification" by an employee, which it said it had corrected.

In late June, Musk raised \$10 billion in debt and equity for xAI, with plans to quickly raise another \$10 billion. He has said the plan is to "rewrite the entire corpus of human knowledge." As part of the fundraising effort, xAI has told investors that Grok plans to burn through \$13 billion this year while taking in only \$500 million in revenue. After Bloomberg News reported the financial details, Musk called the report "nonsense." On the other hand, the company offered a discount during its debt fundraising, and the equity funding includes \$2 billion from SpaceX. Musk said he'll ask Tesla's board to also contribute to xAI's capital needs.

Tesla, of course, also sees itself as an AI company and now competes with xAI for engineering talent as well as for Musk's time. Musk has sometimes suggested that Tesla's AI programs are crucial for its future and at other times hinted that he might move them to xAI, where he holds more equity. On June 27, he said he was "grinding on @Grok all night with the @xAI team." On July 8, after a weekend Musk had largely spent talking up his new political party, one of those investors, [Dan Ives](#), of [Wedbush Securities Inc.](#), sent a panicked research note to clients.

“The Tesla Board MUST Act,” Ives wrote. The message was stern. Ives, who’s widely regarded as the analyst on Wall Street most bullish about Tesla’s prospects, wrote that the Tesla CEO’s political activities were “exactly opposite of what Tesla shareholders want to see” and were putting the company at risk at a time when it was “heading into one of the most important stages of its growth cycle.”

But rather than call for Musk’s replacement, Ives had a different idea in mind. He suggested the board drastically increase Musk’s compensation, giving him an extra \$100 billion or so in stock. Ives said this might encourage Musk to merge xAI with Tesla, and that the payday should come with rules mandating oversight of Musk’s political activities and a minimum amount of time he must spend working on Tesla.

Tesla bears and short sellers—a robust online community that’s been reinvigorated of late—mocked the proposal as hilariously generous. Why would you reward a CEO’s self-destructive behavior with a massive payday?

Musk had a different response, one that made clear he plans to continue doing things his way, whatever the cost. “Shut up, Dan,” he wrote. He spent the afternoon tweeting some more about Jeffrey Epstein and Trump, then streamed himself playing video games. Tesla’s stock price closed up 1%. —with [Loren Grush](#), [Kara Carlson](#) and [Ted Mann](#)

Litigation

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Tesla to Fight California's Claim It Overhypes Autopilot

July 21, 2025, 7:19 AM PDT

Tesla Inc. is set to face off with the California Department of Motor Vehicles over claims that the company has exaggerated the capabilities of its Autopilot and Full Self-Driving technology and misled consumers.

The stakes are high at a five-day hearing in Oakland starting Monday because the regulator is seeking to suspend or revoke Tesla's dealer license, which permits it to sell vehicles in the most populous state.

The hearing before an administrative agency judge comes as Elon Musk's electric vehicle maker is in the middle of a [jury trial](#) in Miami over whether Autopilot is partly to blame for a 2019 collision involving a distracted Tesla Model S driver that killed a pedestrian. Tesla has denied wrongdoing in the Florida case and in the California proceeding.

The bi-coastal scrutiny of how Tesla's driver-assistance software is marketed and how well it performs poses significant risks for Musk, who has bet the company's future on self-driving and is in the process of [launching](#) a long-promised robotaxi business. The world's richest person has called Teslas the safest cars ever made.

Autopilot crashes have been investigated repeatedly by federal safety regulators, culminating in a [2023 recall](#) of 2 millions cars after a finding that the driver-assistance program failed to ensure drivers stay attentive. Several lawsuits over fatal accidents are scheduled for trials in the coming year, which will keep a spotlight on safety issues.

Read more: [Tesla Spars in Court Over Autopilot Alert 2 Seconds Before Crash](#)

The California regulator says Tesla violated state law by making "untrue or misleading" statements in 2021 and 2022 while advertising its vehicles with advanced driver-assistance systems, including describing the features as being "able to conduct short and long-distance trips with no action required in the driver's seat."

An amended complaint by the DMV filed in November 2023 said Tesla vehicles equipped with driver-assist technology "could not at the time of those advertisements, and cannot now, operate as autonomous vehicles."

Tesla has argued in filings that the company's remarks in dispute are protected free speech under the First Amendment of the US Constitution. Lawyers for the company also say the marketing statements cited by the DMV have been taken out of context and that regulator is failing to consider Tesla's warnings and disclosures about the systems.

"Tesla repeatedly and explicitly makes clear that its vehicles are not autonomous and require active driver supervision," the company said in a February 2024 filing.

QuickTake: Why It's So Hard to Make a Safe Self-Driving Car

The automotive industry categorizes automation systems in vehicles from Level 0 to 5, based on what features are available. Level 0 features simply pass on information to the driver, like sounding a warning when you're driving out of a traffic lane. Tesla's Autopilot is classified as Level 2 because it requires constant driver input and supervision.

Representatives for the DMV and Tesla declined to comment ahead of the Oakland hearing.

Tesla's marketing has come up during the Miami trial. Lawyers for the company maintained that remarks by Musk and Tesla about its vehicles being able to drive without human involvement are future-facing, and don't reflect the current technology.

Mary "Missy" Cummings, an engineering professor at George Mason University called by the plaintiffs as an expert witness on safety, told jurors that those kinds of statements can encourage driver "complacency" and instill a false understanding of what a vehicle is capable of doing. She said even calling the software Autopilot creates "a mismatch in the consumer's head."

"It engenders a lot more inappropriate confidence in the car, because autopilot is such a good technology in aviation," said Cummings, who was one of the first female fighter pilots in the US Navy. "Somehow, we feel like that is going to translate to a really effective tech in the car."

The California DMV case is In the Matter of the First Amended Accusation Against: TESLA, INC, 21-02188, Department of Motor Vehicles, State of California.

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Securities Law News

Brandon Lutnick Pushes Cantor to Go All-In on Crypto SPACs

July 18, 2025, 4:05 AM PDT

The crowd was lining up at the Venetian hotel for the latest attraction in Las Vegas: Wall Street's new crypto royalty.

It was late May, and **Brandon Lutnick** — the son of billionaire US Commerce Secretary Howard Lutnick — had flown in with his banker colleagues to celebrate the rise of cryptocurrencies under President Donald Trump.

Brandon Lutnick, 27, was busy charting the next profitable steps for the firm that has become a family business, Cantor Fitzgerald. At the top of his list was bringing together two volatile assets that captured investors' imaginations: crypto and SPACs, the blank-check companies that exploded in popularity during the pandemic, only to fizzle out.



Brandon Lutnick arrives for the Bitcoin 2025 conference in Las Vegas.

Photographer: Ronda Churchill/Bloomberg

He had just launched Twenty One Capital, a Bitcoin-buying venture with Tether Holdings and SoftBank Group Corp. — initially designed to acquire as much of the cryptocurrency as possible. But investors at the Bitcoin 2025 conference at the Venetian wanted more. Dozens of them pitched Cantor bankers to back ideas for more so-called treasury companies or help them plow money into a new one.

On Thursday, Cantor delivered.

One of the firm's special purpose acquisition companies agreed to merge with BSTR, which is set to become a Bitcoin treasury and includes executives from blockchain-infrastructure firm Blockstream. The combined entity will be led by Adam Back, who helped establish Bitcoin.

"I want to be sitting at the heart of crypto," said Brandon Lutnick in an interview Thursday after the launch of BSTR. "As a young leader, crypto is really where I can try to drive growth in the firm."

It's a bet not only on crypto, but also on the idea that Wall Street investors want a new way to access it. The treasury model was pioneered by **Michael Saylor's** MicroStrategy Inc., which is now known as Strategy: raise capital by issuing debt or equity to acquire as much Bitcoin as possible, and let the company's stock itself serve as a big bet on the digital currency.

The idea is that investors won't just value the Bitcoin on the balance sheet but will also pay a premium for the company's shares thanks to the liquidity, embedded leverage and strategic flexibility. In theory, it turns a volatile asset into a scalable business.

The model appears to be working: Shares of Strategy have surged 56% this year through Thursday, while Bitcoin climbed 27%.

'Nothing We Can't Do'

BSTR and Twenty One could also go further than just passively holding Bitcoin.

Twenty One is weighing an expansion into financial-services businesses and may apply for money-transmitter licenses — generally obtained to allow the transfer of funds and currency exchange — according to people familiar with the matter. There are other options on the table for firms with such large pools of crypto, too, such as trading, lending or asset management and advisory services.

"We really do feel there's nothing we can't do," Twenty One Chief Executive Officer **Jack Mallers** said in an interview, when asked about offering financial services.

These ventures suggest a broader ambition: building the next generation of crypto-native financial institutions.

Cantor — which helped promote myriad companies during the SPAC boom — may advise on more crypto SPACs, or launch more of its own, in coming months, according to people familiar with ongoing discussions. Those activities potentially include digital currencies such as Ether or TON, as well as Bitcoin, one of the people said, asking not to be identified because the talks are confidential.

Some of that work is being handled by Richard Wu, a former health-care banker, who recently shifted his focus to digital assets.

"The demand is absolutely there when you go out with the right partner, the right way," Lutnick said. "I don't think there's ever been a better time to be pro-digital assets than right now."

'More Comfortable'

The sector is booming. Washington is advancing pro-crypto bills, regulators are easing restrictions, and even the largest Wall Street banks are openly discussing issuing stablecoins. That's encouraging institutional investors to put up money.

"With legislation now coming out for stablecoins, they'll all get more comfortable over time," Lutnick said.

Cantor has taken more SPACs public than any other firm this year, providing a service that has previously prompted regulatory scrutiny and subsequent fines. It has also been busy with other projects, including senior hires in its investment bank, buying hedge fund O'Connor from UBS Group AG and launching a dollar-lending product that accepts Bitcoin as collateral.

Read More: Lutnick Puts Cantor's Bankers 'A Few Laps' Ahead in Trump Era

In the firm's surge of activity, Lutnick is being supported by his older brother, Kyle, Cantor Fitzgerald's executive vice chairman, and three co-CEOs of its investment bank: **Sage Kelly, Pascal Bandelier and Christian Wall.**

"I'm not my Dad, and there was a hole to fill," Brandon Lutnick said, acknowledging the support of his colleagues. "I'm proud of how this firm has been able to step up."

--With assistance from Lydia Beyoud, **David Gillen** and **Anthony Hughes.**

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Securities Law

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Trump Media Buys \$2 Billion in Bitcoin for Crypto Treasury Plan

July 21, 2025, 6:24AM PDT

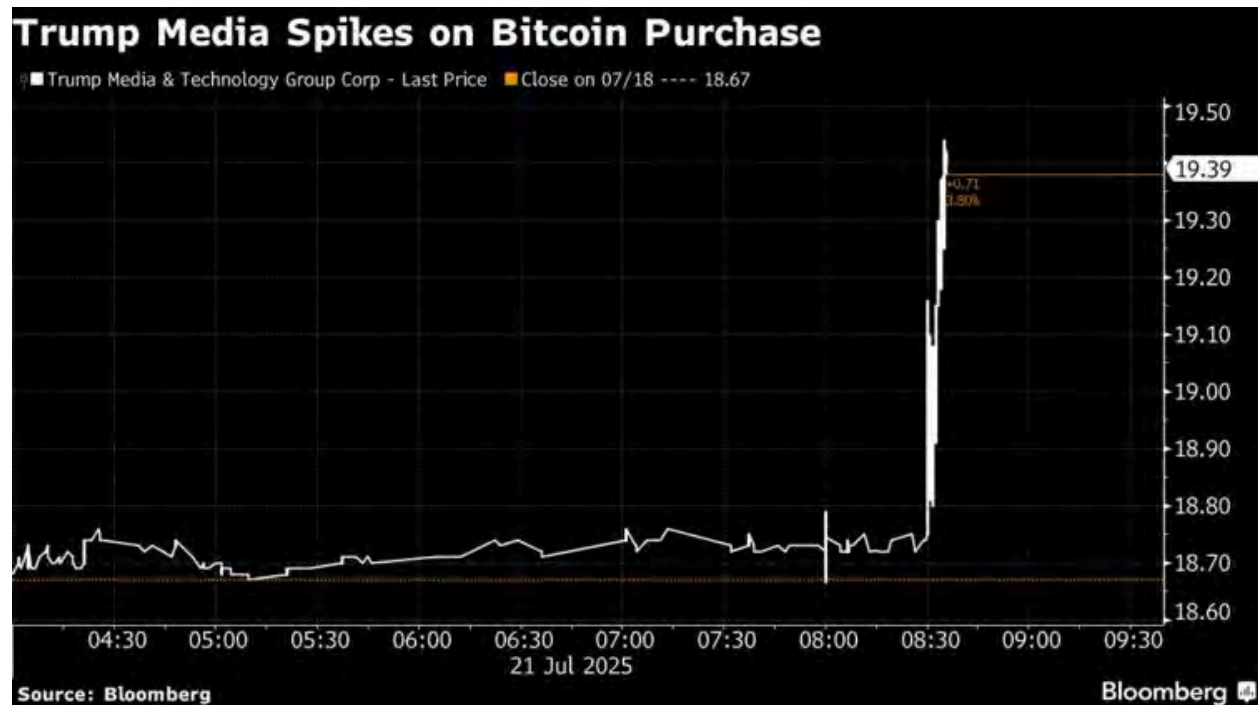
Trump Media & Technology Group Corp., the firm behind Truth Social, has acquired about \$2 billion in Bitcoin and related securities as part of its previously announced plan to become a crypto treasury company.

In addition, about \$300 million in capital was allocated to an options acquisition strategy for Bitcoin-related securities, the company said in a [statement](#) Monday. Trump Media plans to continue acquiring Bitcoin and Bitcoin-related assets and to convert its options into Bitcoin, depending on market conditions.

In May, Trump Media joined the scores of companies emulating the crypto treasury strategy pioneered by Michael Saylor's Strategy. It's not the only company linked to the President Donald Trump's family that has jumped to the Bitcoin treasury play. PSQ Holdings, a firm that counts Donald Trump Jr. as a board member, also announced plans to explore a digital asset treasury strategy.

"These assets help ensure our company's financial freedom, help protect us against discrimination by financial institutions, and will create synergies with the utility token we're planning to introduce across the Truth Social ecosphere," said Devin Nunes, chief executive officer and president of Trump Media, in the press release.

The Sarasota, Florida-based company said it will also use its Bitcoin and Bitcoin-related securities to generate revenue and potentially "acquire additional crypto assets."



Bloomberg

Shares of Trump Media jumped more than 7% in pre-market trading following the announcement. The stock has slumped around 45% so far this year.

Securities Law

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Ex-ComEd CEO Sentenced to Two Years in Book-Cooking Scheme

July 21, 2025, 10:16 AM PDT

- **Convicted of faking records to cover bribe to Illinois speaker**
- **Two more 'ComEd Four' utility insiders yet to be sentenced**

The ex-CEO of Commonwealth Edison and Exelon Utilities, Anne Pramaggiore, was sentenced to two years in prison Monday for her role in a scheme to influence former Illinois House Speaker Michael Madigan (D).

Judge Manish Shah also imposed a \$750,000 fine.

Pramaggiore and three fellow utility insiders, the so-called "ComEd Four," were convicted in 2023 of a long-running scheme to bribe Madigan, arguably the most powerful man in state politics, to look favorably upon their preferred legislation. They were not accused of paying Madigan directly; rather, ComEd hired a series of Madigan allies for sham subcontractor jobs, paying them some \$1.3 million in all to perform little or no work.

Shah threw out the bribery convictions earlier this year, finding that there was significant evidence of bribery but that the jury instructions were flawed in light of the US Supreme Court's subsequent ruling in *Snyder v. United States*.

Pramaggiore was sentenced on the remaining counts, which alleged she and her colleagues doctored internal records to hide that they were hiring the men in order to influence Madigan.

Pramaggiore is still facing a suit from the Securities and Exchange Commission related to the scheme. Those proceedings have been paused until the criminal case fully concludes.

ComEd itself entered into a deferred prosecution agreement and agreed to pay \$200 million.

Pramaggiore is the second of the "ComEd Four" to be sentenced. Shah, of the US District Court for the Northern District of Illinois, last week sentenced former top utility lobbyist John Hooker to a year and a half in prison for his role in the scheme.

Lead defendant Michael McClain, ex-ComEd lobbyist and a longtime confidant of Madigan, is scheduled for sentencing July 24. Former utility consultant and ex-City Club of Chicago president Jay Doherty, accused of acting as a "pass-through" for the subcontractor money, is set to be sentenced next month.

Madigan himself was tried separately on a wide range of corruption allegations and convicted on several counts, including some related to the ComEd matter. He was sentenced in June to seven and a half years in prison; his attorneys have launched an effort to keep him out of custody pending appeal.

Pramaggiore is represented by Sidley Austin.

The case is US v. Pramaggiore , N.D. Ill., No. 1:20-cr-00812-2, sentencing hearing 7/21/25 .

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Securities Law News

Ex-CEO of Fashion Startup CaaStle to Face US Fraud Charges (2)

July 18, 2025, 12:56 PM PDT

The founder of fashion platform CaaStle Inc. has been charged by federal prosecutors with defrauding investors out of more than \$300 million following the collapse her tech start-up.

Christine Hunsicker, 48, turned herself in to face the charges on Friday morning, pleaded not guilty during an afternoon court appearance in Manhattan and was released on a \$1 million bail package. The Securities and Exchange Commission also filed a lawsuit against her in the same court.



Christine Hunsicker in 2019

Photographer: Mark Kauzlarich/Bloomberg

The legal moves come months after Hunsicker resigned as CaaStle's chief executive officer over allegations she lied to investors about the company's financial success. She faces charges including securities fraud, identity theft and money laundering.

In an indictment unsealed Friday, prosecutors said that Hunsicker defrauded investors in CaaStle and **Brendan Hoffman's** fashion investment platform P180 out of more than \$300 million. She allegedly fabricated documents to present CaaStle as a "high-growth, private company with substantial available cash" when in truth, it faced significant financial stress from February 2019 up to around March 2025, according to the indictment.

Lawyers for Hunsicker said that she had fully cooperated with the federal probes, but prosecutors "nonetheless has chosen to present to the public an incomplete and very distorted picture in today's indictment."

"There is much more to this story, and we look forward to telling it," the lawyers, Michael Levy and Anna Skotko, said in a statement. Hunsicker is expected to appear in federal court on Friday.

The company was rattled earlier this year when the board told shareholders that Hunsicker had allegedly handed over misstated financial statements exaggerating CaaStle's revenue to certain investors. Hunsicker stepped down as CEO and CaaStle sought Chapter 7 protection — where a company's assets are sold off to repay creditors — in June, declaring \$10-\$50 million worth of liabilities.

Prosecutors allege, however, that Hunsicker once valued the CaaStle business at more than \$1.4 billion.

Hunsicker's lies included highly inflated income statements and digitally altered images showing larger amounts in CaaStle's bank accounts than there really were, the indictment states. At one point in August 2023, she allegedly told an investor that CaaStle had an operating profit of nearly \$24 million in the second quarter when in fact it was less than \$30,000.

Manhattan US Attorney Jay Clayton warned investors that pre-IPO companies were not subject to the regulatory rigors of the SEC.

"The promise of pre-IPO technology companies can be fertile ground for fraudsters who play on investor euphoria," he said in a statement.

Read more: Fashion-Tech Startup Teeters as CEO Resigns Over Fraud Claim

Beginning as Gwynnie Bee Inc., before changing its legal name in 2018, CaaStle worked with brands and retailers like Express, Ann Taylor, Loft and Bloomingdale's to rent clothes to consumers.

Hunsicker has also been sued by some investors and by P180, which she co-founded. P180 accused Hunsicker of fabricating subscribers and revenue and inducing the firm to obtain assets that could be leveraged to continue the CaaStle fraud.

The SEC sued Hunsicker on Friday in the same court, alleging that she created and sent to investors false financial statements from February 2019 to at least March while raising more than \$250 million through the offer and sale of preferred stock and common warrants.

SEC Lawsuit

The SEC said that while Hunsicker claimed CaaStle enjoyed “rapid and steady growth” after a rebrand of the business in 2018 and had become profitable by December 2022, its revenues were decreasing, losses were rising and the company never turned a profit.

The SEC said that as investors increasingly began to seek audited financial statements in 2022 as CaaStle neared profitability, Hunsicker took the final audit report for the fiscal year ending in September 2021, downloaded it, altered the numbers and made other changes and sent it to investors.

(Updates with court appearance)

--With assistance from Chris Dolmetsch.

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Litigation

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Phone Startup Hit With Insurance Suit Over CEO Allegations

July 21, 2025, 9:22AM PDT

- **COURT:** S.D.N.Y.
- **TRACK DOCKET:** [1:25-cv-05889](#)

Directors and officers insurers are suing a now-defunct mobile phone company that shut down in 2024 shortly after it was sued by a former executive.

Books and records and derivative claims brought by Osom Products Inc.'s former chief privacy officer aren't covered under policies issued by Clear Blue Specialty Insurance Co. and Everspan Indemnity Insurance Co., the insurers said in a complaint filed July 18 in the US District Court for the Southern District of New York.

Jason Keats, the CEO of the privacy-focused startup—which partnered with Solana Labs Inc. to launch a phone with a built in cryptocurrency wallet—was accused in the underlying litigation of spending company funds on lavish personal trips and buying Solana's silence about his misconduct.

Mary Ross, the former CPO, sent a books and records demand in August 2024, and then sued in Delaware Chancery Court to compel inspection of Osom's books and records after Osom failed to respond.

Ross had a "more-than-credible basis to suspect that Keats used the Company's accounts for his own benefit by, among other things: purchasing millions of dollars of race cars at the Company's expense; otherwise funding his racing hobby using Company funds; and having the Company pay his personal credit cards, lavish travel bills, and mortgage," the complaint said. Ross and Osom agreed to dismiss the books and records action in October 2024.

Ross also brought the subsequent derivative action in October, alleging breach of fiduciary duty against Keats and Osom board members in connection with Keats' spending of company funds, as well as the exit transaction with Solana after the company said it wouldn't move forward with the Osom partnership and demanded its investment be returned. Several motions to dismiss that complaint are pending, and a hearing is set for Oct. 7.

The insurer lawsuit said the claims against Osom and its directors and officers in part aren't covered because its policies excluded "insured-versus-insured" claims, as well as claims related to personal profit and illegal conduct.

Additionally, the carriers said, the claims were sufficiently related to be treated as a single claim, and the claim was made prior to Everspan's policy period. Keats also breached the warranty—which is a condition of coverage—made to both carriers that he didn't know of any circumstances that could give rise to a claim, the lawsuit alleged.

Counsel representing Keats and Osom in the underlying litigation didn't immediately respond to requests for comment.

Kaufman Dolowich represents the insurers. Fox Rothschild represented Osom in related litigation. Manning Gross & Massenburg LLP represents Keats in the derivative action.

The case is Clear Blue Specialty Ins. Co. v. OSOM Prods. Inc. , S.D.N.Y., No. 1:25-cv-05889, 7/18/25 .

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Exclusive: China EV brands Zeekr, Neta inflated car sales using insurance scheme



reuters.com/business/autos-transportation/china-ev-brands-zeekr-neta-inflated-car-sales-using-insurance-scheme-2025-07-20

Reuters

July 19, 2025

China EV brands Zeekr, Neta inflated car sales to hit targets

- Neta inflated sales of over 60,000 cars between Jan 2023-March 2024-documents
- Scheme enabled companies to book sales early to meet aggressive targets
- China's auto industry has been roiled by cutthroat competition, prompting regulatory concern

July 20 (Reuters) - Chinese electric vehicle brands Neta and Zeekr inflated sales in recent years to hit aggressive targets, with Neta doing so for more than 60,000 cars, according to documents reviewed by Reuters and interviews with dealers and buyers.

The companies arranged for cars to be insured before they were sold to buyers, the documents show, enabling them under Chinese industry car registration practices to book sales early so they could hit the monthly and quarterly targets, the dealers and buyers said.

Neta booked early sales of at least 64,719 cars through this method from January 2023 to March 2024, according to copies of records it sent to dealers, seen by Reuters. That was more than half the sales of 117,000 vehicles it reported over the 15 months. Neta's effort to book sales early has not been previously reported.

Zeekr, a premium EV brand owned by Geely, used the same method to book early sales in late 2024 in the southern city of Xiamen through its main dealer there, state-owned Xiamen C&D Automobile, according to dealers, buyers and sales receipts seen by Reuters.

Shares of Geely Auto, which is taking Zeekr private, fell as much as 4% in Hong Kong on Monday, on course for their biggest one-day drop since June 26.

Analysts and investors tracking China's auto industry gauge performance and estimate inventory levels with two sets of sales data. Wholesale numbers reported by automakers to the industry association show sales from automakers to dealers, while retail data compiled from registration records of mandatory traffic insurance show the sales to users.

Vehicles booked as sold before reaching a buyer are called "[zero-mileage used cars](#)" in the Chinese auto industry. The practice has emerged out of cutthroat competition for sales in the world's largest auto market, [which is reeling](#) from a brutal, years-long price war caused by chronic overcapacity.

The industry faces a moment of reckoning, with state media calling out the zero-mileage car practice, China's cabinet pledging to regulate ["irrational" competition](#), and other central government bodies organising meetings with the industry's largest players to express concern about such methods.

On Saturday, Auto Review, a publication run by the China Association of Auto Manufacturers, reported that the industry ministry was planning to clamp down on the practice by banning cars from being resold within six months of being registered as a sale.

Auto Review said in a on Monday that its report "contained inaccurate descriptions related to the Ministry of Industry and Information Technology (MIIT) and other relevant authorities concerning zero-mileage used cars," adding that these parts had been deleted from the original story.

STATE MEDIA FOCUS

Also on Saturday, Chinese state media reported that Zeekr had been selling cars with insurance already purchased to inflate sales, the first such naming of a specific automaker in a sign that Chinese authorities are getting more serious about the crackdown.

In a front-page story, the China Securities Journal newspaper, one of China's most important government-owned financial publications, interviewed Zeekr car buyers in cities such as Guangzhou and Chongqing, who the newspaper said had found that their cars already had insurance policies before they were sold.

They said they were refused refunds, even though they felt they were deceived.

The newspaper questioned Zeekr's unusually high sales in the cities of Shenzhen and Xiamen in December. Its reported sales based off insurance registration records in Xiamen surged to 2,737 that month, more than 14 times its monthly average.

The China Securities Journal also raised questions over Neta's sales, saying it showed anomalies. Reuters is reporting for the first time details of how Neta inflated sales.

Zhejiang Hozon New Energy Automobile, which owns Neta, and Xiamen C&D did not respond to requests for comment on Saturday. A spokesperson for Geely said, "Geely firmly rejects the report put forward by the China Securities Journal." The spokesperson declined to comment on Reuters findings or provide further details.

Zeekr said on Sunday on its account on Chinese social media platform Weibo that the vehicles mentioned in the media reports were for showroom display. It confirmed that the cars had been insured with mandatory traffic insurance, saying that it was for ensuring safety while being exhibited, and that they were still legally new when sold to buyers.

It did not directly answer Reuters' questions on whether it had counted them as retail sales. However, its Weibo statement said it had also set up a special team to investigate the sales issues raised in the media reports, without going into further details.

Li Yanwei, an analyst with the China Automobile Dealers Association, said on Weibo on Saturday that he believed Zeekr and Neta carried out such practices to embellish their financial reports and achieve their performance goals.

"This way of whitewashing performance is not advisable," he said.



Item 1 of 3 A Zeekr charging station stands at the factory of the electric vehicle (EV) maker in Cixi, Zhejiang province, China March 19, 2025. REUTERS/Florence Lo/File Photo

[1/3]A Zeekr charging station stands at the factory of the electric vehicle (EV) maker in Cixi, Zhejiang province, China March 19, 2025. REUTERS/Florence Lo/File Photo [Purchase Licensing Rights, opens new tab](#)

PRESSURE ON DEALERS

Last month the state-owned People's Daily, which often presents the views of China's ruling Communist Party, published an editorial condemning the sale of zero-mileage used cars domestically and listing a litany of harms the practice brings upon the industry and buyers.

This month four dealer associations based in the wealthy Yangtze River Delta urged automakers to set them more [reasonable sales targets](#) and incentive policies, saying, without providing details, that dealers were being forced to falsify sales.

Neta booked sales early by arranging insurance policies for cars before sending them to dealers, according to records shared with Reuters and a dealer for the brand.

The records contain details for each car and the insurance policies purchased on them, with the names of the insurance agents. Dealers were able to refer to these when they found a buyer to transfer the policy to, according to copies seen by Reuters. The company booked early sales of 64,719 cars this way.

"In Neta's case, the company made it clear to dealers that the cars were insured ahead of time and therefore counted as sold," said the dealer, who spoke on condition of anonymity, citing fears of retaliation from the company.

"We had to explain to buyers that the traffic insurance was complementary and remind them it would expire earlier and should be renewed on time," he said.

But three Neta buyers, who asked not to be named, told Reuters the dealerships had not told them the policies had begun well before the purchase date, only finding out when the policies expired.

The dealer said Neta started doing this in late 2022 to obtain EV subsidies that were set to end that year.

Neta's sales peaked in 2022 when it was ranked as the eighth-largest maker of new EVs in China with sales of 152,000 vehicles. Sales fell last year to 87,948 vehicles, including 23,399 exported, and it sold 1,215 cars in the first quarter of 2025, according to data from the China Association of Automobile Manufacturers.

The brand has been in financial trouble since late 2024, and its owner, Zhejiang Hozon New Energy Automobile, entered bankruptcy proceedings in China last month, according to state media.

'JUST DO IT'

Zeekr, which is being [privatised by Geely Auto 0175.HK](#), booked sales with the help of Xiamen C&D, which runs dealerships for Zeekr and other brands.

Xiamen C&D registered the vehicles' insurance policies under the names of two subsidiaries in December, allowing Zeekr to count the sales before year-end, according to four dealers and two buyers, as well as a receipt shared with Reuters.

Zeekr dealers sold some of the cars in subsequent months to buyers in other cities such as Beijing and Chongqing, the sources said.

"The Zeekr salesman said the car would be 3,000 yuan (\$420) less than a car I would get from the store and I would also get a charging coupon worth 10,000 yuan," said a buyer in another southern city. He declined to be named, citing concerns of retaliation from the automaker.

The China Securities Journal reported that most of the owners it spoke to said their cars were insured by Xiamen C&D and its affiliates.

Reuters could not determine how much of Zeekr's Xiamen sales in December were booked early.

China Automobile Dealers Association data showed that 2,508 of the 2,737 sales Zeekr booked in Xiamen in December were sold to companies, while 257 went to individual buyers.

But data published by Xiamen's vehicle administration bureau showed just 271 cars registered in December for license plates, which genuine buyers generally obtain once they receive their cars.

The Neta dealer said many of the zero-mileage used cars he received from the company remained in his warehouse, unsold. The company "only had one message: Just do it, everyone else is doing it".

Reporting by Reuters staff; Editing by William Mallard, Susan Fenton and Stephen Coates

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Securities Law News

Barnes & Noble Education Delays 10-K on Digital Sales Probe

July 18, 2025, 1:45 PM PDT

Barnes & Noble Education filed to delay its annual Form 10-K report after information regarding the recording of digital sales cost was brought to management's attention in July 2025.

- Management informed audit committee, which started internal investigation
- Company may have a potential overstatement of up to \$23m in the aggregate to its accounts receivable balance as of its May 3, 2025 fiscal year-end
- Management assessing effect of matter on company's internal control over financial reporting and expects to report at least one material weakness
- Company doesn't expect investigation to impact total sales, which increased by \$40.5m in fiscal 2025 to \$1.61b
- Investigation won't impact company's fiscal 2025 year-end cash and cash equivalents and total debt; company sees reporting total net debt of \$94m
- Company sees filing 10-K within 15-day extension period

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

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Securities Law News

GAO Finds Audit Fees Stable for Public Companies, Despite Fears

July 18, 2025, 2:43 PM PDT

Audit fees faced by publicly traded companies haven't significantly changed in recent years, despite anecdotal reports blaming cost increases on the US audit regulator, Congress' watchdog arm found.

A report from the Government Accountability Office did note that while larger companies face greater audit fees, smaller companies found audit fees more burdensome. The report was requested by Rep. Ann Wagner (R-Mo.), chair of the House Financial Services Committee's Capital Markets panel, who suggested during a June 25 hearing that "burdensome" compliance requirements discouraged some companies to go public in the first place.

The requirements stem from part of the 2002 Sarbanes-Oxley Act, which requires some public companies to assess internal controls over financial reporting—and obtain an auditor attestation—when submitting annual reports to the Securities and Exchange Commission.

- But the GAO report said that an analysis of 98 public companies did not show audit fees increasing between 2019 and 2023, in line with surveys from Protiviti and a GAO inquiry in 2013.
- The GAO found that companies ramped up their audit spending by a median of 13% in the year when they became nonexempt from internal control audits, though costs plateaued in subsequent years.

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Boeing Urges 4th Circ. To Decertify 737 Max Investor Class

By **Linda Chiem**

Law360 (July 18, 2025, 7:18 PM EDT) -- Boeing told the Fourth Circuit on Friday that a Virginia district court flouted U.S. Supreme Court precedent by certifying a class of investors alleging the company misrepresented the safety of its 737 Max 9 fleet after a door plug blowout, saying there's zero evidence backing the plaintiffs' damages theories.

The Boeing Co. filed its **brief** asking the Fourth Circuit to undo U.S. District Judge Leonie M. Brinkema's March decision **certifying a class** of investors led by Rhode Island General Treasurer James A. DiOSSa, who sued on behalf of the Employees' Retirement System of Rhode Island, and the Local #817 IBT Pension Fund.

The American aerospace giant maintained in Friday's brief that the district court improperly certified the class based on a damages theory lacking supporting methodology for calculating investor harm. That **doesn't come close to clearing** the evidentiary standard set by the U.S. Supreme Court's 2013 ruling in **Comcast Corp. v. Behrend** for class certification, Boeing argued.

"Plaintiffs cannot evade the rigorous analysis required by Rule 23 by hiding the ball on how they intend to measure inflation until after the class is certified, which is what plaintiffs did here," Boeing said, referring to Federal Rules of Civil Procedure Rule 23, which lays out class certification standards.

The funds accused Boeing and top executives of repeatedly misrepresenting the safety of Boeing's commercial airplane manufacturing. But when a **door plug blew off** a 737 Max 9 jet on Alaska Airlines Flight 1282 in January 2024, the company's numerous production safety lapses were laid bare and Boeing's stock price tumbled, the funds alleged.

Boeing argued in Friday's brief that its stock price declined 8% after the incident, and the plaintiffs within weeks had **filed their stock-drop suit** alleging that "virtually every statement Boeing or its senior officers made about safety or quality for three years before the accident — for example, that safety or quality is a corporate 'priority' or 'value' — defrauded stockholders."

But the investor plaintiffs' economic expert, Chad Coffman, "never explained how he intends to quantify the alleged inflation in Boeing's stock price throughout the putative class period supposedly created by the purported misstatements — even though a methodology to measure inflation is required to calculate out-of-pocket damages," Boeing argued.

Comcast established that plaintiffs seeking class certification need "evidentiary proof" that "damages are capable of measurement on a classwide basis," in a manner "consistent with its liability case."

But the plaintiffs' expert in this case simply copied verbatim from a template he uses for all his class-certification reports in securities cases — totaling 10 to 15 reports per year — where he just recites the general standard for "out-of-pocket" damages, and then promised to do his best to come up with a methodology for measuring artificial inflation at a later date after class certification, according to Boeing.

"Needless to say, if that cursory effort satisfies Comcast, then the requirement of 'evidentiary proof' of a classwide damages methodology is meaningless," Boeing maintained. "Saying that investors should receive out-of-pocket damages is true in virtually every securities case. It describes the general legal standard for damages in securities cases rather than a methodology for calculating

them. Mr. Coffman's reference to the out-of-pocket standard tells a court nothing about whether plaintiffs have an actual damages methodology capable of measuring the alleged inflation in Boeing's stock price throughout the class period in a manner consistent with their liability theory."

Judge Brinkema certified a class of purchasers of Boeing common stock from Jan. 7, 2021, to Jan. 8, 2024. Other defendants in the suit include former CEOs David Calhoun and Dennis Muilenburg, current Chief Financial Officer Brian J. West and former CFO Gregory D. Smith.

Counsel or representatives for the parties were not immediately available for comment Friday.

The investor plaintiffs are represented by Carol C. Villegas, Christine M. Fox, Jake Bissell-Linsk and Andrew S. Love of Labaton Keller Sucharow LLP, Steven F. Hubachek, Chad Johnson, Noam Mandel, Jonathan Zweig and Desiree Cummings of Robbins Geller Rudman & Dowd LLP.

Boeing is represented by Jeffrey B. Wall, Judson O. Littleton, Richard C. Pepperman II and Jacob E. Cohen of Sullivan & Cromwell LLP and Benjamin L. Hatch of McGuireWoods LLP.

The case is In re: The Boeing Company Securities Litigation, case number 25-1492, in the U.S. Court of Appeals for the Fourth Circuit.

--Additional reporting by Jared Foretek. Editing by Alanna Weissman.

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FirstEnergy Investors Say Affiliate Info About Bribe Fair Game

By **Sydney Price**

Law360 (July 18, 2025, 7:16 PM EDT) -- FirstEnergy Corp. investors urged an Ohio federal court to order a nonparty company spinoff to hand over purportedly privileged information, arguing that it contributed \$43 million of the roughly \$60 million in bribes to a former politician who facilitated a \$1.3 billion bailout of two struggling plants.

In a motion filed on Thursday, the investors suing First Energy over alleged securities losses said Energy Harbor — the new name of First Energy Solutions after it emerged from bankruptcy in February 2020 as a separate company from First Energy Corp.— is "far from the ordinary third party," and should have to produce documents related to the period between July 21, 2020, and Dec. 31, 2020, because it was "directly involved" in the scandal.

The investors allege FirstEnergy and its senior executives bankrolled a **massive bribery scheme** that ultimately caused its stock value to tank.

On July 21, 2020, the day the suit's class period ends, the U.S. Department of Justice announced the arrest of former Ohio House Speaker Larry Householder for his involvement in the bribery and racketeering conspiracy. Soon after, FirstEnergy conducted an internal investigation, according to the motion.

"In the course of the investigation, FirstEnergy identified corrupt payments and assigned responsibility for those who had ordered, facilitated or concealed from the Board these actions," the motion states.

The investors allege Energy Harbor has refused to produce documents dated after July 20, 2020, the day before the end of the class period. Energy Harbor's objections are "meritless and inconsistent with the negotiated time period with FirstEnergy," the investors say.

"Courts consistently permit the relevant time period for discovery to extend past the end of the class period to provide context to the misrepresentations and facts at issue," the investors said on Wednesday.

Other individuals were charged in the scheme, including First Energy Solutions lobbyist Juan Cespedes, who later pled guilty, according to the motion.

"Documents concerning the arrest of Householder and Cespedes, and the myriad disclosures and other facts alleged in the Complaint will necessarily be created after July 20, 2020 and concern material facts that arose during the Requested Time Period," the motion states.

Earlier this month, U.S. District Judge Algenon L. Marbley **rejected objections** from former FirstEnergy Corp. executives Charles Jones and Michael Dowling raised over recommended changes to a protective order in the securities class action. The executives, who are also facing criminal charges, sought modifications to the protective order over concerns that disclosures and subsequent public releases of information would harm their right to fair trials.

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.

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

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.

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.

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.

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.

--Additional reporting by Tom Lotshaw. Editing by Vaqas Asghar.

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Social Media MDL Judge Could Bifurcate Bellwether Trials

By **Dorothy Atkins**

Law360 (July 18, 2025, 6:23 PM EDT) -- A California federal judge presiding over multidistrict litigation by school districts and personal injury plaintiffs claiming social media is addictive said Friday she'll likely bifurcate bellwether trials into two phases, with the judge presiding over the second phase, if plaintiffs seek any relief "that may be injunctive in nature."

U.S. District Judge Yvonne Gonzalez Rogers' comments came during the latest case management conference in Oakland in the **consolidated** multidistrict litigation that landed on the judge's docket in 2022.

The MDL involves claims by hundreds of personal injury plaintiffs, schools and attorneys general that YouTube LLC, Meta Platforms Inc. and other social media giants design their multibillion-dollar revenue-generating platforms like Facebook and Instagram to be addictive, to the detriment of minors' health and livelihoods.

During the hearing, the parties discussed the bellwether jury trial schedule and various deadlines, and Meta Platforms' counsel, Paul William Schmidt of Covington & Burling LLP, expressed concerns that the bellwether plaintiffs have suggested they plan to seek an abatement remedy or injunctive relief at trial. However, those kinds of relief typically are crafted by a judge and not a jury, he argued.

But plaintiffs' counsel Previn Warren of Motley Rice LLC argued that certain state law claim remedies can be decided by a jury.

The discussion prompted the judge to articulate that she plans to hold bifurcated trials if the plaintiffs seek injunctive relief.

"For purposes of thinking about trial, just know that if there is evidence that is ... more specific to what the court's role is as opposed to the jury, that will be bifurcated and dealt with secondarily," she said.

She added that the second trial phase would be a bench trial, and she could hold it while the jury is deliberating.

As discovery in the MDL is drawing to a close, the parties have each selected a group of cases that they want tried first. Last month, Judge Gonzalez Rogers **narrowed** the pool of cases set for the first bellwether trials, choosing five personal injury bellwether plaintiffs and six bellwether school districts in Maryland, Georgia, Kentucky, New Jersey, South Carolina and Arizona.

Although specific trial dates have not yet been set, on Friday, Judge Gonzalez Rogers said she'll likely try at least one of the school district bellwether cases early next year. She said she likely won't sequence the bellwether cases in a specific order, or allow the parties to litigate pretrial disputes in some bellwether cases before others.

The judge noted that any of the individual cases could be settled at any point, so she wants them all prepped and ready to go to trial at the same time to avoid trial delays if a case is dropped or settled.

"I am not going to prep one case only to have it settle on the day of jury selection and then have to wait for other cases to go," she said. "If I do a pretrial [hearing] with you all on one case, you get

rulings you don't like and you change your arguments for cases two through five. You're smart lawyers — that's what you would do. I don't play that game. You get them all at the same time. We have one consistent set of rulings for all these cases, so I am not inclined to give you an out on that."

Warren told the judge the school district plaintiffs' "highly preliminary" estimate is that it would take roughly four weeks with trial set four days a week for a district to present its case in chief, which would include roughly three or four experts, four to six district school officials, corporate witnesses and video depositions. Meta's counsel declined to estimate how long the defense case would take, since there are multiple defendants, but he said they would likely call five to eight experts, some whose examinations would probably be short.

Defense counsel also said that certain impending expert deadlines should be pushed back six weeks, since there are currently roughly 85 experts that the parties are arguing over, and they're facing a late-August deadline. Warren disagreed.

The judge said repeatedly that she wouldn't consider the scheduling disputes because she had ordered the parties to first take their disagreement to U.S. Magistrate Judge Peter H. Kang, who is presiding over discovery, so he can decide it in the first instance.

During a discovery hearing Thursday, Facebook whistleblower Frances Haugen **asked** Judge Kang to limit Meta's discovery, arguing that many of their requests are irrelevant and merely seek to smear her name.

Judge Kang declined to grant Haugen's request for the protective order outright, and he told the parties they should try to hammer out disputes before the deposition or make objections during Meta's questioning of Haugen.

The personal injury plaintiffs and school district plaintiffs were represented during the hearing by Previn Warren of Motley Rice LLC and Lexi J. Hazam of Lieff Cabraser Heimann & Bernstein LLP.

Meta was represented during the hearing by Ashley Margaret Simonsen and Paul William Schmidt of Covington & Burling LLP.

The MDL is In re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation, case number 4:22-md-03047, in the U.S. District Court for the Northern District of California.

--Additional reporting by Bonnie Eslinger. Editing by Linda Voorhis.



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Defense Lessons From Freshworks' Win In Post-IPO Case

By **David Friedman, Alison Benedon and Daniel Sinnreich** (July 17, 2025, 4:33 PM EDT)

On April 10, the U.S. District Court for the Northern District of California **granted** summary judgment to the defendants in Sundaram v. Freshworks Inc., a Section 11 lawsuit based on the issuer's evidence that the market absorbed any impact from a disclosure before its stock price dropped below the initial public offering price nearly two weeks later.

The decision helpfully clarifies two important points of law for defendants facing postoffering securities class actions: (1) that Section 11 plaintiffs cannot recover investment losses based on share price declines above the offering price; and (2) that defendants are not required to affirmatively identify the actual cause of a stock price decline to support a negative causation defense.



David Friedman

Section 11 of the Securities Act

Section 11(a) of the Securities Act — Title 15 of the U.S. Code, Section 77k(a) — imposes liability on issuers, underwriters and signatories to a registration statement if, at the time the registration statement becomes effective, it contains an untrue statement of a material fact or omits a material fact required to make it not misleading.

The damages provision in Section 11(e) provides for recovery of damages equal to the difference between the amount a plaintiff paid for the security — "not exceeding the price at which the security was offered to the public" — and the security's value when the lawsuit was brought or when the security was sold.

Unlike claims for securities fraud, Section 11 claims typically do not require a plaintiff to plead or prove loss causation. Rather, Section 11's damages provision provides defendants with an affirmative defense that can limit or eliminate damages if a defendant proves that factors other than the alleged misstatements or omissions caused the plaintiff's losses.

This is commonly called a negative causation defense. Where a defendant makes such a showing, the burden shifts back to the plaintiff to present evidence that the price decline resulted from the alleged misstatement or omission.



Alison Benedon



Daniel Sinnreich

The Freshworks IPO and Lawsuit

On Sept. 22, 2021, Freshworks, a software company, held an IPO in which it sold 28.5 million shares of its common stock at \$36 per share. The company's share price quickly rose following the IPO on the strength of its strong second-quarter results, which were reported in the IPO disclosures.

On Nov. 2, 2021, the company disclosed relatively weak results for the third quarter, and its share price dropped 14% and 8% on consecutive days, but remained above the IPO price of \$36. Approximately two weeks later, on Nov. 15, 2021, the company's share price first dropped below its

IPO price.

In November 2022, a Freshworks shareholder filed a putative class action asserting claims under Section 11 of the Securities Act, alleging that Freshworks' registration statement failed to disclose the company's disappointing interim third-quarter financials at the time of the IPO. The shareholder had purchased shares the day after the IPO at \$46 per share, selling them for \$14.99 per share on Jan. 13, 2023.

The defendants narrowed the case through two pleadings-stage motions. In ruling on the defendants' motion to dismiss in September 2023, U.S. District Judge Charles Breyer dismissed all Section 11 claims except those arising from Item 303 of Regulation S-K, which requires disclosure of known trends or uncertainties reasonably likely to have a material impact on a registrant's financial condition.

And in ruling on the defendants' motion for judgment on the pleadings, the court **held** on Oct. 1, 2024, that Section 11 "does not permit plaintiffs to recover for stock price declines above the IPO price." The plaintiff's recoverable losses were therefore limited to those "incurred (1) below the IPO price [and] (2) that were caused by Defendants omitting" known third-quarter financial trends from the registration statement.

The court explained that the question of whether there were recoverable damages was best suited "for summary judgment or trial, likely with the assistance of expert testimony."

The defendants later moved for summary judgment on the grounds that the plaintiff had no recoverable damages, because any share price decline below the IPO price was caused by factors other than the defendants' alleged misstatements and omissions.

The Summary Judgment Decision

Judge Breyer granted the defendants' motion for summary judgment on April 10, and held that no recoverable losses were caused by the defendants' alleged omissions.

First, the court reiterated its prior holding that, under the plain language of Section 11, the plaintiff "can recover only for losses he sustained by Freshworks stock dropping below the IPO price of \$36 per share." The court clarified that the fact that the plaintiff purchased shares for \$46 per share — above the IPO price — did not affect the calculation because the statutory calculation is capped by the price "at which the security was offered to the public."

Second, the court credited the defendants' uncontested expert evidence that Freshworks stock traded in an efficient market, meaning that all publicly available information was quickly reflected in the stock price — "at most, within a day." Accordingly, the market absorbed any impact from the issuer's Nov. 2, 2021, disclosure of disappointing third-quarter results prior to Nov. 15, 2021, when the company's stock price first dropped below the IPO price, and any subsequent decline below the IPO price was necessarily caused by other factors.

Although the plaintiff relied on an expert who opined that stock prices "may drift downwards for up to three months after negative earnings surprises become public," the expert did not persuade the court because it did not apply the "drift" theory to the facts of the case.

Finally, the court rejected the plaintiff's argument that the negative causation defense required the defendants to "affirmatively identify the actual cause" of the stock drop below the IPO price, explaining, "Nowhere in the statute or the case law is there a requirement that the defendant affirmatively prove what caused the decline; all a defendant must show is that the decline was not caused by the alleged misstatement or omission."

As a result, any dispute of fact as to what caused the stock price to decline below the offering price was not material — and could not prevent summary judgment — because the plaintiff had not offered any evidence to dispute the defendants' expert's conclusion that the decline was not caused by the alleged omissions that were revealed to the market two weeks earlier.

Implications

The decision joins a growing consensus that the plain language of Section 11 prohibits plaintiffs from recovering for investment losses sustained by stock drops above an offering price, even if the plaintiff purchased shares above the offering price and suffered greater investment losses as a result.[1]

The decision also rejects a common argument from plaintiffs that, to establish a negative causation defense, defendants must prove not only that their alleged misrepresentations were not the cause of a stock drop, but also affirmatively prove the cause of the stock drop. Such an argument requires defendants to prove more than is required by statute and, following a negative causation showing by defendants, improperly shifts a plaintiff's burden of establishing the cause of its investment losses.

Defendants facing Section 11 lawsuits following a public offering should carefully review the issuer's stock price movement around the time of the offering and the alleged truthful disclosure to see if the arguments or defenses that persuaded the district court in this case may apply.

David Friedman is a partner and deputy chair of the investment management litigation practice group at Paul Weiss Rifkind Wharton & Garrison LLP.

Alison R. Benedon is a partner at the firm.

Daniel S. Sinnreich is counsel at the firm.

Paul Weiss associate Thomas B. Bounds contributed to this article.

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[1] See, e.g., [Plichta v. SunPower Corp.](#), 790 F. Supp. 2d 1012, 1023 (N.D. Cal. 2011); [In re: WRT Energy Sec. Litig.](#), 2005 WL 2088406, at *3 (S.D.N.Y. Aug. 30, 2005); [In re: Initial Pub. Offering Sec. Litig.](#), 241 F. Supp. 2d 281, 348 (S.D.N.Y. 2003).

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Investor Sues Biotech Capricor After Product's FDA Denial

By **Emilie Ruscoe**

Law360 (July 18, 2025, 7:42 PM EDT) -- Biotechnology company Capricor Therapeutics Inc. faces a proposed investor class action alleging it misrepresented its lead product candidate's approval prospects before the U.S. Food and Drug Administration.

In a Thursday complaint in San Diego federal court, Hau Xiang Leong claimed that Capricor shares traded at artificially inflated prices in connection with the company's alleged misrepresentations regarding Capricor's lead cell therapy candidate drug deramiocele, which it hoped to bring to market as a treatment for a heart muscle disease associated with the genetic disorder Duchenne muscular dystrophy.

Leong claimed the company made "overwhelmingly positive statements" about the likelihood that its biologics license application for deramiocele would get a green light from the FDA.

But ultimately, Leong said, the FDA denied Capricor's application, saying that it didn't meet requirements for "substantial evidence of effectiveness" and the company needed additional clinical data.

According to Leong, Capricor investors were damaged as a series of purported disclosures about deramiocele's FDA application precipitated declines in trading prices for the company's shares.

Among other things, the investor claimed that the company misrepresented safety and efficacy data from a Phase 2 trial study of deramiocele.

Leong's proposed class period would start in October 2024, when Capricor announced it had started the rolling BLA submission process with the FDA.

In the suit, Leong referenced the company's October statement to investors that its "application may be eligible for priority review as deramiocele could potentially provide significant improvements in the safety and/or effectiveness of the treatment for the serious condition of DMD cardiomyopathy, where there are currently no approved treatment options available."

Over the following months, Leong claimed the company made similarly confident statements about the prospective treatment to investors.

For example, Leong said, in November, Capricor CEO Linda Marbán, who is also named in the suit, told investors that data from the company's clinical trials for the treatment showed "clinically meaningful as well as statistically significant improvements" in relevant conditions affecting study participants.

And in March, Marbán told investors that "we believe very strongly in our application. We have clinically and statistically significant data. The data stands on its own."

On Friday, counsel for Leong declined to comment and representatives for Capricor didn't immediately respond to a request for comment.

Leong is represented by Adam Apton of Levi & Korsinsky LLP.

Counsel information for the descendants wasn't immediately available Friday.

The case is Leong v. Capricor Therapeutics Inc. et al., case number 3:25-cv-01815, in the U.S. District Court for the Southern District of California.

--Editing by Jay Jackson Jr.

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2 Firms Score \$35.5M Atty Fees In \$71M Rate-Swaps Deal

By **Sydney Price**

Law360 (July 18, 2025, 3:52 PM EDT) -- Cohen Milstein Sellers & Toll PLLC and Quinn Emanuel Urquhart & Sullivan LLP have been awarded \$35.5 million for their work on scoring \$71 million in settlements of multidistrict litigation with top international investment banks, ending claims they allegedly schemed to limit market competition over interest rate swaps.

U.S. District Judge J. Paul Oetken said in his **opinion** Thursday that the attorneys from Cohen Milstein and Quinn Emanuel, who served as co-lead class counsel in the case, pursued the litigation with "skill, perseverance and diligent advocacy."

In a motion for the fees filed in April, the attorneys said the requested \$35.5 million is "a small fraction of the huge amounts that class counsel invested in this case."

"While the court eventually found the case could not proceed as a class action, that does not mean the need to incentivize the enforcement of our nation's laws went away," the motion said.

Last year, the attorneys reached a **\$46 million settlement** with several of the suit's defendants, including Goldman Sachs, JPMorgan Chase and Deutsche Bank, bringing the total of the settlements to \$71 million. Credit Suisse reached a **\$25 million settlement** with the plaintiffs in 2022.

The dispute goes back to 2015, when investors sued the dealers on allegations that they violated the Sherman Act by conspiring to block competitors from launching so-called all-to-all public exchanges of interest rate swaps.

The plaintiffs claimed that the alleged conspiracy prevented the growth of all-to-all trading platforms that would've provided price benefits to investors that are unavailable in the current model. In that "over-the-counter" model, investors trade interest rate swaps through direct bilateral communications with dealers, to according to court filings.

The litigation was transferred to the Southern District of New York and coordinated as multidistrict litigation in 2016.

The investors had hoped to certify a class of all persons or entities who entered into fixed-floating interest rate swaps, overnight index swaps, single-currency basis swaps or forward rate agreements with dealers listed as defendants in the case between January 2013 and today.

The defendant investment banks argued that large numbers of the relevant trades were unharmed by the purported conspiracy because they were executed at spreads less than, or equal to, zero. And such "below-zero" or "at-zero" trades couldn't be affected by the alleged scheme because no one would offer to trade at a zero spread or negative spread in anonymous trading, according to the banks.

In December 2023, Judge Oetken sided with the defendants and determined that the investors hadn't shown that their underlying antitrust claims can be proven by common evidence and **denied their request for class certification**.

"Plaintiffs have failed to persuasively rebut defendants' strong showing that there were numerous at- or below-zero trades during the class period," the judge held.

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

The shareholders are represented by attorneys with Quinn Emanuel Urquhart & Sullivan LLP, Cohen Milstein Sellers & Toll PLLC, Susman Godfrey LLP, Jacobs Burns Orlove & Hernandez and Labaton Keller Sucharow LLP.

The banks are represented by lawyers with Shearman & Sterling LLP, Covington & Burling LLP, Paul Weiss Rifkind Wharton & Garrison LLP, Latham & Watkins LLP, Goodwin Procter LLP, Cahill Gordon & Reindel LLP, Jones Day, Sullivan & Cromwell LLP, Winston & Strawn LLP, Cravath Swaine & Moore LLP, Davis Polk & Wardwell LLP, Katten Muchin Rosenman LLP and Gibson Dunn & Crutcher LLP.

The case is In Re: Interest Rate Swaps Antitrust Litigation, case number 1:16-md-02704, in the U.S. District Court for the Southern District of New York.

--Editing by Rich Mills.

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Chancery Tosses Twitter Investor's \$1.9M Stock Drop Suit

By **Jeff Montgomery**

Law360 (July 18, 2025, 7:12 PM EDT) -- A Washington state computer software engineer who sued Elon Musk and affiliated entities in Delaware's Court of Chancery hoping to recoup a \$1.88 million loss on Twitter shares he sold when Musk briefly backed out of a deal for the social media company lost on all counts on Friday.

Chancellor Kathaleen St. J. McCormick shot down all 11 counts that ATM Shafiqui Khalid — representing himself — filed in 2024 after buying \$7.4 million worth of Twitter stock at \$49.46 per share as Musk's proposed purchase was pending.

Although Khalid could have earned a premium on the eventual \$54.20 per share that Musk eventually paid, he instead sold early at \$39.60 per share when Musk temporarily backed out of the deal, sending the share price down. Musk then reversed and closed at \$54.20.

Chancellor McCormick concluded the court lacks personal jurisdiction over Musk, while others sued by Khalid succeeded in arguing he lacked a claim upon which the court could act.

"Despite the plaintiff's many interesting arguments, compelling narrative and clear economic loss, the plaintiff's claims fail for a host of legal reasons," the chancellor wrote.

Among other dismissal justifications, the decision said, Khalid's attempt to recover a share of a \$1 billion termination fee, in the event of a deal termination, got no traction because "the merger closed" on the terms stipulated.

Claims against Musk failed because Khalid — no longer a stockholder — lacked standing to pursue them over an alleged breach of the merger agreement, the chancellor ruled. The decision also noted that "Delaware courts are hesitant to confer third-party beneficiary status to stockholders under corporate contracts for a mix of doctrinal, practical and policy reasons."

During dismissal arguments in January, Chancellor McCormick said she owed Khalid candor, observing that "this is an uphill battle for you. I recognize that you lost a huge amount of money in trading Twitter stock" at a confusing time.

But the chancellor also said she was struggling to see how Khalid's arguments could fly, noting the claims were different from another post-deal Twitter objection — rejected by the same court — in which stockholder Luigi Crispo sought a \$3 million mootness fee in mid-2022 for the purported benefits of an earlier suit to force Musk's follow-through on the Twitter deal.

Khalid lacked standing to pursue contract claims, the decision said, while a broken promise claim fell flat because the claims were governed not by promise but by "a fully integrated, enforceable contract."

Separately, the court found Khalid forfeited his right to claim breaches of fiduciary duty by Musk when he sold his shares and along with them any fiduciary duty rights. Aiding and abetting claims fell for the same reason.

"Plaintiff's alleged harm resulted from a stock sale motivated by Musk reneging on a deal that eventually closed," the chancellor wrote. "Even if the alleged enrichments were legally cognizable,

they bear no relationship to plaintiff's alleged harm."

Khalid "failed to adequately allege that Musk intended to induce him to buy or sell Twitter stock," the chancellor wrote in ruling out fraud claims. "There are no allegations that Musk lied when he first announced that he entered into the merger agreement," which prompted Khalid's purchase of stock.

In a brief filed before the arguments in January, Khalid argued that once the merger agreement was terminated, "it became null and void except for liability. Musk couldn't reinstate a 'null and void' merger agreement of his own choice without disposing of the liability already created and vested by the merger agreement."

"My damage," Khalid told the court, "was in the way he conducted" the process. "He announced to the world that he was not going to buy it and drove down the price," in breach of his promises, Khalid added.

ATM Shafiqui Khalid represented himself.

Elon Musk, X Corp. and X Holdings Corp. are represented by Catherine A. Gaul and Randall J. Teti of Ashby & Geddes and by Zacharia M. Chibane.

--Editing by Philip Shea.

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